

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No. 2054 of 2017

- Adarsh Norge S/o Shri Basant Norge, Aged About 19 Years R/o M I G II, Alok 13 Abhilash Parisar Housing Board Colony Tifra Behind New Bus Stand Tifraf Bilaspur, District Bilispur, Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh through Its Secretary, Department of Medical & Health Education, Mahanadi Bhavan New Raipur, Chattisgarh.
2. The Director, Department Of Medical Education, D.K.S. Bhavan Raipur, Chhattisgarh.

---- Respondents

And

Writ Petition (C) No. 2113 Of 2017

- Dr. Asha Yumnam W/o Shri Shyam Sunder Yumnam, Aged About 57 Years R/o Tikrapara, Raipur, District- Raipur, Chhattisgarh.

---- Petitioner

Vs

1. State of Chhattisgarh Through Secretary, Departament Of Health And Family Welfare, Department, Mahanadi Bhawan, New Mantralay, District- Raipur, Chhattisgarh.
2. The Director of Medical Education, Old Nurses Hostel, D.K.S. Bhawan, Parisar, District-Raipur, Chhattisgarh.

----Respondents

For the respective Petitioners	: Shri RK Kesharwani and Shri Akhilesh Kumar, Advocates
For Respondents/State	: Shri Praful N Bharat, Additional Advocate General

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

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

03.08.2017

1. We have heard learned Advocates for the petitioners in these Writ Petitions and the learned Additional Advocate General for the State.
2. The Petitioner in WPC- 2054 of 2017, aspires to be included in the list of Scheduled Caste candidates to be admitted to the MBBS Course in the

Government Colleges in the State of Chhattisgarh for the course commencing 2017. The Petitioner in WPC- 2113 of 2017, aspires to be considered for admission to the said course in the quota reserved for dependents of Freedom Fighters.

3. An order was issued on 02.08.2017 in WPC- 2113 of 2017, the relevant portion of which reads as follows:

"We have heard the learned counsel for the petitioners and the learned Additional Advocate General for the State.

We are dealing with the number of seats which would be available for Scheduled Tribe, Scheduled Caste and Other Backward Class candidates as well as dependents of Freedom Fighters from out of the State quota for MBBS Course in the Government Colleges in the State of Chhattisgarh. There are 124 seats each in the Government Medical College, Bilaspur and Government Medical College, Raipur; 82 seats each in the Government Medical College, Jagdalpur and the Government Medical College, Rajnandgaon and 42 seats in the Government Medical College, Raigarh. This is the status of seats available after deducting All India Merit Quota and Central Pool Quota. Therefore, Statewide reservation available to Scheduled Tribe, Scheduled Caste and Other Backward Class and dependents of Freedom Fighters will have to be worked out on this strength of 454 seats. Working out the percentage of 32% for ST, 12% for SC, 14% for OBC and 3% for Dependents of Freedom Fighters, it is now determined that 145 seats will go to the members of ST, 54 seats will go to the members of SC, 63 seats will go to the members of OBC and 13 seats will go to the dependents of Freedom Fighters. To arrive at this, all fractions resulting out of application of percentage is excluded and availability rounded up."

4. Today, the learned Additional Advocate General submitted that the authorities have applied the rule of reservation on institutional basis, thereby providing reservation separately in relation to each of the Government Medical College. We have examined the provisions of the Chhattisgarh Medical, Dental and Physiotherapy Under Graduate Admission Rules, 2017 (for short, 'Rules, 2017'). It provides only

classification of the applicability of these Rules to two identified groups; one is the Government Colleges taken as a lot, and the other is the Private Medical Colleges in State, taken as a lot. We are not concerned here with the Private Medical Colleges, though it is submitted that only one Private Medical College in this State continues to hold the recognition of the competent authority.

5. The fact situation noted in the interlocutory order quoted above deals with the Government Medical Colleges in the State of Chhattisgarh as a composite Unit for the purpose of applying the rule of reservation and thus the quota rule. When the rules do not provide for any classification of the Government Medical Colleges into severable components or institutions for the purposes of applying the rule of reservation, the Executive Authority dealing with the admission of candidates to the course cannot apply the rule of reservation on institutional basis. There is also no room in the 2017 Rules to hold that the institutions are severable on the basis of their identity for the purpose of enforcing the rules of reservation and the quota rule prescribed in relation to admission to MBBS course in the State quota in the Government Medical Colleges.
6. For the aforesaid reasons, we affirm the facts and figures stated in the afore quoted interim order dated 02.08.2017 and direct that the allotment of seats to the ST candidates, SC candidates, OBC candidates and for candidates who are dependents of Freedom Fighters in the State quota for MBBS Course in the Government Medical Colleges in the State of Chhattisgarh shall be in terms of the number of seats due to each of those categories as delineated in the afore quoted interim order dated 02.08.2017, which we affirm hereby.

7. In the light of what is aforesaid, these Writ Petitions are ordered directing that the competent among the official respondents will act upon what is stated above and make allotment; including to the petitioners in these writ petitions, if they are eligible in terms of what is stated above. These Writ Petitions are ordered accordingly.
8. Certified copy today.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge