

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1251 of 2016**

Dr. Sanjay Kumar S/o Late S.S. Tiwari, Aged About 47 Years R/o. Priyadarshini Parisar, Supela, Bhilai, District Durg (Chhattisgarh).

---- Petitioner

Versus

1. State Of Chhattisgarh Through : The Secretary, Medical Education And Health Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (Chhattisgarh)
2. Director, Medical Education And Health Department, Old Nurses Hostel, D.K.S. Bhawan Premises, Raipur (Chhattisgarh)
3. Dr. Mahavir Prasad Agrawal, Roll No. 161280, Through : Director, Medical Education And Health Department, Old Nurses Hostel, D.K.S. Bhawan Premises, Raipur (Chhattisgarh)
4. Dr. Suyesh Songh, Roll No. 161224, Through : Director, Medical Education And Health Department, Old Nurses Hostel, D.K.S. Bhawan Premises, Raipur (Chhattisgarh)
5. Dr. Aditya Keki, Roll No. 161691, Through : Director, Medical Education And Health Department, Old Nurses Hostel, D.K.S. Bhawan Premises, Raipur (Chhattisgarh)
6. Dr. Ajay Kumar Thakur, Roll No. 161595, Through : Director, Medical Education And Health Department, Old Nurses Hostel, D.K.S. Bhawan Premises, Raipur (Chhattisgarh)
7. Dr. Arun Kumar Katore, Roll No. 161336, Through : Director, Medical Education And Health Department, Old Nurses Hostel, D.K.S. Bhawan Premises, Raipur (Chhattisgarh)

-----Respondents

For Petitioners:

Shri TK. Tiwari, Advocate.

For Respondent/State.:

Shri Prafull N. Bharat, Additional Advocate General for State.

Hon'ble The Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Order on Board****Per Navin Sinha, Chief Justice****9/05/2016**

1. The Petitioner was a candidate in the Chhattisgarh Pre-

P.G(M.D/M.S/Diploma) Entrance Examination, 2016 in the unreserved category.

2. Learned Counsel for the Petitioner submits that 50% seats had to be reserved for in-service candidates like the Petitioner. Even if the qualifying marks in the written examination were 80 and the Petitioner may have secured 37 marks, he was entitled to be considered for relaxation of the qualifying marks under Rule-9 of the procedure for selection of post graduate students prescribed by the Medical Council of India as amended upto 18.2.2016. The Respondents have erred in not preparing separate merit lists for in-service candidates and other candidates. It was however fairly acknowledged that no in-service candidate with less than 37 marks been selected.

3. Learned Additional Advocate General appearing on behalf of the Respondents submitted that by virtue of the amendment dated 23.3.2016 to the Chhattisgarh Medical Post-Graduate Entrance Examination Rules, 2016, a candidate in the unreserved category was required inter alia to secure at least 50% marks under Rule-3. Rule-6(b)(1) provided that the final results would be prepared after adding the bonus marks to the marks obtained in the qualifying examination. Rule-6(b)(2) provided that 80 marks would be for written examination and 20 marks for bonus with regard to in-service candidates. The Petitioner failed to secure the qualifying marks in the written examination which was 50% of 80 i.e. 40 marks and secured only 37 marks. Since he failed to pass written examination, the question for grant of any bonus marks to him does not arise.

4. We have considered the submissions.

5. If the Petitioner failed to secure the qualifying marks in the written

examination only whereafter he was entitled to be considered for grant of bonus marks as an in-service candidate, we find no error in the Respondents having treated him as an unsuccessful candidate. It is not his case that an in-service candidate having secured less than 40 marks has been selected and then given the benefit of bonus marks to declare him as eligible. The reliance on Medical Council of India guidelines for relaxation of the qualifying marks on the face of it has no application and in any event presupposes sufficient unavailability of candidates in a particular category who failed to secure minimum marks which is not the case presently.

6. There can be no relaxation of the minimum prescribed eligibility with regard to securing minimum qualifying marks and that too in a discipline of higher specialized education.

7. There is no merit in the Writ Petition. It is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE