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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1670 of 2017**

Yajnaseni Singh Aged About 18 Years D/o Bijayketan Singh R/o Village
Gandhinagar Ward, Jagdalpur, Bastar (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Health Education,
Mantralaya, Mahanadi Bhawan, Raipur (Chhattisgarh)
2. Director, Medical Education, Old Nursing Hostel, Near D. K. S. Bhawan, Raipur,
District Raipur (Chhattisgarh)
3. Dean, Government Medical College, Ambikapur, District Surguja (Chhattisgarh)

---- Respondents

For Petitioner	: Shri Sarfaraj Khan, Advocate.
For Respondent	: Shri R.K.Gupta, Deputy Advocate General.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Sharad Kumar Gupta, J.

Judgment on Board**Per Thottathil B. Radhakrishnan, Chief Justice****19/07/2017**

1. Heard the learned counsel for the Petitioner and the learned Deputy
Advocate General for the State.
2. The Petitioner, a candidate belonging to Gond caste, which is a Scheduled
Tribe in terms of the relevant Presidential Order for the State of
Chhattisgarh, applied for being considered and was selected for MBBS
course. At the time of the selection process and admission, she produced a

certificate from one of the authorities of the State of Orissa that she was a member of Gond tribe. It is submitted that at that time, the Petitioner's father was working for livelihood in the State of Orissa. She was admitted to the MBBS course commencing from the academic year 2016-2017. Later on, it was noticed by the Department that the certificate that she had produced was issued by an authority in the State of Orissa. Therefore, she was removed from the college by cancelling her admission on the ground that she had not produced the certificate that she belongs to a Scheduled Tribe, from the authorities of Government of Chhattisgarh.

3. We may now and here state that Gond is a Scheduled Tribe in the list of Scheduled Tribes in terms of the Presidential Orders for the State of Orissa as well as Chhattisgarh. But that need not by itself be decisive because though the Petitioner's father was working in Orissa, they hailed from the State of Chhattisgarh and that, truly, the Petitioner could claim to belong to the State of Chhattisgarh for the purpose of domicile. It is also, by now, the indisputable fact that the Petitioner belongs to Gond tribe which is a Scheduled Tribe in the State of Chhattisgarh. We say this on the basis of a provisional certificate issued by the office of the Tahsildar, Dhamtari in the State of Chhattisgarh and a caste certificate issued by the Sub Divisional Officer, Dhamtari to the effect that the Petitioner is a member of Gond tribe. With these facts and situation, we cannot but see that the Petitioner was eligible for being considered for admission to the MBBS course by treating her as a member of the Scheduled Tribe in the State of Chhattisgarh even as on the last date fixed for submission of applications for admission to the MBBS course for the year 2016-2017.
4. However, following the cancellation of her admission in January, 2017 and without the support of any caste certificate being issued by the authorities of the Government of Chhattisgarh, she filed a writ petition

before this Court challenging the cancellation of her admission. That was dismissed as per Annexure P/2 judgment. That was confirmed by the dismissal of the special leave petition filed by her before the Supreme Court. This was as per Annexure P/3, whereby liberty was also granted to the Petitioner to produce the caste certificate stated to have been obtained from the office of the Tahsildar, Dhamtari, Chhattisgarh before the concerned authority. Such direction was issued obviously because the Petitioner had by then possessed a provisional caste certificate issued by the office of the Tahsildar, Dhamtari. By now, she has a certificate of a regular nature issued by the Sub Divisional Officer, Dhamtari.

5. When the Petitioner moved the competent authority with a request that she may be permitted to continue with her MBBS course, that has been rejected by holding that she had not produced the requisite certificate from the Government of Chhattisgarh while applying for the MBBS course or when obtaining admission following such application. This writ petition is filed challenging such refusal. Impeaching the stand of the Respondents, the learned counsel for the Petitioner relied on the judgments of the Hon'ble Supreme Court in **Raj Kumar Gijroya v. Delhi Subordinate Services Selection Board; (2016) 4 SCC 754** and **Pushpa v. Govt (NCT of Delhi); (2009) SCC Online, Del 281**, and argued that the Petitioner is entitled to be treated eligible for the reservation due to her as she belongs to a Scheduled Tribe.
6. Technically, the official Respondents may be correct in saying that the prescribed certificate was not produced by the Petitioner alongwith her application. As rightly argued by the learned counsel for the Petitioner, relying on the aforesaid judicial precedents, the Petitioner's eligibility to the status of being a member of Scheduled Tribe cannot be denied solely on that premise.

7. The stark contextual realities faced by the Petitioner who can easily be identified as belonging to a challenged sector, that is to say, a female belonging to a Scheduled Tribe, persuades us to think that this is an abundantly a fit case which calls for an extraordinary remedy to render justice to the Petitioner who is placed under extraordinary circumstances to her peril so far as medical education is concerned. We are of the view that this is a situation where she has no alternative efficacious remedy and the limbs of the writ court have to be extended to provide remedy to the Petitioner and elevate her from her present situation. She is eligible for a direction to the Respondents to re-admit her to the course to which she was studying as a member of the batch to which she was admitted to the first year commencing 2016-2017.
8. In the result, the writ petition is allowed quashing Annexure P/1 order and directing that the Petitioner shall be treated as a student in the MBBS course to which she was admitted during the academic year 2016-2017 and will, accordingly be extended requisite support to complete the said course in accordance with law. No costs.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(Sharad Kumar Gupta)
JUDGE