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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2320 of 2017**

Anshala Yumnam D/o Shri Shyam Sunder Yumnam, Aged About 20 Years R/o Tikrapara, Raipur, District Raipur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Public Health & Family Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur Chhattisgarh.
2. The Director Of Medical Education, Chhattisgarh, H. Q. Old Nurses Hostel, D. K. S. Bhawan Campus, Raipur (Chhattisgarh).
3. Dr. A. K. Chandrakar, The Director Of Medical Education, Chhattisgarh, H. Q. Old Nurses Hostel, D. K. S. Bhawan, Campus, Raipur, Chhattisgarh.

---- Respondents

For Petitioner	: Shri R.K. Kesharwani, Advocate.
For Respondent/State	: Shri Prafull N. Bharat, Additional Advocate General.

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

Order on Board**Per Thottathil B. Radhakrishnan, Chief Justice****30/08/2017**

1. We have heard the learned counsel for the Petitioner and the learned Government Advocate.
2. The Petitioner belongs to the category of dependents of Freedom Fighter, which has a quota by way of horizontal reservation across the vertical reservation on communal basis. The Petitioner does not have the support of communal reservation. The contention of the Petitioner is that the unfilled seats of Scheduled Castes and Scheduled Tribe from among Freedom Fighter quota ought to revert back to the Unreserved Freedom Fighter quota.
3. The stand of the Respondents is that such unfilled seats will go the General quota, to be governed by the Rules applicable to that field. On a reading of Section 4(2) of the Chhattisgarh Educational Institutions (Reservation in Admission) Act, 2012, we do not see that the said provision deals with situations

where seats would fall vacant as a result of absence of candidates. Obviously therefore, any reserved seat which is left unfilled, will have to go to open merit quota. This has to be happen unless of course, there is a clear statutory provision which enjoins continued holding of the seat in any particular reserved quota, be it horizontal or vertical, to filled only by candidates eligible to that quota. Hence, we are unable to uphold the argument advanced on behalf of the Petitioner.

4. For the aforesaid reasons, we see no ground to grant any relief to the Petitioner.
5. In the result, the petition is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(Sharad Kumar Gupta)
JUDGE