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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15618-2018

Date of decision : 21.06.2018

Isha Gupta

...Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL
HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. K.K. Goel, Advocate
for the petitioner.

AMIT RAWAL, J. (ORAL)

The petitioner has approached this Court under Article 226/227
of the Constitution of India seeking following relief:-

"Civil Writ Petition under Article 226/227 Constitution of India for issuance of writ of Mandamus directing the respondent No.1 to 9 to consider the admission of the petitioner in MBBS (UG) Course for the year 2018 as per NEET Result from the reservation category Code 18(2) meant for grandchildren of the persons killed in terrorist action in Punjab as per the clause 16 of the Prospectus as well as list of categories and category codes mentioned in the Prospectus issued/uploaded by the Baba Farid University of Health Sciences, Faridkot (Annexure P-1).

AND

For the issuance of the writ of mandamus to increase the number of seats for the reservation category 18(2) as well as list of categories and category codes mentioned in the

prospectus issued/uploaded by the Baba Farid University of Health Sciences, Faridkot as the online admission process of admission for MBBS/Dental Course (Under Graduate) at different medical colleges/institutes situated in State of Punjab has started and the last date of submission of online admission forms is 23.06.2018.

AND

It is further prayed that one seat may kindly be reserved in private medical colleges/Institutes from the category 18(2) as well as list of categories and category codes mentioned in the Prospectus issued/uploaded by the Baba Farid University of Health Sciences, Faridkot (Respondent Nos.3 and 4), for the petitioner, as the petitioner is a Grandchild of person killed in terrorist action in Punjab, during the pendency of the present writ petition.

OR

Any other order or direction, which this Hon'ble Court may deem fit, may also be passed keeping in view the facts and circumstances of the case."

Learned counsel for the petitioner submits that as per the prospectus dated 06.02.2018 promulgated by the respondent(s)-University, the reservation in the Government Medical/Dental Colleges as well as the private institutions has been fixed, which reads as under:-

"16. Reservation in Government Medical/Dental Colleges :

The reservation for the State quota seats in Government Institutes in various categories for admission to the Undergraduate courses in Government Medical/ Dental Institutes shall be as under:

(i) Scheduled Castes 25%

(ii) Backward Classes 10%

(iii) Backward Area/ Border Area (1% each) 2%

(iv) Physically handicapped/orthopedically handicapped only 3%

(v) Sports Persons 1%

Credit shall be given only for the sports achievements made during class XI and XII. The admission shall be made on the basis of inter-se merit of the candidates determined on the basis of gradation (Category A/B/C) issued by the Director of Sports, Punjab. However, for exempted categories under para 12 of this Notification, the competent authority will be Director, Sports of that State or U.T. from where the candidate has passed his class XI and XII examinations.

*(vi) Children/Grandchildren of terrorist affected persons 1%
Children/Grandchildren of Sikh riot affected persons 1%*

*(In order of preference to the exclusion of next category)
(Preference shall be given to a candidate whose parent or guardian is killed in such situation - Guardian to be considered only in case neither parent was alive at the relevant time)*

a. Persons killed in terrorist actions in Punjab/ riots outside Punjab.

b. Terrorist/ Riot affected /displaced persons

(vii) Wards of Defence Personnel 1%

(In order of preference to the exclusion of next category)

(a) Killed in action.

(b) Disabled in action to the extent of 50% or above & Boarded out of service.

(c) Died while in service & Death attributed to Military service.

(d) Disabled in service & boarded out with disability attributed to Military Service.

(e) Gallantry award/other award winners both serving/retired.

(f) Serving defence personnel/ex-serviceman.

Note:- Certificate to this effect must be issued by Army/Navy/ Air Force Headquarters or the Commanding Officer of the Unit, countersigned by the Director, Defence Services Welfare, Punjab in case of the Serving Defence Personnel. In case of Ex-Servicemen certificate should be signed by the concerned District Defence Services Welfare Officer, countersigned by the Director, Defence Services Welfare, Punjab.

(viii) Wards of Punjab Police Personnel, Punjab Armed Police, Punjab Home Guards and Para-Military Forces (in order of preference to the exclusion of next category) 1%. Certificate to this effect issued by Inspector General of Police (HQ), Punjab Police shall have to be produced while submitting other documents. In case of Paramilitary Forces this certificate shall be countersigned by IG Police (HQ) Punjab.

(a) Killed in action

(b) Disabled in action to the extent of 50%

(c) Winners of President's Police Medal for Gallantry or Police Medal for Gallantry

(ix) Children/grandchildren of freedom fighters of Punjab 1%.

17. Admission to Private Institutes

i) The distribution of seats in Private Medical/ Dental Institutions shall be:

Government quota seats 50%

Management/Minority quota seats

50% (including 15% NRI quota)

ii) Reservation in Private Institutes (for Government/Management quota seats) shall be as under:

a) Scheduled Caste 25%

b) Backward Classes 10%

c) Physically handicapped/orthopedically handicapped 3%

d) Migrants from Jammu & Kashmir due to terrorist violence. 1%

Note: Distributions of seats under Management / Minority quota for Admissions to Minority Institutes shall be as fixed by the respective Institutions in accordance with applicable laws."

The private institutions have kept 50% of Government Quota seats, but are not considering the reservation of one percent meant for the children/grand-children for terrorist affected persons. In this regard, a representation (Annexure P-5) has been submitted to the Additional Chief Secretary, Department of Medical Education and Research, Punjab, but no action has been taken so far.

Learned counsel for the petitioner submits that the counselling has not begun. A direction be issued to the authority concerned to decide the representation expeditiously in a time bound manner in accordance with law.

After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition with a direction to respondent No.1/Principal Secretary to Government of Punjab to consider the representation (Annexure P-5) or any additional representation, which the

petitioner may think to submit within a period of two days from today and in case, such fresh representation is submitted over and above representation (Annexure P-5), respondent No.1 shall decide the same in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner by 29.06.2018.

Anything observed in this order shall not construed as an expression on merits and demerits of the matter.

(AMIT RAWAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

21.06.2018
Yogesh Sharma

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No