

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2182 of 2017**

Princy Meshram D/o Bheem Rao Meshram Aged About 18 Years R/o Krishna Vatika, Boirdadar, Raigarh Tahsil & District Raigarh, Chhattisgarh.

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

1. State of Chhattisgarh Through The Secretary Health & Family Welfare, Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. Directorate of Medical Education Raipur, Through Its Director, Old Nurses Hostel, DKS Bhawan Parisar Raipur, District Raipur, Chhattisgarh.

---- **Respondents**

For Petitioner	: Shri Mateen Siddiqui, Advocate.
For Respondent/State	: Shri UNS Deo, Government Advocate.

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

Order on Board**Per Thottathil B. Radhakrishnan, Chief Justice****22/08/2017**

1. We have heard learned counsel for the Petitioner and the learned Government Advocate.
2. The Petitioner claims to belong a Scheduled Caste. She therefore claims priority for allotment of seat for MBBS course. The last date of registration for counselling following the NEET examination was 22.07.2017. The counselling was to take place from 29.07.2017. When the Petitioner appeared for counselling on 29.07.2017, she produced a caste certificate which was issued by the competent authority on 24.07.2017. The authorities refused to act on it since she had not produced that caste certificate while she appeared for registration for counselling on 22.07.2017. Therefore, the Petitioner seeks relief through writ jurisdiction.

3. The learned counsel for the Petitioner making reference to the judgment of the Apex Court in *Raj Kumar Gijroya v. Delhi Subordinate Services Selection Board*; (2016) 4 SCC 754, and the judgment of this Court in Writ Petition (C) No. 1670 of 2017 rendered making reference to the case of *Raj Kumar Gijroya (supra)* as also the decision of the *Delhi High Court in Pushpa v. Govt (NCT of Delhi)*; (2009) SCC Online, Del 281, argued for the position that the caste status of the Petitioner does not depend upon the certificate and the issuance of the caste certificate after the last date fixed for application for registration of counselling cannot be a ground to deny her the benefit of the reservation available to the Scheduled Caste to which the Petitioner belongs.
4. Per contra, the learned Government Advocate argued that the Establishment cannot be criticized in any view of the matter and if such situations are permitted to lead to interference with the counselling system through the judicial orders, that may tend to cause untold administrative difficulties because in terms of the governing rules, it is the requirement that all the relevant certificates are made available while a candidate proceeds to the stage of registration for counselling. He accordingly argued that without the certificate being made available on 22.07.2017 to the authorities while registering for counselling, the fact that the Petitioner claims reservation on the basis of caste status could not have been entered and uploaded in the system and therefore, the online counselling and allotment system which is in place will be adversely affected if orders are issued as sought for. He points out that the Petitioner has no rhyme or reason to insist on any relief being granted when it is easily demonstrable that the entire fault lies with the Petitioner in not having obtained and produced the certificate in time.
5. Computerization has come to the stay. Online registration, online counselling and online allotment are adopted as modalities of management of recruitment and admissions. The different Public Service Commissions also operate in methodologies which are infact controlled by the system of e-governance. Uploading of relevant data is prohibited even in some of the computerized

systems when relevant certificates are not uploaded alongwith the requisite entries that are to be made in the course of registration of application. Obviously therefore, the e-governance system, in the long run, would be adversely affected if it is repeatedly scouted by the people who could have acted in terms of the requirement of the e-governance but have excused themselves, for reasons best known to them, from doing the needful and later turning around to seek relief from the Courts. The Petitioner cannot claim that she belongs to an illiterate category. It is not as if that she had not aspired to join the MBBS course. She had applied and had participated in the NEET examination. She was included in the list allotted for the State of Chhattisgarh. Therefore, the claimed fact that she is entitled to reservation in terms of the laws governing reservation for admissions in the State of Chhattisgarh is a relevant fact while to be entered into system of registration for counselling in the State of Chhattisgarh. That way, we cannot ignore the fact that the Petitioner could be treated as one who did not do the needful to ensure that she gets her legitimate dues in terms of the constitutional support that is being extended through the concept of reservation on communal basis.

6. The aforesaid position notwithstanding, we may notice that the Petitioner is hardly 18 years of age. A girl child belonging to a community which has been identified as Scheduled Caste needs support to progress and to achieve the goal of multi-facet equality within the framework of the constitutional goals. Under such circumstances, taking a cue from the relevant provisions of Part III as well as from the Directive Principles of State Policy in the Constitution of India, we are inclined to take a lenient view on the peculiar facts and circumstances of the case in hand and hold that the Petitioner deserves to be permitted, on sympathetic grounds, to participate in the counselling process which has reached the second round. She would be permitted to participate in view of the certificate which she has shown to exist, provided that she produces its original before the authority at the time of counselling.

7. In the result, this writ petition is ordered directing that the Petitioner will be permitted to attend the second and further rounds of counselling and would be permitted to claim reservation on the ground that she belongs to the Scheduled Caste, provided she produces the requisite certificate to that effect before the competent authority, to the satisfaction of that authority regarding the contents of that certificate.
8. The directions issued hereinabove are rendered on the very peculiar facts and circumstances of the case and is not intended to be treated as precedent by the Department.
9. The writ petition is ordered accordingly.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(Sharad Kumar Gupta)
JUDGE