

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.2070 OF 2019**

1. Dr. Swaraj Bandhu Kesh S/o Shri Asit Baran Kesh Aged About 41 Years Assistant Professor, Department of Physiology, Government Medical College Rajnandgaon, Chhattisgarh.
2. Dr. Arghya Sur S/o Late Shri Pranabesh Chandra Sur Aged About 47 Years Professor and Head of the Department, of Physiology, Government Medical College, Raigarh, Chhattisgarh.

...Petitioner(s)**Versus**

1. The Union Of India Through Secretary, Ministry Of Health And Family Welfare, (PMSSY Division), Nirman Bhawan, Maulana Azad Road, New Delhi. 110011.
2. The Director AIIMS Bhubaneswar Sijua, Post Dumuduma, Bhubaneswar., District : Bhubaneswar, Orissa.

... Respondent(s)

For Petitioners	:	Shri Anup Majumdar, Advocate.
For Respondents	:	Shri B.Gopa Kumar, Assistant Solicitor General.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****15.04.2019**

1. Challenge in this petition is to the advertisement dated 22.01.2019 (Annexure P/6 & P/7). The post for which the petitioners intend to apply is the post of Associate Professor (Physiology). The essential qualification prescribed for Associate Professor (Physiology) is M.Sc.(Medical Physiology). It is this requirement of M.Sc (Medical Physiology) which the petitioners are aggrieved of.
2. According to the petitioners, they are presently the Head of the Department in two medical colleges in the State of Chhattisgarh and that they are also taking teaching classes in the two medical colleges where they are working. It is the contention of the petitioners that since the appointment have to be made for the AIIMS Kalyani (West Bengal) and as on date since there is no rules and regulations so far as recruitment for AIIMS Kalyani (WB), it

would be the rules and regulations of recruitment applicable in AIIMS New Delhi that would be relevant and the respondents should have issued the advertisement based upon the requisite qualification prescribed for recruitment of Associate Professor (Physiology) that is applicable in AIIMS New Delhi. The petitioners in support of their contention referred to circular issued by the Ministry of Health and Family Welfare, Govt. of India, dated 01.05.2015 whereby it has been categorically held that so far as qualification, experience and eligibility conditions are concerned, it shall be as per the Rules/Regulations applicable in AIIMS New Delhi, till such time, new AIIMS (i.e. in the instant case AIIMS Kalyani, WB), have its own recruitment rules and regulations.

3. The further contention of the petitioners is that, similar issue arose when the recruitment was being made for AIIMS Manglagiri in Andhra Pradesh and AIIMS Nagpur in Maharashtra and subsequently both these AIIMS permitted the non medical candidates also to participate for the post of Associate Professor (Physiology).
4. Learned counsel for the Union of India submits that the rules and regulations of AIIMS New Delhi specifically provides for requisite eligibility criteria in the respective post/allied subjects. The rules and regulations applicable in AIIMS New Delhi would be taken into consideration by the respondent No.2 for the recruitment.
5. Given the said facts, let the petitioners approach the respondent No.2 by way of a suitable representation supported with all relevant documents and rules and regulations governing the filed to support

their contentions and the respondent No.2, in turn, shall decide the representation of the petitioners at the earliest preferably before the recruitment process is finalized taking into consideration the rules and regulations that are applicable for AIIMS New Delhi for the purpose of recruitment on the post of Associate Professor (Physiology). The respondent No.2 shall also keep in mind the recruitment of similar nature conducted in AIIMS Manglagiri and Nagpur and other newly established AIIMS.

6. With the aforesaid direction, the writ petition stands disposed of.
7. Certified copy today.

Sd/-
(P. Sam Koshy)
Judge