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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 21.07.2016

+ W.P.(C) 6116/2016 & CM No. 25046-25047/2016

GAVINI AKHILA (MINOR) Petitioner

versus

CENTRAL BOARD OF SECONDARY
EDUCATION

..... Respondent

Advocates who appeared in this case:

For the Petitioner :Mr. Praveen Mahajan and Ms. Nivedita Jain,
Advocates along with next friend of petitioner, Advts.

For the Respondents :Mr. Atul Kumar, Advocate along with Mr. Karnail
Singh, Dy. Secy., CBSE

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner has filed the present petition seeking a direction to the respondent to carry out the correction and restore the application form dated 05.06.2016 of the petitioner for the purpose of participating in the examination and admission process for NEET-II (UG) 2016 and cancelling the mistaken choice of the petitioner for All India Quota for UG-2016.

2. It is contended that as per the admission notice issued by the respondent, the candidates from the State of Andhra Pradesh are not

eligible for 15% All India Quota seats and are eligible only for the State seats.

3. It is further contended that the petitioner being from the State of Andhra Pradesh is only eligible for the State seats and not eligible for the 15% All India Quota. It is submitted that while submitting the online application form on 05.06.2016 the petitioner opted for the State of Andhra Pradesh as the seat/eligible category. With regard to the State Options 2 and 3 and the All India Option, the petitioner has stated “Not Applicable”.

4. It is further contended that on 28.06.2016 the petitioner wanted to make certain corrections in her application. At the time of making such corrections, on account of a typographical error, the petitioner accidentally ticked the option of seat for All India Quota. Realising the error, the petitioner approached the respondent for making the necessary correction and changing the option but the respondent has refused to do so.

5. Learned counsel for the petitioner contends that the petitioner is only eligible for the State of Andhra Pradesh seat and not eligible for the All India Quota and the error occurred at the time of making corrections in the original application submitted. It is further contended that since the petitioner has opted for All India Quota, an online declaration is generated by the system stating that the petitioner gives up her right to the Andhra Pradesh seat. The petitioner seeks deletion of the said declaration as the petitioner is admittedly not eligible for the All India Quota and is only eligible for the Andhra Pradesh seat.

6. Learned counsel for the respondent submits that since the petitioner has ticked 'yes' for All India Quota, it is not possible at this stage to alter the status of the petitioner as the time stipulated for correction is already over. He submits that since the petitioner has ticked 'yes' for the All India Quota and also given her state option 1 as State of Andhra Pradesh, the merit of the petitioner would be declared both for All India as well as the State of Andhra Pradesh.

7. The case of the petitioner is clearly of a bonafide mistake and not of a post result change of option. The examination is scheduled to be held on 24.07.2016 and the result are to be declared on 17.08.2016. If the petitioner was seeking to change her option after the declaration of result, it would have been clear that the petitioner on account of her results is seeking better opportunities. The petitioner has approached this Court prior to even holding of the examination. Since the petitioner has approached this court prior to even holding of the examination, it can be clearly inferred that there is a bonafide error on the part of the petitioner.

8. The fact that the petitioner is not eligible for the All India quota and is eligible only for the Andhra Pradesh seat is admitted by the respondent. The respondent however contends that the examination is only three days away and at this stage it would not be possible to change the option.

9. It can never be the intention of the law that mistakes or bonafide errors cannot be corrected. Not permitting the correction of the error would gravely prejudice the petitioner in as much as the consequence

would be that the petitioner would be ousted from both the All India Quota as well as the Andhra Pradesh seat Quota. Admittedly, the petitioner is not eligible for the All India quota and on account of the mistaken declaration, the petitioner would be ousted from the Andhra Pradesh seat. This consequence would be too harsh and prejudicial to the petitioner.

10. In view of the above, it is directed that the option given by the petitioner for All India Quota shall not be considered and the petitioner shall be deemed to have opted for the Andhra Pradesh seat only. The online self declaration that the petitioner opts for the All India quota and does not opt for the Andhra Pradesh seat is revoked. The petitioner shall only be entitled for consideration for the Andhra Pradesh seat.

11. The writ petition is disposed of in the above terms.

12. Copy of the order be given *dasti* under the signature of the Court Master.

SANJEEV SACHDEVA, J

JULY 21, 2016

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