

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

CWP No.17015 of 2019

Date of Decision: 4.10.2019

Akshay Kumar through his natural guardian (father)Petitioner

Versus

Union of India and others

....Respondents

CWP No.18335 of 2019 (O&M)

Kirti Grover

....Petitioner

Versus

Union of India and others

....Respondents

CWP No.21014 of 2019

Jessica Singh

....Petitioner

Versus

Union Territory of Chandigarh and others

....Respondents

***CORAM :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MR. JUSTICE SUDHIR MITTAL***

Present:- Mr. A.P. Kaushal, Advocate
for the petitioner
in ***CWP No.17015 of 2019.***

Mr. Vikram Singh, Advocate
for the petitioner
in ***CWP No.18335 of 2019.***

Mr. Amit Sharma, Advocate
for the petitioner
in ***CWP No.21014 of 2019.***

Mr. Pankaj Jain, Sr. Standing Counsel
with Mr. Ashish Rawal, Advocate
and Mr. Anil Mehta, Advocate
for respondents No.1, 2 and 4
in ***CWP No.17015 of 2019.***

Mr. Ashish Rawal, Advocate
and Mr. Anil Mehta, Advocate

for respondent No.1 in **CWP No.21014 of 2019**
and for respondent No.2 in **CWP No.18335 of 2019**.

Mr. S.K. Sharma, Advocate
for respondent No.1
in **CWP No.18335 of 2019**.

None for respondent No.3
in **CWP No.17015 of 2019**.

Mr. Manpreet S. Longia, Advocate
for respondent No.5
in **CWP No.21014 of 2019**.

Ms. Asha Rani, Advocate
for Mr. Arihant Goyal, Advocate
for respondent No.6
in **CWP No.21014 of 2019**.

DAYA CHAUDHARY, J.

By this judgment of ours, three writ petitions bearing **CWP Nos.17015 of 2019, 18335 of 2019 and 21014 of 2019** shall be disposed of as common question of law and facts are involved. However, for the sake of convenience, the facts are being extracted from **CWP No.17015 of 2019**.

Petitioner-Akshay Kumar has filed the present petition for issuance of a writ in the nature of *certiorari* for setting aside the condition laid down in Clause A-4(3) of the Centralized Admission Prospectus for MBBS/BDS/BHMS Course for Session 2019 (Annexure P-6), whereby, the candidates belonging to Scheduled Caste category are required to submit a certificate to this effect issued by the Tehsildar/Magistrate Ist Class/Deputy Commissioner of U.T and bearing the seal of the issuing authority with further condition that the Scheduled Caste Category candidates who otherwise fulfil the eligibility criteria for U.T Chandigarh Pool, are required to submit Scheduled Caste Category certificate issued by the U.T Chandigarh only and the certificates issued by the other States other than

the U.T will not be considered eligible against the seats reserved for Scheduled Caste candidates in U.T. Chandigarh Pool. The candidates who did not submit said certificate would be considered in General Category of U.T. Chandigarh Pool.

Learned counsel for the petitioner submits that such condition is illegal and arbitrary and without any justification. He further submits that the petitioner hails from Himachal Pardesh and belongs to Scheduled Caste Category (Lohar). Learned counsel also submits that the petitioner has passed his 10th, 10+1 and 10+2 class examination from Kendriya Vidyalaya, Sector 29, Chandigarh and is entitled for getting admission in U.T.Chandigarh Pool. He has submitted the Scheduled Caste Certificate issued by the Executive Magistrate Alampur (Kangra) (H.P.) but because of said condition in the prospectus, his case has not been considered in the Scheduled Caste Category of U.T. Pool.

Reply on behalf of respondents No.2 and 4 has been filed, which is already on record.

Learned senior standing counsel appearing for respondents No.1, 2 and 4 submits that the issue raised in the present petition has already been settled by the judgment of Constitution Bench of the Hon'ble Apex Court in ***Marri Chandra Shekhar Raovs Dean S.G.S. Medical College and othes 1990(3) SCC 130***, wherein, after examining Articles 341 and 342 of the Constitution of India, the Constitution Bench held that a member of SC/ST community would be entitled to all benefits under the Constitution in his/her original state alone and not in other states of the country wherever he migrates. The said Constitution Bench judgment was later on followed by another Constitution Bench of the Hon'ble Apex Court in ***Action***

Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and another vs Union of India and another 1994(5) SCC 244.

Learned senior counsel has also relied upon latest judgment of Hon'ble the Apex Court in case ***Bir Singh and others vs Delhi Jal Board and others 2018(10) SCC 312.***

Heard the arguments of learned counsel for the parties and have also perused the documents available on the file including the conditions mentioned in the prospectus.

Petitioner, after passing 10th, 10+1 and 10+2 class examination from Kendriya Vidyalaya, Sector 29, Chandigarh., applied for online admission in MBBS course. He belongs to Scheduled Caste Category and hails from Himachal Pradesh by birth. He has attached the Birth Certificate and Scheduled Caste Certificate issued by the Executive Magistrate, Kangra (H.P.). He was interested to get his MBBS from Government Medical College and Hospital, Sector 32, Chandigarh.

As per Centralized Admission Prospectus for MBBS/BDS/BHMS Courses for admission in MBBS General Eligibility Criteria, only those candidates are eligible for consideration whose name appear in the National Eligibility-cum-Entrance Test for admission to MBBS/BDS/BHMS Courses (NEET (UG)-2019) for the Session 2019-20. The merit list of successful candidates was prepared by the NTA (National Testing Agency). The petitioner appeared in NEET-2019 and secured 92.78%. The certificate of SC annexed by the petitioner was not considered as it was issued by the Executive Magistrate, Alampur (Kangra) (H.P.), which was not as per condition laid down in the prospectus.

The issue of consideration by this Court is the eligibility criteria for U.T. Chandigarh, in case of granting benefit of reservation to those candidates, who belong to other States. For taking benefit of U.T. Chandigarh Pool, whether they are required to submit the Scheduled Caste Certificate signed by the Executive Magistrate, Chandigarh or of the State to which such candidate belong.

As per arguments raised in favour of the petitioner, the certificate issued by the authority of State of Himachal or other neighbouring states such as Punjab, Haryana, Rajasthan etc., should be eligible for the benefit of reservation in their own States as well as in U.T., Chandigarh. It is also the argument of learned counsel for the petitioner that the petitioner has passed 10+2 from Chandigarh and for getting admission in U.T. Pool, the condition to produce certificate of Scheduled Caste from U.T. Chandigarh is illegal and unjust.

The controversy in the present case has already been settled by the Constitution Bench of Hon'ble the Apex Court in ***Marri Chandra Shekhar Rao's*** case (supra), whereby, after examining Articles 341 and 342 of the Constitution of India, it was held that a member of SC/ST community would be entitled to all benefits under the Constitution in his/her original state alone and not in other States of the country where he migrates. The said Constitution Bench judgment has further been followed by another Constitution Bench of the Hon'ble Apex Court in ***Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra's*** case (supra). The latest Constitution Bench judgment of ***Bir Singh's*** case (supra) has also reiterated the same view as has been held in the earlier Constitution Bench judgment.

Same issue was there before Hon'ble the Division Bench of this Court in **CWP No.15586 of 2018** titled as **Sabhya Kamal vs U.T. Chandigarh and others**. In said case, the candidate was aggrieved by the action of respondent-College in considering/granting admission to SC students of other states. One candidate, namely, Sabhya Kamal, who was the SC candidate, belonging to U.T. Chandigarh, approached this Court by challenging the action of respondent College in considering SC candidates of other states in S.C category under UT Pool. By relying upon the Constitution Bench judgment of **Marri Chandra Shekhar Rao's case (supra)**, the said petition was allowed vide judgment dated 24.07.2018 and admissions made by the respondent-College were quashed. A direction was also issued for conducting fresh counselling.

No doubt, Scheduled Caste/Scheduled Tribes reservation is a constitutional reservation. Clause A-4(3) of the Prospectus is as per the constitutional provisions and settled legal position of law relating to reservation. The petitioner has challenged the legality and validity of Clause A-4(3) of the Prospectus but nothing has been argued/submitted as to how and in what manner Clause A-4(3) of the Prospectus is illegal, arbitrary and unconstitutional. It appears that the petitioner is being aggrieved and has not been considered under the Scheduled Caste category and only because of this reason, it cannot be said that the condition is illegal and arbitrary.

By considering the legal position as well as the facts as narrated above, it cannot be said that Clause A-4(3) of the Prospectus is illegal and unlawful but the same is as per the constitutional provisions and deserves to be upheld. Moreover, it is also submitted that the prospectus on being made available and uploaded was supposed to be known to the petitioner and by

considering the same, he has applied. He has also participated in the admission process but on remaining unsuccessful and when he has been legally estopped from getting benefit, the present petition has been filed.

Accordingly, we do not find any merit in the contentions raised by learned counsel for the petitioner and all three petitions bearing **CWP Nos.17015 of 2019, 18335 of 2019** and **21014 of 2019**, being devoid of any merit, are hereby dismissed.

(DAYA CHAUDHARY)
JUDGE

(SUDHIR MITTAL)
JUDGE

4.10.2019
gurpreet

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No