

THE HIGH COURT OF TRIPURA
AGARTALA

WP(C) 248 OF 2015

Dr. Karnajit Debroy

S/o Shri Bishnupada Deb Roy,
Resident of Pragati Road, Agartala,
P.O. Agartala, P.S. West Agartala,
District- West Tripura.

.... **Petitioner.**

- Vrs -

1. The State of Tripura,

Represented by the Secretary,
Health & Family Welfare Department to the
Government of Tripura, Civil Secretariat,
New Secretariat Complex, Kunjaban,
P.O. Kunjaban, Agartala, District-West Tripura,
PIN-799006.

2. The Secretary to the Government of Tripura,

Health & Family Welfare Department,
Civil Secretariat, New Secretariat Complex,
Kunjaban, P.O. Kunjaban, Agartala,
District-West Tripura, PIN-799006.

3. The Secretary to the Government of Tripura,

Medical Education Department,
Civil Secretariat, New Secretariat Complex,
Kunjaban, P.O. Kunjaban, Agartala,
District-West Tripura, PIN-799006.

4. The Director of Medical Education & Chairman,

PG Counselling Committee 2015-16, Government of
Tripura, Akhaura Road (Opposite to IGM Hospital),
P.O. Agartala, District- West Tripura, PIN-799001.

5. The Principal, Agartala Government Medical College,

Agartala, P.O. G.B. Bazar, P.S. East Agartala,
District- West Tripura.

6. Dr. Siuli Das,

Medical Officer, Grade-IV of Tripura Health Service,
At present 1st year PG Student in Agartala Govt. Medical
College, P.O. Kunjaban, Agartala, West Tripura, 799006.

... **Respondents.**

BEFORE

HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE S.C. DAS

For the Petitioner

: Mr. A.K.Bhowmik, Sr. Advocate.
Ms. A. Banik, Adv.

For the respondent : Mr. S. Chakraborty, Addl. G.A.
Nos. 1 to 5.

For the respondent : None.
No.6

Date of hearing & : 07.07.2015.
Delivery of judgment and
order.

Whether fit for : NO
Reporting

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, C.J.)

This writ petition has been filed by Dr. Karnajit Deb Roy praying that he may be granted PG seat in Ophthalmology.

2. Briefly stated, the facts are that the Government of Tripura, Directorate of Medical Education issued an advertisement on 27th December, 2014 inviting applications for 12 seats in various post graduate courses as under:

Sl. No.	Subject/Discipline	Category	No. of seat	Reserved for
01.	MD(Forensic Medicine & Toxicology)	SC	01	Open
02.	MD(Community Medicine)	UR	01	Open
03.	MS(Surgery)	ST	01	Open
04.	MS(ENT)	UR	01	Open
05.	MD(Medicine)	UR	01	Open
06.	MS(Orthopaedic)	ST	01	Open
07.	MS(Obstetric & Gynecology)	ST	01	Sponsored
08.	MD(Padiatric)	ST	01	Sponsored
09.	MD>Anesthesiology)	UR	01	Sponsored
10.	MD(Medicine)	UR	01	Sponsored
11.	MD(Radio-diagnosis)	UR	01	Sponsored
12.	MS(Ophthalmology)	UR	01	Sponsored

There are two categories under which the posts are filled up. Open category and sponsored category. Open category obviously means that any person who fulfills eligibility qualifications can apply whereas sponsored category

refers to the in service candidates who are members of the Tripura Medical services. The in service candidates are called sponsored candidates.

3. The entrance examination for filling up the seats was held on 24th January, 2015. The petitioner and respondent No.6 appeared as general category candidates in the sponsored category. The petitioner scored 63 marks and respondent No. 6, Dr. Siuli Das scored 55 marks. One Dr. Bidhan Bhowmik who belonged to the Scheduled Castes was meritorious on his own right since he had obtained 71 marks. He opted for the seat in Ophthalmology which was meant for UR category. In the third counselling which took place on 4th June, 2015, Dr. Bidhan Bhowmik appeared but was not allotted a seat even though he was willing to give up his seat in Ophthalmology. Thereafter Dr. Bidhan Bhowmik filed a writ petition being WP(C) No. 208 of 2015 which was allowed by us. At that time, on behalf of the State of Tripura it was urged that we should pass an order in such a way that the seat of Ophthalmology does not lie vacant because that would harm the interest of the State. We had, therefore, passed the following directions.

“18. In this view of the matter we are of the considered view that the petitioner would be entitled to the seat in General Surgery under the scheduled caste category and the respondent No.6 if he so chooses can take up the seat in Anesthesiology. As far as the seat in Ophthalmology is concerned that cannot be given to respondent No.7 because that seat now has to go to a open category candidate from the sponsored category

since the petitioner has exercised his right as a scheduled caste category candidate.

19. In this view of the matter, we further direct that after giving the petitioner a seat in General Surgery and in case respondent no.6 takes a seat in Anesthesiology then the admission of respondent No.7 shall be cancelled and the seat in Ophthalmology may be offered to the next candidate in merit in the unreserved sponsored category. This be done on or before **30th June, 2015** failing which the seat shall remain vacant. In case, respondent No.6 does not accept the seat in Anesthesiology then respondent No.7 may be offered that seat.”

4. Now on behalf of the petitioner it is urged that since the petitioner is higher in merit, he must be offered the seat in Ophthalmology. We are unable to accept this contention. When we had passed the judgment in **Dr. Bidhan Bhowmik’s** case, it was clearly with a view to ensure that the seat of Ophthalmology does not lie vacant and we had said that it will be offered to the next candidate in merit. We clearly meant the next candidate in the merit list and not in the order of merit. In case we permit this to go on, the counselling will never come to end.

5. Therefore, we find no merit in the writ petition and accordingly, the petition stands dismissed.

JUDGE

CHIEF JUSTICE