

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 30th September, 2010.

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W.P.(C) No.4203/2010

DR. SAIPRASAD GANGADHAR SHINDE PETITIONER

Through: Mr. Manoj Gorkela & Ms. Rohini
Kumar, Advocates

Versus

**THE SECRETARY, MINISTRY OF
HEALTH & ORS.**

..... RESPONDENTS

Through: Mr. Sunil Fernandes & Mr. Deepak
Penak, Advocates for R-1 & R-2.

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

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| 1. | Whether reporters of Local papers may
be allowed to see the judgment? | No |
| 2. | To be referred to the reporter or not? | No |
| 3. | Whether the judgment should be reported
in the Digest? | No |

RAJIV SAHAI ENDLAW, J.

1. The petitioner claiming to be an OBC, by this writ petition impugns the procedure for admission to Post Graduation / Post Doctoral Courses followed by the respondent All India Institute of Medical Sciences (AIIMS) for the academic session commencing from July, 2010. It is the case of the petitioner that respondent AIIMS did not draw up an overall merit list and drew up separate merit lists for General, SC/ ST & OBC categories thus depriving the petitioner from competing and gaining admission in the General Category.

2. I have with respect to the same admissions, vide judgment dated 19th August, 2010 in WP(C) No.4230/2010 titled ***Dr. Jagveer Singh Vs. The Chairperson, Counselling Committee, Academic Section, AIIMS***, held the procedure followed by respondent AIIMS to be bad and directed the respondent AIIMS to with effect from next admissions, allow the candidates belonging to the Reserved Category to compete in the General (unreserved) Category also and further held that the candidates belonging to the reserved category, if entitled to admissions on their own merit in General (unreserved) Category be so admitted without counting them against seats in the Reserved Category.

3. This petition also thus so far as the legal question is concerned, is entitled to succeed. However, the fact remains that the academic session has already commenced and is underway. The question which thus arises is of the relief to be granted.

4. Another matter viz. WP(C) No.6436/2010 titled ***Dr. Mundhe Kailas Maharudra Vs. AIIMS, New Delhi***, with respect to the same examination had also come up before me on 28th September, 2010. The counsel for the petitioner therein had contended that though the petitioner owing to the fault of respondent AIIMS had missed the session beginning July, 2010 but should be admitted in the session beginning January, 2011. Reliance for the said prayer was placed on the judgment dated 10th December, 2009 in LPA

No.622/2009 titled *Dr. Manish Patnecha Vs. Chairperson Counseling Committee AIIMS*. I have vide judgment dated 28th September, 2010 disallowed the said prayer also.

5. The counsel for the petitioner urges that he has raised some other grounds than those raised in the earlier petitions and contends that this Bench having found in favour of the OBC candidates ought to grant the relief by quashing the entire examination process and directing respondent AIIMS to hold fresh admissions.

6. I am unable to accede to the said request of the counsel for the petitioner. The students who have been admitted in the current session are not made parties to this petition and are not before this Court. Without hearing them, the entire admission process cannot be scrapped. Moreover the admissions are for candidates in the other categories also and who are not affected by the present writ petition and the present session insofar as they are concerned cannot be disturbed.

7. It is informed that the intra-Court appeals against earlier decisions aforesaid are pending. It is deemed expedient that the petitioner herein urges the additional grounds which he is seeking to urge, before the Division Bench only rather than before this Bench.

8. With the aforesaid observations, the petition is disposed of. No order as to costs.

**RAJIV SAHAI ENDLAW
(JUDGE)**

30th September, 2010
'gsr'..