

GAHC010191562024



2024:GAU-AS:11248

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

Case No. : WP(C)/4822/2024

DR. ABHINAV KALITA AND 11 ORS
S/O JOY KANTA KALITA
RESIDENT OF DIVYA APARTMENT, BISHNU RABHA PATH BELTOLA
TINIALI, GUWAHATI 781028

2: DR. HIMPRABAL KAUSHIK
S/O DR. PRAFULLA SARMA

RESIDENT OF BYE LANE NO. 2
HOUSE NO. 9
WIRELESS BELTOLA
PS HATIGAON
GUWAHATI 78108

3: DR. BIDISHA BARMAN
D/O MUKUL BARMAN
RESIDENT OF QUATER NO. 10
ULUBARI
AGRICULTURE QUARTER
NEAR ULUBARI
NURSERY
GUWAHATI 781007

4: DR. DHYAN JYOTI SHARMA
S/O SURESH CH. SARMA
RESIDENT OF HOUSE NO. 19
BIKASHANAGAR KAHILIPARA
GUWAHATI 781034

5: DR. PRAJWALITA PRAACHI BARUAH

D/O MONTU KUMAR BARUAH

RESIDNET OF 6C

MONSOON ABODE
RAJGARH ROAD
GUWAHATI 781007

6: DR. MADHURJYA PRATIM GOSWAMI
S/O LAKHYESWAR GOSWAMI

RESIDENT OF HOUSE NO 6
MAHARSHI PATH
NEAR RADISSION BLUE HOTEL
GOTA NAGAR
JALUKBARI
GUWAHATI 781033

7: DR. HARSHITA CHOUDHURY
D/O LATE HEMANTA KUMAR CHOUDHURY

RESIDENT OF HOUSE NO. 96
MG ROAD
PANBAZAR
GUWAHATI 781001

8: DR. SUBHAM JAIN
S/O SANJAY KUMAR JAIN

RESIDENT OF NEELACHAL APARTMENT
OPP. NAM GHAR
REHABARI
GUWAHATI 781008

9: DR. CHINMOY GOGOI
S/O BHASKAR LAL GOGOI

RESIDENT OF HOUSE NO. 4
BORHOMTHURI
SHAKTIGARH PATH
ABC
GUWAHATI 781005

10: DR. SAURAV SHARMA
S/O KUMUD SHARMA

RESIDENT OF FLAT NO. 1E
SREEMOYEE ENCLAVE
BYE LANE NO. 2
BHASKAR NAGR
ZOO ROAD
TINIALI

GUWAHATI 781024 ASSAM

11: DR. NAMRATA GOSWAMI
S/O GIRIDHAR GOSWAMI

RESIDENT OF HOUSE NO. 3
SAPTARSHI PATH
M.T RAD
ZOO ROAD TINIALI
GUWAHATI 781024

12: DR. SHEHZEEN ZAKARIA
D/O ZAKARIA AHMED

RESIDNET OF BYE LANE NO. 1 HOUSE NO. 61
GANDHI BASTI
GUWAHATI 78100

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY, HEALTH AND FAMILY
WELFARE DEPT. GOVT. OF ASSAM, DISPUR GUWAHATI 781006

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

3:THE SECRETARY
MINISTRY OF HEALTH AND FAMILY WELFARE
NIRMAN BHAWAN
NEW DELHI 1100011

4:THE DIRECTOR GENERAL OF HEALTH SERVICES
MINISTRY OF HEALTH AND FAMILY WELFARE
NIRMAN BHAWAN
NEW DELHI 1100011

5:NATIONAL MEDICAL COMMISSION

REP. BY ITS CHAIRMAN
AND HAVING ITS OFFICE AT POCKET 14
SECTOR 8
DWARKA PHASE 1
NEW DELHI 11007

Advocate for the Petitioner : MR S MUKTAR, MR. A CHOUDHURY,MR S ISLAM,MS. M

PATGIRI

Advocate for the Respondent : SC, HEALTH, DY.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR**

ORDER

Date : 19.11.2024

Heard Mr. S. Muktar, learned counsel for the petitioners.

2. The present writ petition has been filed by the petitioners who are MBBS graduates from the State of Assam and they have also cleared the NEET-PG-2024 examination and they are awaiting counseling process for being admitted into the various courses in the State Quota.

3. The grievance of the petitioners in the present writ petition is that the number of seats for EWS quota which is 10% if implemented, then the corresponding 25% increase in the quota for Unreserved category is required to be made. It is submitted that this arrangement has been followed by the State since the year 2020 on the basis of the number of seats as well as on the directions passed by this Court from time to time.

4. The learned counsel for the petitioners has also referred to earlier orders passed by this Court which are enclosed in the present writ petition and submits that batches of students have approached this Court seeking directions to the Govt. of Assam, Medical Education Department as well as to the NMC to permit and regularize 25% increase in seats in the General category/Unreserved category.

5. The Director of Medical Education has filed an affidavit on 03.10.2024,

wherein, it is stated as under:

“3. That pursuant to the Hon'ble Gauhati High Court's order dated 01.10.2024 passed in the instant writ petition, the deponent, by way of this instant preliminary affidavit-in-opposition begs to submit the following for the just and proper adjudication of the case:

a. That the deponent wrote a letter to the then Secretary, BOG-MCI vide letter No. DME/PG/306/2009/Pt./18316 dated 18.12.2019 with a request to increase the PG seats for the session 2020 by 25% of the total State Quota seats, in order to accommodate the 10% EWS quota. However, Board Of Governors-MCI rejected the request citing that more than required seats have already been increased for the Session 2020 vide BOG-MCI letter No. MCI- 23(I)9(EWS)/2019-Med./192636 dated 20.02.2020 which in fact included conversion of 42 nos. of Diploma seats to Degree seats and new introduction of PG seats in Tezpur Medical College, Tezpur and Dr B Borooah Cancer Institute, Guwahati.

A copy of the letter bearing No. DME/PG/306/2009/Pt./18316 dated 18.12.2019 and a copy of the letter bearing No. MCI-23 (I)9 (EWS)/ 2019- Med./ 192636 dated 20.02.2020 are annexed herewith and marked as ANNEXURE - A and ANNEXURE - B respectively.

b. That the BOG-MCI then advised to implement the reservation roster including the 10% EWS quota as per State Policy for all available seats in Post Graduate courses from Assessment year 2020-2021 through their letter bearing No. MCI-23(I)9(EWS)/2019-Med/192636 dated 20.02.2020. Accordingly, the deponent shall distribute the State Quota PG seats, category wise, including 10% EWS quota, for the session 2024 as per the policy of the State of Assam.

c. That as a result, the number of un-reserved seats had fallen below 50% of the total seats. Keeping this in view, the Hon'ble Gauhati High Court added 51 nos. of seats in the year 2020 vide order dated 24.08.2020 passed in the writ petition bearing. W.P.(C) No. 3007/2020 (Iftikar Hussain and 29 Ors. Vs. The Union of India and 34 Ors.) so that the number of un-reserved seats does not decrease below the existing number after contributing to the EWS quota. Subsequently, the Hon'ble High Court also added 51 nos. of seats for the session 2021, 2022 and 2023 to compensate for the introduction of 10% EWS reservation in PG seats.

A copy of the order dated 24.08.2020 passed by the Hon'ble Gauhati High Court in the writ petition bearing No. W.P.(C) No. 3007/2020 (Iftikar Hussain and 29

Ors. Vs. The Union of India and 34 Ors.) is annexed herewith and marked as ANNEXURE - C.

4. That the deponent begs to submit before the Hon'ble High Court, based on the submissions made in the aforementioned paragraph 3 of the instant affidavit-in-opposition, to kindly consider to add 51 nos. of PG-Degree seats as previous years or $51+95 = 146$ additional seats to keep the un-reserved seats intact for the session 2024 as was done in the previous years to compensate for the 10% EWS reservation."

6. Mr. D. K. Baidya, learned standing counsel, NMC has also placed a communication dated 4th of November, 2024, written by the Post-Graduate Medical Education, Board (PGMEB and NMC), wherein, it is stated as under :

"When EWS quota for PG Courses was in Govt. Medical Colleges was started for 2020-21, against the demand of 51 years, 83 seats were increased in the State Assam via letter dt. 13.03.2020 (Attached) sent by the MNistry to all the states. Further, it was only one time measure".

7. He further submits on instructions, that if the Department of Medical Education, Assam request the NMC for enhancement of seats, the same would be considered by the NMC in terms of the earlier Communication dated 27.02.2022 which is appended to the Communication dated 13.03.2020.

8. Mr. B. Gogoi, learned standing counsel, Health Department also submits that an increase is required to be made and accordingly the Department may be permitted to furnish necessary applications through proper channel for proportionate increase of 83 number of seats to keep the unreserved seats intact for the Session 2024.

09. The learned standing counsel, NMC also submits that if the proposal is made by the Director of Medical Education, Assam for increase of 83 number of seats, the NMC would have no problem and the same would be considered with the requirements projected by the Department.

10. Accordingly, this writ petition is disposed of directing the Director of Medical Education Assam to send the proposal for increase of 83 number of seats to NMC on or before 22nd of November, 2024. Thereafter, the NMC shall consider the proposal made by the Director of Medical Education, Assam and pass appropriate orders on or before 29th of November, 2024.

11. With the above observations and directions, this writ petition stands disposed of.

JUDGE

Comparing Assistant