

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1687 of 2015**

1. Garima Verma (Minor) Through Natural Guardian Gorakhnath Verma S/o Vishnoo Prasad Verma, Aged About 42 Years R/o Vindyawashni Temple, Kailash Nagar, Birgaon, Raipur, P.O. Birgaon, District Raipur, Chhattisgarh
2. Warish Kumar Sahu, S/o Nand Kumar Sahu, Aged About 19 Years R/o Hemu Nagar, Near Sai Mandir, Bilaspur, District Bilaspur Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Secretary, Health And Family Welfare Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh
2. Director Medical Education, Indrawati Bhawan, Naya Raipur, District Raipur Chhattisgarh
3. Deep Shika Singh, Govt. Medical College, Rajnandgaon, District Rajanndgaon, Chhattisgarh
4. Kashif Niyaz, Pt. J N M Medical College, Raipur, District Raipur, Chhattisgarh

---- Respondents

Shri C. Jayant K. Rao, Advocate for the Petitioner.
Shri UNS Deo, Government Advocate for the State.

Hon'ble The Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order On Board**Per Navin Sinha, Chief Justice****22/09/2015**

1. Heard Learned Counsel for the Petitioners and Respondents No.1 & 2.
2. The Petitioners were candidates at the Chhattisgarh Pre Medical Test, 2015 belonging to the OBC (Sainik) Category.
3. Learned Counsel for the Petitioners submits that even if there was only one seat available in CIMS for the OBC (Sainik) category, still the moment no Scheduled Tribe candidate was available in another Medical College, it could

not have been transferred to the unreserved category, but should have been given to the OBC category when the Petitioners would have been eligible to be considered.

4. Learned Counsel for the State submits that under the Chhattisgarh Educational Institutes (Reservation in Admission) Act, 2012, Section 3, First Proviso states that if a Scheduled Tribe vacancy remains available due to lack of eligible students, it was to be filled from Scheduled Caste students and vice-versa. The claim of the Petitioners that a vacant Scheduled Tribe seat would revert to the OBC category is therefore completely misconceived.

5. We have considered the submissions on behalf of the parties.

6. Section 3 First Proviso states that where a seat reserved for a Scheduled Tribe remains vacant due to non-availability of eligible students, it was to be filled from amongst eligible students belonging to the Scheduled Caste and vice-versa. Apparently, no claim will lie by a candidate belonging to the OBC category to be considered for admission against a Scheduled Tribe seat remaining vacant due to non-availability of an eligible candidate.

7. We find no merit in the writ application.

8. The writ application is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE