

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No.1582 of 2019**

- Indu Sonwani D/o Shri V.L. Sonwani, Aged About 30 Years R/o - Mandir Hasoud, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Medical Education, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Director, Office Of Directorate, Medical Education Chhattisgarh, Near Old Nurses Hostel, Dks Bhawan Campus, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Counseling Committee, Through Its Chairman, Counseling Committee, Directorate, Medical Education Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. Government Dental College, Raipur, Through Its Dean, Government Dental College, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
5. Rungata College Of Dental Sciences And Research, Bhilai, Through Its Dean, Rungata College Of Dental Sciences And Research, Bhilai District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Respondents**PRESENT:-**

Shri Vinod Deshmukh, counsel for petitioner.

Shri Vikram Sharma, Panel Lawyer for State/respondents No.1 to 4.

Shri Vijay Kumar Sahu, counsel for respondent No.5.

D.B.: Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Manindra Mohan Shrivastava, Judge

Order on Board**Per Manindra Mohan Shrivastava, J.****17/05/2019**

1. In this petition, the petitioner desirous of seeking admission in the Post Graduate Course of Master in Dental Surgery in the Government Dental

College, Raipur, appeared in the qualifying examination. The petitioner belongs to Scheduled Caste reserved category. Based on the marks obtained by the petitioner, the petitioner was offered one seat in Private College, namely Rungta Dental College of Dental Science & Research, Bhilai. However, the petitioner was not satisfied with the same and raising claim that at least, one seat in the Government Dental College, Raipur, ought to be earmarked for the Scheduled Caste category, filed this petition.

2. Learned counsel for petitioner made submissions that as far as reservation of seats in different colleges are concerned, it is governed by applicable rules known as “Chhattisgarh Dant Chikitsa Snatkottar Pravesh Niyam, 2017” (In short “Rules of 2017”), which provided reservation of seats in various categories i.e. Scheduled Caste, Scheduled Tribe and Other Backward Classes. According to him, as far as reservation for Scheduled Caste is concerned, Rule 6 of Rules of 2017 clearly provides that 12% of the seats would be reserved for Scheduled Caste category. His next submission is that according to the respondents, there were 8 seats available in the Government Dental College, Raipur and if reservation percentage in different reserved categories is worked out, reservation in Scheduled Caste category will also have to be provided, because percentage wise, it comes to 0.96. He would submit that once the figure worked out is more than 0.5, it is required to be rounded off to 1, as held by the Supreme Court in the case of ***State of U.P. and another vs. Pawan Kumar Tiwari***¹. Learned counsel for the petitioner further submitted that even if, upon rounding off, total number of seats reserved for different categories, exceed permissible percentage of reservation provided under the rules, it being the case of admission in the academic matters, the reservation would not be contrary to the provisions of any law or the governing

¹ 2005 SCC (L&S) 193

rules of any admission. In support of this contention, he has placed reliance on the decision of the High Court of Delhi in the case of ***University of Delhi & Another vs. Govind Kumar Verma and another***².

3. On the other hand, learned counsel for the State would argue that whether rounding off should be done or not, is essentially a matter of policy. In the governing rules for admission, there is no such provision of rounding off. He would next submit that even if, rounding off were to be done, not only one seat will have to be provided to the Scheduled Caste category, but also, one seat more will have to be provided to Scheduled Tribe Category, because as per calculation of 32%, out of 8 seats, it comes out to 2.56. If that is done, it would exceed the total permissible reservation of 58%, which is prescribed under the governing rules.

4. Learned counsel appearing for the Intervener supported the submissions made by learned counsel for the State, in opposition of the petition that intervener is selected and proposed to be granted admission on the basis of merit against general category in the Government Dental College, Raipur.

5. We have heard learned counsel for the parties and perused the records.

6. The only legal issue arising for consideration in this petition is whether rules permit rounding off 0.96 to 1 and thereby require one seat out of 8 seats, to be reserved for Scheduled Caste category. Annexure P-2, annexed with the petition lays down the break up of seats, category wise. According to the Rules of 2017, 32% of seats required to be reserved for Scheduled Tribe category, 12% of seats required to be reserved for Scheduled Caste category and 14% seats required for Other Backward Classes category. Working out the aforesaid percentage as against available 8 seats, comes to 2.56 for Scheduled Tribe

2 2017 CJ (Del) 2140

category, 0.96 for Scheduled Caste category and 1.12 for Other Backward class category.

7. If the submissions made by learned counsel for the petitioner were to be accepted, it will not only result in rounding off of 0.96 to 1 and thereby giving one seat for Schedule Caste category, but at the same time, rounding off of 2.56 to 3 for Scheduled Tribe category and allocating one more seat to Scheduled Tribe category, which will increase reservation of seat from 2 to 3. In this manner, rounding off would result in reservation of 5 seats out of total number of 8 seats, which exceeds permissible maximum 58 percentage of reservation applicable in the State of Chhattisgarh as stipulated under the Rules of 2017.

8. Reliance placed by learned counsel for the petitioner on the decision of the Supreme Court in the case of **Pawan Kumar Tiwari** (supra) is misplaced, because in that case, the Supreme Court has clearly observed that if exercise of rounding off results in exceeding reservation beyond permissible limit, it would be unconstitutional, it was held thus:-

9. "There is yet another reason why the judgment of the High Court has to be maintained. The total number of vacancies was 93. Consequent upon the allocation of reservation and calculation done by the appellants, the number of reserved seats would be 47, leaving only 46 available for general category candidates. Meaning thereby, the reservation would exceed 50% which would be unconstitutional. The total number of reserved seats could not have been more than 46 out of 93."

9. Reliance placed on the judgment of Delhi High Court in the case of **Govind Kumar Verma** (supra) that in academic matters, rounding off would be permissible only if total reservation exceeds permissible limits, does not come to the aid of the petitioner in as much as the governing rules in the present case do not allow total reservation to exceed more than 58%. Allowing rounding off,

as claimed by the petitioner, would result in reservation up to 58%, which would be contrary to the Rules of 2017 and no mandamus can be issued in favour of the petitioner in violation of the permissible limit prescribed under the rules.

10. A feeble attempt was made by learned counsel for the petitioner on the basis of certain pleadings made in the rejoinder that according to the sanction letter given by the Government of India, 9 seats are available in the Government Dental College, Raipur. The said letter, on its plain reading, only sanctions seat. However, there is nothing on record to show that at the time of granting admission, there were 9 seats available for admission to those, who had passed the entrance examination.

11. In the result, the writ petition fails and is accordingly dismissed.

SD/-
(P.R. Ramachandra Menon)
Chief Justice

SD/-
(Manindra Mohan Shrivastava)
Judge