

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No.1496/2009

Sattar Khan S/o Shri Kaudin, aged about 30 years R/o Gram
Khochpuri Tehsil Mahuha district Dausa, Raj.

-----Petitioner

Versus

1. Zila Parishad Dausa through its Chief Executive Officer,
Dausa, Rajasthan.
2. Development Officer, Panchayat Samiti, Mahua, District
Dausa, Rajasthan.

-----Respondenta

For Petitioner(s)	:	Mr.D. P. Sharma
For Respondent(s)	:	Mr.Surendra Singh Naruka, AAG with Mr.Kesar Singh Shekhawat, AGC

JUSTICE ANOOP KUMAR DHAND

Order

05/02/2025

Reportable

1. By way of filing this petition, a challenge has been made to the impugned order dated 20.01.2009 by which the contractual employment of the petitioner, under the Scheme of NREGA, on the post of Employment Assistant has been discontinued, on the ground that he belongs to 'Teli' Caste in Muslim Community, which does not fall within the purview of Other Backward Class (for short, "the OBC category").
2. Learned counsel for the petitioner submits that pursuant to the advertisement (Annex-1) issued by the respondents, the petitioner was engaged on contractual basis on the post of Employment Assistant under NREGA Scheme, under the Reserved Category for OBC candidates. Counsel submits that the petitioner

is a Muslim-Teli who falls within the category of OBC and the OBC Certificate in this regard was also issued to him by the competent Authority, i.e., Tehsildar Mahua, District Dausa and on the basis of the same, employment was offered to the petitioner. Counsel submits that as per the gazette notification of the Government of Rajasthan, Teli Caste falls within the OBC Category and as per the circular dated 08.11.1994, a person who is from Teli caste, whether belonging to Hindu Community or Non-Hindu Community falls within the category of Other Backward Classes (OBC). Counsel submits that under these circumstances, interference of this Court is warranted.

3. *Per contra*, learned counsel for the State-respondents opposed the arguments raised by counsel for the petitioner and submitted that the petitioner being a Muslim-Teli does not fall within the category of OBC and that is why, he is not entitled to get the benefits of OBC Category and accordingly, a decision was taken by the Authorities to discontinue the engagement of the petitioner on contractual basis. Counsel submits that recently a list of the castes has been released by the Ministry of Minority Affairs, Government of India wherein Muslim-Teli has not been kept under the OBC Category, hence, under these circumstances, the petitioner cannot claim himself as a person/ candidate belonging to OBC Category and the respondents have not committed any error in passing the order impugned, which requires any interference of this Court.

4. Heard and considered the submissions made at Bar and perused the material available on record.



5. Perusal of the record indicates that the petitioner belongs to Muslim Community and he is claiming himself to be a person belonging to "Teli" Caste. The competent Authority, i.e., Tehsildar Mahua has issued an OBC certificate to the petitioner in the light of the circular dated 27.08.1993 indicating therein that the petitioner belongs to Teli caste of Muslim Community.

6. The documents annexed with the petition, i.e., the Rajasthan Gazette issued by the Government of Rajasthan clearly indicates that the caste "Teli" falls within the category of OBC. The official Gazette has been issued by the State of Rajasthan on 06.08.1994 and thereafter, a circular was also issued by the Department of Justice and Social Welfare, Government of Rajasthan on 08.11.1994, which clearly indicates that the Caste "Teli" falls within the category of OBC, irrespective of the fact that the person is Hindu or Non-Hindu, the circular is clear and specific, in this regard.

7. Subsequently, a notification was issued by the same Department, i.e., Department of Justice and Social Welfare on 28.08.2009 which included the Caste 'Teli' in the OBC category and an explanation attached to the aforesaid notification clearly indicates that, all castes, which are known by the name of their respective traditional hereditary occupations and whose members follow different religions include all members of those castes, irrespective of whether they follow Hindu Religion or Islam or any other Religion (Vide Resolution No.12011/4/2002-BCC dt. 19.06.2003).

8. It is worthy to note here that Teli is a caste traditionally occupied in the pressing of oil in India, Nepal and Pakistan, and members of this caste may be either Hindu or Muslim, and Muslim-Teli are also called as Roshandaar or Teli Malik.

9. Teli Caste/ Community has been included in the Central List of OBCs in the State of Rajasthan at Entry No.51. The claim of the petitioner that being from Teli Caste, he belongs to OBC Category is invalidated only because he belongs to Muslim Community. Such action of the respondents is not valid being contrary to the Notification dated 28.08.2009 issued by the Department of Justice & Social Welfare. It has included all the persons who are 'Teli' by their traditional hereditary occupations irrespective of the fact that they follow Hindu, Islam or any other Religion and this fact has further been clarified vide Resolution No.12011/4/2002-BCC dated 19.06.2003.

10. This Court finds no justification in the stand taken by the respondents that the petitioner being a Teli and belongs to Muslim Community does not fall within the ambit of the OBC Category and the respondents were required to consider the above notification before passing the impugned order, hence, under these circumstances, the impugned order is liable to be quashed and accordingly, the same is set-aside. The petition stands allowed.

11. The petitioner is directed to appear before the respondent No.1 along-with the above notifications dated 28.08.2009 & 19.06.2003 and produce all the documents on which he places reliance along-with an application within a period of one month and the respondent No.1 is directed to decide the said application

within a period of two months thereafter, and in case, the claim of the petitioner is found to be valid for appointment, on the basis of his caste 'Teli' under the OBC Category, his appointment be restored forthwith along-with all the consequential benefits.

12. Needless to observe that the needful exercise would be done by the respondents within a period of three months from the date of receipt of certified copy of this order.

13. Stay application and all pending application(s), if any, also stand disposed of.

14. Before parting with the order, a general mandamus is issued to all the Departments of Government of Rajasthan, not to deny the benefit of reservation of OBC Category to all those Muslim Candidates who belong to the caste, falling in the Gazette Notification, issued by the State, providing benefits under OBC Category.

15. Let a copy of this order be sent to the Chief Secretary & Principal Secretary, Department of Justice & Social Welfare, Government of Rajasthan for necessary compliance.

(ANOOP KUMAR DHAND),J