

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 16544 of 2023 (O&M)

Date of Decision: 01.08.2023

Parneet Kaur (minor) through her father Dr. Parminder Singh.

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present : Mr. Nitin Kant Setia, Advocate, for the petitioner.

Mr. Arjun Sheoran, Deputy Advocate General, Punjab.

Mr. Nitin Kaushal, Advocate, for Baba Farid University.

RAVI SHANKER JHA, CHIEF JUSTICE (oral)

The petitioner, who seeks admission in the MBBS course, has filed this petition being aggrieved by communication (Annexure P-6) issued by respondent-authorities, vide which the petitioner has been informed that she is not eligible for admission in the category of freedom fighter of Punjab in which she has applied in the State of Punjab.

2. Brief facts leading to the filing of the petition are that the petitioner being desirous of admission in the MBBS/BDS courses, session 2023-24, under the category of wards of freedom fighter has appeared in the NEET-2023 exam and obtained 332 marks out of 720 with a percentile of 82.7813848 and secured All India Rank 350413. The petitioner had applied and got herself registered for admission in the State quota seats under the sub-category of '*freedom fighters*' for which 1% seats are reserved in terms

of Clause 15(ix) of the Notification dated 10.03.2023 issued by the State of Punjab which lays down the rules and procedure for making admission in the MBBS/BDS courses.

3. It is stated by the petitioner that she had applied on the strength of the documents indicating that the petitioner's maternal grandfather was a freedom fighter of U.P. and was getting freedom fighter pension from the State of Uttar Pradesh (U.P.) as well as from the Government of India and therefore she is grandchild for a freedom fighter. The authorities while considering the case of the petitioner have informed her that she is not entitled to claim the benefit of reservation under the freedom fighter category as the seats for freedom fighters in the State of Punjab are reserved only for the freedom fighters of the State of Punjab and as the petitioner is claiming for grant of this benefit only on the strength of the freedom fighter certificate issued by the State of Uttar Pradesh, where her maternal grandfather has been declared as a freedom fighter, she is not eligible and entitled to claim admission under the freedom fighter category in the State of Punjab.

4. It is submitted by the petitioner that subsequently she has filed a document with the respondent-authorities on 28.07.2023 showing that the petitioner's maternal grandfather had also been awarded a '*Tamra Patra*' by the Government of India but the authorities have decided not to consider this document in view of the fact that the same had not been filed along with her registration form and the same has been filed only after the cutoff date for registration as mentioned in the prospectus for the session 2023. The petitioner being aggrieved has filed this petition.

5. It is contended by the learned counsel for the petitioner that the petitioner is born and brought up in Punjab and is entitled to seek admission in the State quota seats and in addition as the petitioner's maternal grandfather was a freedom fighter and was accordingly being granted freedom fighter pension under the Central Government Rules as well as the Uttar Pradesh Government freedom fighter's rules, she is entitled to claim admission as a dependent of a freedom fighter as well. He further submits that the petitioner's maternal grandfather had also been awarded a *Tamra Patra* by the Central Government. In such circumstances, as a freedom fighter fought for the freedom of the country and not of any particular State, they have been conferred this status for the entire country and form a homogeneous uniform single category and therefore, the discrimination sought to be made by the authorities between the freedom fighter of the State of Punjab and the freedom fighter of other States vide clause 15(ix) of the notification/rules dated 10.03.2023 is violative of Articles 14 and 15 of the Constitution of India as the petitioner has been discriminated on the ground of place of birth.

6. Learned counsel for the petitioner further submits that a person being declared as a freedom fighter under the Central Government Rules becomes a freedom fighter of the State of Punjab automatically as the criteria for grant of freedom fighter certificate in the State of Punjab is identical to the criteria that has been prescribed under the Central Government Rules for grant of pension.

7. The learned counsel for the petitioner has heavily relied upon the decision of the High Court of Allahabad in the case of *Anmol Deep vs. State of Uttar Pradesh and others 2018 SCC Online Allahabad 6696* in

support of his submissions wherein a dependent of a freedom fighter of Jharkhand was granted admission in that category in Uttar Pradesh.

8. The learned senior Deputy Advocate General of Punjab appearing on advance copy submits that the admission to State quota MBBS seats is governed by the Rules notified on 10.03.2023 whereunder 1% of the State quota seats have been reserved for children/grand children of freedom fighters of Punjab only. He fairly states that the petitioner's representation is pending before the authorities and same would be considered and decided in accordance with law and if the petitioner is aggrieved she even has the remedy of filing an appeal in accordance with the procedure prescribed.

9. The learned counsel appearing for the respondent-university submits that the petition filed by the petitioner is belated as the first round of counseling after the scrutiny of documents is already over and therefore, the petition being belated deserves to be dismissed.

10. Before commencing to consider the petitioner's arguments, the counsel for the petitioner was specifically asked to respond to the statement made by the learned Senior Deputy Advocate General, Punjab, wherein he has stated that the authorities would consider and decide the representation and to avail the remedy of appeal to which the learned counsel for the petitioner submitted that the respondents have disclosed their mind and therefore, he has insisted for decision of the petition on-merits at the motion stage itself.

11. We have heard learned counsel for the parties at length.

12. From a perusal of the notification dated 10.03.2023 (Annexure P-1), it is evident that it lays down the rules and procedure for admission to MBBS/BDS courses in the State of Punjab for the session 2023

to State quota seats, that is, the 85% seats of the total MBBS/BDS seats that have been reserved for the residents of the State of Punjab. It is further evident that the entire procedure prescribed therein relates to the admissions to be granted to the local residents of the State of Punjab. Clause 15 of the Notification dated 10.03.2023 (Annexure P-1) deals with the reservation in Government Medical and Dental Colleges, which is in the following terms:-

“Clause-15:- Reservation in Government Medical/Dental Colleges:-

The reservation for the State quota seats in Government Institutes in various categories for admission to the Undergraduate courses in Government Medical/Dental Institutes shall be as under:-

- (i) Scheduled castes : 25%
- (ii) Backward Classes: 10%
- (iii) Backward Area/Border Area (1% each) : 2%
- (iv) Persons with disability : 5%
- (v) Sports persons : 1%

Credit shall be given only for the sports achievements made during class XI and XII. The admission shall be made on the basis of inter-se merit of the candidates determined on the basis of gradation (category A/B/C) issued by the Director of Sports, Punjab. However, for exempted categories under para 11 of this notification, the competent authority will be Director, Sports of that State or U.T. from where the candidate has passed his class XI and XII examinations.

- vi) Children/Grandchildren of terrorist affected persons- 1%
- Children/Grandchildren of Sikh riot affected persons-1%

(In order of preference to the exclusion of next category) (Preference shall be given to a candidate whose parent or guardian is killed in such situation- Guardian to be considered only in case neither parent was alive at the relevant time).

a) Persons killed in terrorist actions in Punjab/riots outside Punjab.

b) Terrorist/Riot affected/displaced persons.

- (vii) Wards of Defence personnel 1%

In order of preference to the exclusion of next category as per letter No. 6(1)/2017/D(Res.II) dated 21.05.2018 of Ministry of Defence, Department of Ex-Serviceman Welfare, Government of India.

Note: Certificate to this effect must be issued by Army/Navy/Air Force Head quarters or the Commanding Officer of the Unit, countersigned by the Director, Defence Services Welfare, Punjab, in case of the Serving Defence personnel. In case of Ex-Servicemen certificate should be signed by the concerned District Defence

Services Welfare officer, countersigned by the Director, Defence Services Welfare, Punjab.

- (viii)** Wards of Punjab Police Personnel, Punjab Armed Police, Punjab, Home Guards and Para-military Forces (in order of preference to the exclusion of next category) 1%

Certificate to this effect issued by Inspector General of Police (HQ), Punjab Police shall have to be produced while submitting other documents. In case of paramilitary Forces, this certificate shall be countersigned by IG Police (HQ) Punjab.

- (a) Killed in action
(b) Disabled in action to the extent of 50%
(c) Winners of President's Police Medal for Gallantry or police medal for gallantry.

- (ix) *Children/grandchildren of freedom fighters of Punjab 1%***

- (x)** EWS:- As per corrigendum No. 5/2/2019-5HB-III-4321 dated 10.07.2019 issued by Government of Punjab, Department of Medical Education and Research, Punjab. In continuation Notification No. 3577 dated 06.06.2019 is reproduced as under:-

"The medical Council of India (MCI), New Delhi vide letter dated 21-06-20 9 and U.O. dated 30-06-2019 has now increased the number of seats from 200 to 225 in Government Medical College, Patiala, Government Medical College, Amritsar from 200 to 250 and GGSMC, Faridkot 100 to 125 and accordingly, 10% seats are to be earmarked for "Economically Weaker Section(EWS)" category.

In pursuance to aforesaid decision of MCI, New Delhi, the following guidelines are issued in continuation to the notification dated 6th June 2019 under reference:-

- (1) The total number of seats would be 250 seats in Government Medical College, Amritsar, 225 seats in Government Medical College, Patiala and 125 seats in GGSMC, Faridkot from the session 2019-20 onwards and 10% of the original seats each would be reserved for EWS category in these three medical colleges.
- (2) Remaining seats in these three Medical colleges would be filled up as provided in the notification dated 6th June 2019 under reference.
- (3) The issuance of the certificate of EWS category shall be as No.1/16/2019-RC1/116 dated 14-05-2019 followed by letter no. RC1/120 dated 28-05-2019 issued by the department of Social Justice, Empowerment and Minorities (Reservation Cell) Government of Punjab.

The Vice Chancellor, Baba Farid University of Health Sciences (BFHUS), Faridkot and the other members of the Admission committee may ad students belonging to EWS category based on the certificate issued as per instructions dated 14-05-2019 and 28.05.2019 of the Department of Social Justice,

Empowerment and Minorities (reservation cell), Government of Punjab.

- (x-b) The Dental Council of India(DC1), New Delhi vide letter dated 30.04.2019 and 19.07.2021 has now increased the number of seats from 40 to 50 in Government Dental Colleges, Amritsar & Patiala. Accordingly 10% seats are to be earmarked for "Economically Weaker Section(EWS)" category. From the session 2021-21 onwards and 10% of the original seats each would be reserved for EWS category in Government Dental Colleges, Amritsar & Patiala.

The issuance of the certificate of 'EWS' category shall be as per letter No.1/16/2019-RC1/116 dated 14-05-2019 followed by letter no. 1/3/2019-RC1/120 dated 28-05-2019 issued by the Department of Social Justice Empowerment and Minorities (Reservation Cell) Government of Punjab.

The Vice Chancellor, Baba Farid University of Health Science (BFHUS), Faridkot and the other members of the Admission committee may admit students belonging to EWS category based on the certificate issued as per instructions dated 14-05-2019 and 28-05-2019 of the Department of Social Justice, Empowerment and Minorities (reservation cell), Government of Punjab."

13. It is clear from a bare reading of the aforesaid clause that apart from the vertical reservation categories i.e. for scheduled castes and backward classes, horizontal reservation of 1% has been provided under Clause 15(ix) of the notification for children/grand children of freedom fighters of Punjab. The authorities while considering the documents filed by the petitioner have accepted only those documents relating to her claim under the State quota seats as a resident of the State of Punjab but have rejected her claim for grant of further reservation in 1% seats reserved for children/grand children of the freedom fighters of the State of Punjab on the ground that her maternal grandfather was a freedom fighter residing in the State of Uttar Pradesh and not the State of Punjab and therefore, she is not eligible to claim reservation in the category of children/grand children of freedom fighters of the State of Punjab.

14. Evidently, while the status of a freedom fighter, which has been accorded to the maternal grandfather of the petitioner under the Central Government Rules and Uttar Pradesh Government Rules, has not been denied by the authorities, however, the claim of the petitioner seeking reservation as a child/grandchild of a freedom fighter of the State of Punjab has been rejected on the ground that her maternal grandfather was a freedom fighter who was a resident of Uttar Pradesh and not a freedom fighter residing in the State of Punjab, which is an admitted and undisputed fact.

15. Before we proceed any further in considering the issues raised by the petitioner, it is pertinent to note that on a specific and direct question being asked by this Court to the learned counsel for the petitioner, he has specifically and categorically stated that **he has not challenged the constitutional validity of Clause 15(ix) of the notification dated 10.03.2023** (Annexure P-1) but has only sought for a direction to read down or read certain words into clause 15(ix) of the notification dated 10.03.2023 so as to include children/grand children of freedom fighters from all other States of India who qualify for grant of pension under the *Swatantra Sainik Samman Pension Scheme*, 1980.

16. It is pertinent to note that as per the Prospectus itself, the NEET result was declared much earlier and the notification by the State of Punjab was issued in March, 2023 and the admission process has already commenced and it is only at the stage of first round of counseling that the petitioner has approached this Court.

17. Learned counsel appearing for the respondent-University, on advance copy, submits that as on date the choice filling for the first round of

counseling is over and the authorities are in the process of seat allocation in the first round of counseling which is going to be finalized today itself.

18. In the circumstances, even before applying under this category, the petitioner was well aware of the fact that this clause applied only to the freedom fighters for the State of Punjab and did not apply to the children/grand children of the freedom fighters of any other State. Evidently, inspite of knowing the import and meaning of the said clause, the petitioner has still chosen not to challenge the same and has participated in the entire selection process without any kind of objection to the same except after the information and intimation received from the respondent-authorities to the effect that she was not eligible under this Clause for claiming benefit as a child or the grandchild of a freedom fighter of the State of Punjab. Therefore, in these circumstances, we are of the considered opinion that the petition filed by the petitioner is an afterthought and belated.

19. Prayer of the petitioner to read down or read words into clause 15(ix) of the notification to include children and grand children of freedom fighters from all over the country is patently misconceived. Firstly, as the petitioner has not challenged the validity of this clause and secondly as the very intent and object is clear and evident from a plain reading of the language of the said clause. It is a settled principle of interpretation that in cases where the language and the meaning of the provision is absolutely clear and unambiguous and does not require interpretative skills to understand, the Court cannot on its own add or substitute words, in accordance with its own views or thinking, as reframing of a clause or rewriting the same is not within the powers of the Court and is strictly within the domain of the policy maker.

20. From a bare reading of Clause 15(ix) of the notification, it is evident that 1% horizontal reservation has been provided only for the children/grand children of freedom fighters of Punjab in the State quota seats i.e. for the residents of Punjab. The clause in question reads as under:-

“15(ix) Children/grand children of freedom fighters of Punjab -1%”

21. Adding or substituting any words in the said clause in the manner in which the petitioner prays for would result in rendering the words ‘*of Punjab*’ used in the said clause redundant and otiose which have evidently been used to achieve the purpose and object of the clause, that is, to provide 1% horizontal reservation in the State quota seats for children/grand children of freedom fighters of Punjab and not of other States.

22. On page 81 of the “*Principles of Statutory Interpretation*” 14th Edition, Chapter 2, written by Justice G.P.Singh, the learned author, while elucidating the guiding rules of statutory interpretation, has emphasized that the words in a statute should not ordinarily be rejected by referring to several Supreme Court decisions in the following terms:-

“(c) Avoiding rejection of words:-

As on the one hand, it is not permissible to add words or to fill in a gap or lacuna, on the other hand effort should be made to give meaning to each and every word used by the Legislature. “It is not a sound principle of construction”, said PATANJALI SHASTRY, C.J.I., “to brush aside words in a statute as being inapposite surplusage, if they can have appropriate application in circumstances conceivably within the contemplation of the statute”. And as pointed out by JAGANNATHDAS, J., “it is incumbent on the Court to avoid a construction, if reasonably permissible on the language, which would render a part of the statute devoid of any meaning or

application”. “In the interpretation of statutes”, observed DAS GUPTA, J., “the courts always presume that the legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statute should have effect”. The Legislature is deemed not to waste its words or to say anything in vain and a construction which attributes redundancy to the Legislature will not be accepted except for compelling reasons”.

23. These guiding rules of literal construction of statute, when applied to the instant case, make it clear that the words “***children/grand children of freedom fighters of Punjab***” contained in Clause 15(ix) of the notification have to be given full meaning and effect. As stated earlier, the petitioner has not challenged the constitutional validity of the rules and has insisted on rejecting or not giving meaning to the words “***of Punjab***” in the said clause, which in our considered opinion is not permissible.

24. The learned counsel for the petitioner contends that the petitioner, being born and brought up in Punjab, is a domicile and permanent resident of Punjab and is admittedly entitled to seek admission in the State quota seats and in such circumstances she cannot be denied benefit of reservation in the freedom fighter category as the respondents do not dispute the fact that she is a grandchild of a freedom fighter of Uttar Pradesh. It is submitted that once the petitioner crosses the hurdle of being a resident of Punjab and is held eligible for admission in the State quota then she cannot be denied admission on the ground that her maternal grandfather was not a freedom fighter of Punjab and all that is required to be seen is whether she is a grandchild of a freedom fighter, be it Punjab or otherwise.

25. Having anxiously considered this submission, we are of the considered opinion that the same is patently flawed. While it has not been disputed by the respondents that the petitioner is a resident of Punjab and is entitled to seek admission in the State quota, however, as the petitioner seeks the further benefit of reservation in the State quota provided for children/grandchildren of freedom fighters of Punjab, she has to fulfill the criteria prescribed for the same as well, that is, being a grandchild of a freedom fighter of Punjab. Both the criteria and requirements are required to be fulfilled by the petitioner to avail the benefit of reservation under the children/grand children of freedom fighter of Punjab category.

26. To put it differently, even if the petitioner's status as a resident of Punjab and being grandchild of freedom fighter is not denied, she is still not entitled for admission under the children/grand children of freedom fighters of Punjab category as the Rule specifically stipulates that the candidate must be a child/grandchild of a freedom fighter of Punjab, the validity of which criteria has not been challenged by the petitioner in spite of the fact that it was known to her from the very beginning and she participated in the entire selection process having full knowledge of the same. In view of the undisputed fact that she does not fulfill the prescribed criteria of being a grandchild of a freedom fighter of Punjab, the authorities have rightly denied her claim.

27. Quite apart from the above, a bare perusal of Clause 15(ix) of the notification makes it clear that the intent and object behind this Clause is to provide 1% horizontal reservation to the children/grand children of the freedom fighters of the State of Punjab. Evidently, looking to the fact that the seats are reserved under the State quota and the State wants to give

benefit to children/grand children of the freedom fighters of Punjab, there is a rational nexus with the object sought to be achieved, namely, providing reservation to the children/grandchildren of the freedom fighters of the State of Punjab and promoting and encouraging the feeling of Nationalism in the State of Punjab by awarding those freedom fighters of Punjab and their family members who made selfless sacrifices for the country. Any other interpretation of this clause would lead to an absurd result inasmuch as while the seats are reserved for the residents of the State of Punjab, these 1% seats reserved for children/grand children of freedom fighters of Punjab would be thrown open for those students, who although fall within the State quota but are children/grand children of those freedom fighters, who are not residents of the State of Punjab. This would be absolutely against the object and purpose of providing a state quota and a horizontal reservation within the same to the children/grandchildren of the freedom fighters of the State of Punjab alone to the exclusion of dependents of freedom fighters of other States and would result in rendering clause 15(ix) of the notification to be totally against its very object and purpose.

28. In the circumstances, in our considered opinion, the reservation is in furtherance of the object sought to be achieved and is based on intelligent differentia and does not violate Articles 14 and 15 of the Constitution of India, as children/grand children of freedom fighters of other States form a distinct and separate class for the purpose of granting reservation in view of the provisions of the Rules of the State of Punjab. The contentions to the contrary deserve to be rejected.

29. For the aforesaid reasons, the contention of the petitioner that she should be given the benefit on account of the *Tamra Patra* awarded to her maternal grandfather by the Central Government thereby placing him on a higher pedestal than those merely getting freedom fighter pension under State Rules, is also hereby rejected being meritless.

30. It is also pertinent to note that at the initial stage the petitioner had applied for reservation under this category on the strength of the documents relating to grant of freedom fighter pension to her maternal grandfather. However, subsequently, after the last date for filing online application for admission was over and even after the date for submission of objections to the provisional merit list was over i.e. 27.07.2023, an application was filed by the petitioner stating that her claim should now be considered under the freedom fighter's category on the strength of *Tamra Patra* which was awarded to her maternal grandfather under the Central Government Rules. The authorities have rejected the said claim of the petitioner on the ground that this document was not filed by the petitioner at the time of filing of her on-line admission application which had to be filed latest by 20.07.2023. We are also of the considered opinion that no fault can be found with the stand taken by the respondent-authorities as the last date for submitting online application for admission was 20.07.2023 and any change or accepting the additional documents after that date by the authorities would have vitiated the entire admission process and would have opened a pandora's box for candidates making similar claims.

31. The decision of the Allahabad High Court in the case of *Anmol Deep vs. State of U.P. and others (supra)* relied upon by the petitioner has no applicability to the facts of the present case in view of the different and

clear rules/notification of the State of Punjab. In the case of *Anmol Deep (supra)*, the Allahabad High Court considered the provisions of the *U.P. Public Services (Reservation for Physically Handicapped, Dependents of Freedom Fighters and Ex-Servicemen) Act, 1993*, and its applicability to Reservation for dependants of freedom fighters in MBBS admissions. It was held in para-12 of the judgment that “*in other words, persons who are living outside of the State of U.P. and are freedom fighters have been excluded from the definition of the freedom fighter under the Act of 1993*”. In paras 15 and 16 it was held that “*under the aforesaid Government orders only the format of the certificate of dependent of freedom fighter has been adopted and not the Act as a whole. We have not been shown any material or document which could establish that U.P. Act of 1993 has been adopted for the purposes of granting admission to the MBBS course or that the definition of the freedom fighter as contained therein has been accepted*”.

32. The question, which was formulated in that case, has been mentioned in para No. 17 of the judgment *Anmol Deep (supra)*, which reads as under:-

“Whether any distinction can be made in recognizing a person to be a freedom fighter on the basis of place of his domicile”.

The aforesaid question has been answered in para-22 of the judgment by holding that “*it is apparent that no distinction can be made between freedom fighters on the basis of their place of birth or domicile*”.

33. In para-23 of the judgment *Anmol Deep (supra)*, the Court has held that the status of freedom fighter has nothing to do with his place of residence or domicile and that his dependant would be entitled to the benefit

of reservation “if it is so provided in law”. It has ultimately been held in para Nos. 26 and 27 of the judgment as under:-

“26. There is no dispute that the grand-father of the petitioner is a freedom fighter and the petitioner is his dependent. Thus, the place of residence of petitioner's grand-father does not have any effect either on the status of the petitioner being the dependent of a freedom fighter or his grand-father being a freedom fighter. A freedom fighter living in any place in India would remain a freedom fighter and he does not loses his status by shifting his domicile from one place to another. The nation recognises him to be a freedom fighter irrespective of his place of birth or residence etc. If the above pragmatic view is not taken, a single person may be a freedom fighter in one place of living and an ordinary citizen at some other place. His status will be fluctuating creating confusion as same person cannot have the dual character of a freedom fighter as well as of a normal citizen.

27. Consequently, we are of the opinion that the law cannot exclude freedom fighters domiciled outside U.P. from their status of a freedom fighter and, therefore, the condition of domicile contained in [Section 2\(d\)](#) of U.P. Act of 1993 has to be ignored to bring it within the fundamental framework of the principle of equality contained in Articles 14 and 15 of the Constitution of India.”

34. From the aforesaid analysis, it is evident that the decision in the case of *Anmol Deep (supra)* is clearly not applicable to the issue involved in the present case as in the present case there is no denial of status of freedom fighter of the petitioner’s maternal grandfather by the respondents or for that matter the fact that the petitioner is a dependent of a freedom fighter.

35. In the present case, the petitioner has been denied benefit on the ground that even though she is a dependent of a freedom fighter, she is not a dependent of a freedom fighter of Punjab for whom 1% seats of the State

quota have been horizontally reserved. The decision in the case of *Anmol Deep (supra)* is also not applicable in the present case as the Rules governing MBBS specifically provides for 1% horizontal reservation in the State quota only for children/grand children of '*freedom fighters of Punjab*', whereas no such rule was in force in Uttar Pradesh (UP). Infact, in para-23 of the judgment in *Anmol Deep (supra)*, it has clearly been held that the dependent of the freedom fighter would be entitled to reservation only "*if it is so provided in law*".

36. From a bare perusal of the Rules and the law in the State of Punjab, it is manifestly clear that the petitioner is not entitled to the benefit of reservation under the category of a '*freedom fighter of Punjab*'.

37. From a perusal of the decision in the case of *Anmol Deep (supra)*, it is evident that the Court in that case itself held that the U.P. Act of 1993 grants benefit to the freedom fighters of the State of U.P. alone. However, the applicability of the Act of 1993 was restricted to the matters relating to service as it was held that U.P. Act of 1993 had not been adopted for the purposes of granting admission to MBBS courses whereas in the present case a specific clause i.e. 15(ix) clearly restricts the benefit only to children/grand children of freedom fighters of Punjab. It is also evident that the main issue involved therein was whether the status of freedom fighter, who was a resident of some other State, could be denied to that freedom fighter in the State of Uttar Pradesh. Evidently, the very status of freedom fighter was being denied, whereas, no such issue is involved in the present case as there is no denial of the status of a freedom fighter of the petitioner's maternal grandfather. The present case is one of providing reservation which in any case cannot be claimed as of right. In view of the aforesaid, it is

evident that the decision rendered in the case of *Anmol Deep's (supra)* has no applicability to the facts and law involved in the present case.

38. The relief for a direction to the respondents to grant benefit of reservation to the dependants of all freedom fighters of India and not restricting it only to the dependants of freedom fighters of Punjab is also misconceived as no person, including the petitioner, has a right to seek a direction to provide for reservation for a particular class or category of people, as is being sought by the petitioner in the present case by praying that the scope of the provision of Clause 15(ix) of the notification be enhanced and expanded by “reading down” the words “*of Punjab*” and by replacing them with the words “*of India*”. The Supreme Court in *State of Punjab vs. Anshika Goyal and others, 2022 SCC Online SC 86; Gulshan Prakash (Dr.) vs. State of Haryana, 2010(1) SCC 477; Chairman and Managing Director, Central Bank of India vs. Central Bank of India, SC/ST Employees Welfare Association, 2015(12) SCC 308; Suresh Chand Gautam vs. State of Uttar Pradesh 2016(11) SCC 113 and Mukesh Kumar vs. State of Uttarakhand 2020(3) SCC 1*, has categorically held that the Court cannot direct the State to make reservations for a particular category nor can a petitioner claim a writ to provide reservation, as the authority and discretion to do so vests solely in the State. Further, a writ to direct the State to provide reservation even in respect of vertical categories like Scheduled Castes and Scheduled Tribes and other backward classes cannot be issued.

39. In view of the aforesaid facts and circumstances, we are of the considered opinion that no fault can be found with the stand taken by the respondent authorities as the admission in the freedom fighter category is restricted only to the children/grand children of the freedom fighters of the

State of Punjab and as the petitioner does not belong to the said category, the benefit of reservation as a freedom fighter of the State of Punjab cannot be granted to her. We are also of the considered opinion that the prayer of the petitioner to the effect that the said clause should be read down or the words '*freedom fighters from any part of the country*' should be read into the said clause, also cannot be accepted in view of the fact that the language of the clause in question is not ambiguous. It is clear and specific and clearly declares the intent and object of the State of Punjab to provide 1% reservation only to the children/grand children of the freedom fighters of the State of Punjab and not to the other parts of the country and therefore, the prayer to read down or read into clause 15(ix) of the notification to include words '*freedom fighters from all other States of India*' is misconceived and therefore, rejected.

40. The petition filed by the petitioner is accordingly dismissed.
There shall be no order as to costs.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

01.08.2023
ravinder sharma

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No