

CWP NO.12230 of 2019

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Sr.no.222

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP NO.12230 of 2019
Date of Decision: 13.05.2019

Dr.Manika Arora

.....Petitioner

versus

State of Haryana and others

.....Respondents

**CORAM HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE LALIT BATRA**

Present Mr.Rajesh Sethi and
Mr. Arun Biriwal, Advocates for the petitioner.
Mr. Ankur Mittal, Addl.AG, Haryana.
Mr.Shreenath A.Khemka, Advocate for respondents no.3 and 4.

MAHESH GROVER, J (ORAL)

The present writ petition has been filed with a prayer that action of the respondents no.1 to 4 be declared illegal as the petitioner has been declared ineligible for second round of counselling in the State Quota Seats for the MD/MS courses.

The facts which are admitted can be summed up in brief.

The petitioner has completed her MBBS course from the SRT Medical College and Hospital Budhera, Gurgaon affiliated with Pt.B.D.Sharma University of Health Sciences, Rohtak. She was successful in the NEET test for the year 2019 for Post Graduate / Diploma courses having obtained 636 marks

out of total of 1200 marks. Admission process commenced and the first round of counselling for the All India Seats was held on 27.03.2019 followed by the second round on 11.04.2019, in which the petitioner was successful and gained admission to the MS(ENT) at GMS Patiala. She was granted admission on 18.04.2019 and joined the course. Thereafter, when the counselling for the State quota seats commenced, the petitioner applied for consideration in this quota. She was permitted in the first round of counseling and subsequently in the second round as well but was declared ineligible on account of the admission already availed of by her in the second All India Counselling, which seat she had also availed of by joining the course.

The action of the respondents in declaring the petitioner ineligible is in question before us and the learned counsel for the petitioner contends that her participation in the first and second round of All India quota Counselling and availing a seat is inconsequential considering that unfilled seats from All India Quota were in the process to be completed upto 10.05.2019 and would revert back to the State Quota which would enable the petitioner for consideration in the said seats. It is further argued that the respondents themselves considered her eligible in the first and second round of counselling but for no ostensible reason, the claim of the petitioner has been denied.

Upon notice being issued, the respondents have filed the reply and it has been stated therein with reference to the MCI guidelines that the petitioner in the event of availing a seat in the All India Quota would not be able to take any further admission in the State quota. For the purposes of references, the relevant portion of the notification is extracted here below:-

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- “1. All India Quota Seats remaining vacant after last date for joining i.e 10th May will be deemed to be converted into State Quota.*
- 2. Institute/College/Courses permitted after 28th February will not be considered for admission/allotment of seats for current academic years.*
- 3. In any circumstances, last date for admission/joining will not be extended after 31st May.*
- 4. For the purpose of ensuring faithful obedience to the above time-schedule, Saturday, Sunday or Holiday (except National Holiday) shall be treated as working day.*
- 5. The following matrix shall be applicable with regard to permissibility to students to exercise fresh choice during counseling:-*

<i>Round</i>	<i>Free exit</i>	<i>Exit with forfeiture of fee</i>	<i>Ineligible for further counseling</i>	<i>Amount of registration fee</i>
<i>AIQ I/Deemed</i>	√			
<i>AIQ II/Deemed</i>		<i>If not joined</i>	<i>If joined</i>	<i>Government Rs.25000 (half for SC/ST/OBC) deemed Rs.2,00,000</i>
<i>State Quota I</i>	√			
<i>State Quota II</i>		<i>If not joined</i>	<i>If joined</i>	<i>Government Rs.25000 (half for SC/ST/OBC) Private Rs.2,00,000</i>
<i>State Quota Mop-Up</i>			√	
<i>Deemed Mop-Up</i>			√	

Learned counsel for the petitioner contends that her eligibility to

the State Quota is beyond question considering the criteria laid down in the notification extracted above as also the brochure issued for the purpose: Nowhere is any prohibitory condition prescribed that can suggest that the petitioner is ineligible to be ousted from the process.

Evidently, there would be no dispute regarding the eligibility of the petitioner as far as the State Quota is concerned or for that purpose even when her claim to the All India Quota was considered. Her qualification, her ranking in the NEET is beyond doubt which would enable her qua consideration in both the quotas and that is the reason she was considered successful resulting in her admission which she availed of.

The only issue that is before us is of the petitioner's consideration to the State Quota seats. It has been stated by the respondents in reply that the petitioner never disclosed the fact of her joining the course after consuming the seat under All India Quota and had she done so, the controversy would not have arisen. It is only in the second round of counselling that the petitioner disclosed the fact of her earlier admission and respondents thereafter denied her consideration.

After hearing learned counsel for the parties, we are of the opinion that the petition does not merit acceptance.

The Hon'ble Supreme Court in **Rachit Sinha & Ors. v. Union of India & Ors. WP(C) 357 of 2018** has already scrutinized the Medical Council of India's Scheme for conducting counselling and has observed as under:-

Paragraph 6

“....The procedure followed for admission to Postgraduate Courses is that there will be two rounds of Counselling for

the All India Quota. At the end of second round of Counselling, the seats that are unfilled will be reverted to the State Quota...

Paragraph 7

“...It is clear from the record that the Medical Council of India decided to make certain changes to the method of admissions to the Postgraduate Courses to arrest the blocking of seats by certain candidates which was detrimental to the interest of meritorious candidates in the All India Quota. There is material on record to suggest that devious methods were adopted by certain candidates to block the seats in the All India Quota and resign thereafter from those seats later which resulted in reversion of the All India Quota sets to the State Quota. The Medical Counselling Committee identified about thousand candidates who were indulging in such illegal practice and proposes to take action against them after a thorough inquiry.”

Paragraph 8

"There is no infringement of any legal right of the petitioners in the change of the method of Counselling made by the notice dated 09.04.2018. Reduction of chances of admission does not entail in violation of any right. If the change in the method of Counselling was due to the circumstances mentioned above, we see no reason to interfere....”

The petitioner has consumed a seat in All India Quota and did not disclose this fact to the respondents while entering upon the counseling process in the first round of State Quota. This was disclosed by her in her declaration in the second round which led to her ouster. Considering the MCI guidelines, we

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are of the opinion that the stand of the respondents cannot be held to be unjust or without any basis particularly when there was concealment by the petitioner.

Finding no merit in the present petition, the same is dismissed.

(MAHESH GROVER)
JUDGE

13.05.2019
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(LALIT BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No