

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No.2098 of 2015**

Dr. Manisha Chandniha D/o H. C. Chandniha, Aged About 32 Years
R/o 456 Chandniha Cottage, Cross Street 3, Ashish Nagar, West
Risali, Bhilai, District Durg, Chhattisgarh

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through Secretary, Health And Family Welfare Department, Office At Mahanadi Bhavan, New Raipur, District Raipur, Chhattisgarh
2. Ayush And Health Sciences University, Through Registrar, Office At G. E. Road, Raipur, District Raipur, Chhattisgarh
3. Government Ayurved College, Raipur Through Principal Office At G. E. Road, Raipur, District Raipur, Chhattisgarh
4. Pramila Patrey, D/o Melaram Patrey, Aged About 26 Years Through Registrar, Ayush And Health Sciences University, Office At G. E. Road, Raipur, District Raipur, Chhattisgarh

-----**Respondent**

For Petitioner:	Shri PK. Dhurandhar, Advocate.
For Respondent No.1 & 3/State:	Shri UNS. Deo, Government Advocate.
For Respondent No.2:	Shri NK. Vyas, Advocate.
For Respondent No.4:	Shri Adhiraj Surana, Advocate.

Hon'ble The Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Order on Board****Per Navin Sinha, Chief Justice****30/03/2016**

1. The Petitioner is aggrieved by denial of admission to the PG Ayurved (M.D/M.S) Course, 2015 despite having been called for counselling and admission having been granted to Respondent No.4 in lieu.

2. Learned Counsel for the Petitioner submits that Respondent No.4, in

her application, had declared herself to be in the unreserved category. No corrections were made in the application within the time provided under the instructions and rules for conduct of test. Even if Respondent No.4 had secured higher marks than the Petitioner, it was inconsequential as the Petitioner remained the only eligible candidate at Serial No.3 in the Scheduled Caste category based on her academic marks eligible for admission against the Scheduled Caste vacancy. Referring to Clause-14 of the Instructions, it was submitted that no corrections in the application form was permissible after the examination results have been declared. Alternatively, it was submitted that if the Court opines that in the facts and circumstances of the case, no relief can be granted to the Petitioner, she is entitled to be suitably compensated monetary as ultimately denial of admission has been for no fault of hers. Reliance was placed on (2016) 1 Supreme Court Cases 662 (S. Nihaal Ahamed vs. Dean, Velammal Medical College Hospital and Research Institute and Others).

3. Learned Counsel for the Respondents submitted that in absence of any rejoinder to their counter affidavits, it emerges as an undisputed fact that Respondent No.4 belongs to the Scheduled Caste category and is a domicile of Chhattisgarh. There had been an inadvertent omission in filling her on-line application. Likewise, it also becomes an undisputed fact that in the Scheduled Caste category to which both Respondent No.4 and the Petitioner belong, the former had secured 64.65 marks and the latter had secured only 59.60 marks. The authorities had therefore committed no error and have in fact rectified a wrong that was being done to Respondent No.4.

4. We have considered the respective submissions.

5. The appointments do not relate to service but for an admission to an

educational institution for acquiring a medical degree for ultimately serving the society. It is an undisputed position that both of them belong to the Scheduled Caste category and that Respondent No.4 has secured higher marks than the Petitioner. True it is that under the instructions for conduct of examination, no corrections were permissible after publication of the results but these instructions are not statutory in nature. It is trite law that it is not necessary for the Court to interfere and issue a writ merely because it may be proper to do so in a case. The writ jurisdiction being discretionary in nature, the discretion can be declined in the facts of a case but reasons discussed.

6. Considering that the matter relates to admission in a medical course, acquisition of a specialized knowledge and training in the interest of the society for better qualified Doctors, we are not persuaded to interfere in the matter in view of the ultimate fact that Respondent No.4 has secured higher marks than the Petitioner in the entrance examination. It is unfortunate that the Petitioner has had to suffer for no fault of hers and will have to again appear to compete. But given her past performance, we have no reason to believe that she should doubt her own abilities.

7. The facts of Nihaal Ahamed (*supra*) are completely distinguishable. The Appellant and the Respondent had both opted for the medical college as their first choice and were asked to come on a specified date. Complaints were lodged before the Monitoring Committee which called for their marks. Despite receipt of communication from the Monitoring Committee, belated communications were posted calling them for counselling because of which they lost the benefit of admission in view of the time lines fixed by the Supreme Court for admission in medical institutions. It has no application to the facts of the present case.

8. The Writ Petition is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE