

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 3201 of 2019**

Shailendra Gopanti S/o Shri S. L. Gopanti Aged About 21 Years R/o Mq. 247, Azad Chowk, Dipka, Korba, District- Korba, Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh Through Secretary, Department of Health And Family Welfare And Medical Education Mahanadi Bhawan, Naya Raipur, District- Raipur, Chhattisgarh.
2. Directorate of Medical Education Old Nurses Hostel, D.K.S. Bhawan, Raipur, Chhattisgarh.
3. Principal New Horizon Dental College And Research Institute, Bilaspur, District- Bilaspur, Chhattisgarh.
4. Dental Council of India Through Joint Secretary, Ahven-E-Galib Marg, Kottla Road, New Delhi.

---- Respondents

For Petitioner	: Ms. Surya Kawalkar Dangi, Advocate
For Respondents No.1 & 2/State	: Mr. Gagan Tiwari, Dy. Govt. Advocate
For Respondent No.3/UOI	: Mr. Vaibhav P. Shukla, Standing Counsel on behalf of Mr. B. Gopa Kumar, ASG
For Respondent No.4/DCI	: Mr. N.K. Vyas, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****Parth Prateem Sahu, Judge****13/09/2019**

1. The petitioner has approached this Court with following relief(s) :

“10.1 That this Hon'ble Court may kindly be pleased to declare the decision of the respondent No.2 to convert all the left over reserved category seats into unreserved category after first day of mop-up round held on 06.09.2019 as bad in law and admit the petitioner under OBC category in respondent No.3 college pursuant to the allotment dated 07.09.2019 (Annexure P/9).

10.2 Any other relief, which this Hon'ble Court deems fit, in the facts and circumstances may also be granted in favour of the petitioner.”

2. The case of the petitioner is that he qualified in the NEET (UG) examination as OBC category candidate. In second mop-up round counselling, he got himself registered on 07/09/2019 and was allowed Institution i.e. New Horizon Dental College and Reserach Institute, Bilaspur by provisional allotment letter dated 07/09/2019, but when he reached to the College, he was denied admission ignoring the notification dated 06/09/2019 issued by respondent No.4. The seats reserved for candidates belonging to SC/ST/OBC candidates has been converted to unreserved seats prior to cut-off date i.e. last date of admission i.e. 07/09/2019, therefore, he has been denied admission on the ground that petitioner did not have minimum qualifying marks in Class-XII i.e. of 50% whereas he has secured 47.5%.
3. Learned counsel appearing for the petitioner submitted that the benefits of lowering down the qualifying marks in NEET (UG) examination has not been extended to the candidates belonging to SC/ST/OBC category as on 06/09/2019 itself, all the seats of reserved category have been converted to unreserved category seats. She further submitted that respondents could not have converted the reserved category seats to unreserved category before evening of 07/09/2019. She further submitted that as the proper time was not provided to candidates, who come within the zone of registration by lowering qualifying marks in NEET (UG) examination to approach the counselling centre at Raipur for various corners of the State, therefore, the purpose, for which, notification has been issued by the

Union of India, effort of respondent No.4 could not be made fruitful. She also submitted that the BDS course regulation 2007 issued by Dental Council of India provides that the SC/ST/OBC candidates, the minimum marks obtained in the main subjects i.e. Physics, Chemistry and Biology/Bio-Technology to be 40% instead of 50% of Class-XII.

4. Per contra, learned counsel appearing for the State submitted that as the petitioner registered for counselling only on 07/09/2019 and therefore, he has was allotted College treating him to be unreserved category candidate because on 06/09/2019 all the reserved category seats were converted into unreserved category seats.
5. As we have already held in Writ Petition (C) No.3182 of 2019 that the action of respondent No.2 for converting the seats on 06/09/2019 prior to the cut-off date for admission to reserved category from unreserved category to be illegal and therefore, now the petitioner is also entitled for getting himself to be registered afresh in the registration portal opening from today at 9.00 P.M. because of letter dated 12/09/2019 issued by Government of India, Ministry of Health and Family Welfare (Dental Education Section) granted permission vide letter dated 12/09/2019 for allowing fresh registration of the candidates who became eligible for counselling due to reduction in percentile and respondent No.2 has fixed the date for registration on 13/09/2019 and 14/09/2019.
6. In view of the facts and figures of the case and direction of this Hon'ble Court in Writ Petition (C) No.3182 of 2019 that the Online registration portal be opened for the candidates belonging to all categories i.e. General and SC/ST/OBC and persons with locomotory disability, we direct

respondent No.2 to permit the petitioner for his fresh registration in Online registration portal by making necessary arrangement and to allot available College as available vacant on date.

7. With the above observation and direction, writ petition stands disposed off.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

Yogesh