

GAHC010177952023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4636/2023

DEPANJAN SARMA
S/O- SRI DEEPAK SARMA,
RESIDENT OF LALA ROAD, RABINDRA SARANI,
WARD NO. 2, HAILAKANDI,
P.O., P.S. AND DIST- HAILAKANDI,
ASSAM- 788151.

VERSUS

THE STATE OF ASSAM AND 3 ORS.
THROUGH THE SECRETARY,
HEALTH AND FAMILY WELFARE DEPARTMENT,
GOVERNMENT OF ASSAM,
DISPUR, GUWAHATI-06.

2:DIRECTOR OF MEDICAL EDUCATION
ASSAM
SIX MILE
KHANAPARA
GUWAHATI- 781022.

3:NATIONAL MEDICAL COMMISSION
REPRESENTED BY ITS CHAIRMAN

POCKET-14
SECTOR 8
DWARKA

PHASE I
NEW DELHI- 110077.

4:SRIMANTA SANKARDEVA UNIVERSITY OF HEALTH SCIENCES

REPRESENTED BY ACADEMIC REGISTRAR

2ND FLOOR
GAUHATI MEDICAL COLLEGE BUILDING

GUWAHATI MEDICAL COLLEGE

HILL TOP ROAD
NARKASUR HILLTOP

BHANGAGARH
GUWAHATI

ASSAM- 781032

Advocate for the Petitioner : MR. A GANGULY

Advocate for the Respondent : SC, HEALTH

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 27.09.2023

Heard Mr. A. Ganguly, learned counsel for the petitioner and Mr. B. Gogoi, learned counsel for the respondents in the Health Department of the Government of Assam. Also heard Mr. D.K. Baidya, learned counsel for the respondents in the National Medical Council.

2. By referring to the second proviso to Rule 8(c) of the Medical Colleges and Dental Colleges of Assam, (Regulation of Admission into 1st year MBBS/BDS Courses) Rules, 2017 (for short 'the Rules'), a submission is made by Mr. A. Ganguly, learned counsel for the petitioner that under the procedure prescribed therein, there is a requirement of law that if any candidate belonging to the UR category is entitled to a seat in the 1st year MBBS/BDS courses in a medical college but the same candidate would also be entitled to an EWS quota seat in

another medical college and accordingly accepts the EWS quota seat in the other college, in such event the EWS quota seat in the other college would be deemed to be a UR seat and to maintain parity of reservation, one UR seat in the college of second preference of the same candidate would now be converted to an EWS quota seat.

3. According to the petitioner, in the compilation of students entitled for admission to the 1st year MBBS/BDS course seats, the aforesaid requirement of law had not been duly followed and because of the same, the petitioner who is an EWS quota aspirant was deprived from being admitted to a seat under the EWS quota.

4. Without going to the question of the applicability of the provisions of the second proviso to Rule 8(c) of the Rules, we required the respondent authorities to verify from the compilation of eligible candidates as to whether the list shows any candidate who is otherwise entitled to a seat under the UR category in a medical college, but had opted for an EWS quota seat in another college and that EWS seat in the other college was deemed to be a UR seat resulting in one UR seat being converted to an EWS quota seat in the college of second preference of such candidate.

5. Mr. B. Gogoi, learned counsel for the respondents in the Health Department has made a statement that after verification of the entire list, no such candidate could be located who is entitled to a seat under the UR category in any of the colleges but had opted for a seat in EWS quota in another college and which again under the law was deemed to be a UR seat requiring one UR seat to be converted to EWS seat in the college of the second preference of the said candidate.

6. No further materials could be made available to the Court that the

submission of Mr. B. Gogoi, learned counsel for the respondents in the Health Department upon instruction, is contrary to what is available in the compilation of the list of candidates presented.

7. In the absence of such circumstance existing as made out in this writ petition, we are of the view that no further consideration is required.

8. Accordingly, writ petition stands closed.

JUDGE

Comparing Assistant