

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2916 of 2019**

Pratibha Panjwani D/o Shri Tarachand Panjwani, Aged about 20 years, Resident of Ward No. 40, Devrikhurd, District Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh, Through Secretary, Department of Health & Family Welfare, Indrawati Bhawan, Atal Nagar, Mantralaya, Raipur, Chhattisgarh.
2. Directorate of Medical Education, Through its Director, New Mantralaya, Indrawati Bhawan, Atal Nagar, Raipur, Chhattisgarh.

---- Respondents

For Petitioner	: Shri Kshitij Sharma, Advocate.
For Respondents/State	: Shri Gagan Tiwari, Deputy Government Advocate.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board**Per P.R. Ramachandra Menon, Chief Justice.****29/08/2019**

1. The Petitioner has moved this Court with the following prayers:

"10.1 That the Hon'ble Court may be pleased to call for the entire records pertaining to the details/list of admission in respect of 120 seats reserved for the candidate under the EWS category.

10.2 That, the Hon'ble Court may kindly be pleased to issue writ/order/direction of an appropriate nature, including a writ in the nature of mandamus, directing the Respondent authorities to hold counseling for the seats left vacant under the EWS category.

10.3 That, the Hon'ble High Court may kindly be pleased to issue writ/order/direction of an appropriate nature directing the Respondent authorities to examine the credentials of the petitioner and allot the seat accordingly under the reserved EWS category.

10.4 Any other relief(s), direction(s), which Hon'ble the Court deems fit, and proper, in the circumstances of the case."

2. The learned counsel for the Petitioner submits that pursuant to the 103rd amendment to the Constitution of India, a separate category has been carved out as 'Economically Weaker Section' (for short 'the EWS') for whom 10% seats have been provided. In the said circumstances, with an intent not to affect the existing categories in any manner, sufficient number of seats have been ordered to be enhanced to accommodate the EWS group as well. It is accordingly that 120 seats have been provided in the various medical colleges to accommodate the students belonging to the EWS category and these seats ought to have been filled up after giving wide publication as to the counselling to be done based on the merit of the candidates, including in the mop-up exercise. The learned counsel further submits that proper course of action has not been pursued and all the 120 seats now available for the EWS category have not been filled up, but for giving admission to the persons of choice of Respondents, and hence, the grievance.
3. The learned counsel representing the State submits that the Petitioner has moved this Court only on the basis of a misconceived idea that 120 seats mentioned in the writ petition are towards the EWS category alone; which is not so, and that the addition is to the total number of seats. The total seats as originally notified was 550 and by virtue of the additional seats (120) now provided pursuant to the 103rd amendment to the Constitution of India, the total number of seats becomes 670. Considering the relevant rules providing for 'institution-wise reservation', the maximum number of seats available in the EWS category is only 66 and that all the 66 seats have been filled up. Learned counsel also submits that the last date for giving admission for MBBS course in the State, as stipulated by the Medical Council of India, was 18.08.2019 is over and that no relief as sought for by the Petitioner is liable to be considered or entertained.

4. After considering the materials on record, we find that there cannot be any dispute with regard to the total number of seats i.e. 550 which were in existence, out of which EWS could have been accommodated only to an extent of '55' by virtue of the reservation to an extent of 10%. In view of the turn of events, providing 120 additional seats (added to the original total of 550 seats), it takes the total to 670. The maximum extent which could be identified as 'EWS category' is indisputably 10% i.e. 67. But there is a case for the State Government that the principles of reservation are being applied 'institution-wise' and separate rules have been notified in this regard. Applying the rules of reservation as above, the split of figures, when added together, come to a total of only '66' under the EWS category. Since it is asserted that all the 66 seats have been filled up by eligible hands belonging to the EWS category, based on their merit, no other seat is available in the said segment to be filled up by accommodating any more EWS candidate. That apart, the last date for giving admission to the MBBS course in the State was stipulated as 18.08.2019; which is over. As such, it is not a fit case for interference, being devoid of any merit.
5. The writ petition fails. It is dismissed accordingly.

Sd/-
(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE