

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

Sr. No.210

**CWP-20851-2019 (O&M)
Date of decision : 27.09.2019**

Tarushikha

..... Petitioner

VERSUS

Union of India and others

..... Respondents

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

Present: Ms. Tarushikha, petitioner in person.

None for respondent No.1.

Mr. M.S. Longia, Advocate, for respondent No.2.

Mr. Ashish Rawal, Advocate, for respondents No.3 and 4.

SUDHIR MITTAL, J.

The petitioner took the NEET (UG) 2019 examination and qualified the same. She secured 396 marks out of total 720 marks. Thereafter, she submitted an online application with the prescribed fee for admission to the MBBS course being conducted by the Government Medical College and Hospital, Sector 32, Chandigarh. In the merit list prepared, the petitioner was at Sr. No.245. During counseling, the petitioner submitted the necessary documents showing her eligibility in the Economically Weaker Sections (for short 'EWS') category, but her request was not entertained on the ground that the Medical Council of

India had not sanctioned the increased intake for EWS category. Thus, the petitioner is aggrieved because the Government Medical College and Hospital, Sector 32, Chandigarh has not introduced the EWS quota despite a direction in this regard issued by the Central Government. Although, demand notice dated 23.7.2019 (Annexure P-8) was issued, no action has been taken. Accordingly, a writ in the nature of mandamus is prayed for directing the respondents to introduce 10% reservation for EWS.

2. A short reply has been filed on behalf of the Director Principal, Government Medical College and Hospital, Sector 32, Chandigarh, wherein it is stated inter alia that the Board of Governors appointed in supersession of Medical Council of India, has not yet approved the increase in intake so as to enable the Government Medical College and Hospital, Sector 32, Chandigarh to introduce the EWS quota. The matter is still being pursued with the concerned authorities.

3. A detailed reply has been filed on behalf of the Board of Governors in supersession of Medical Council of India, wherein the stand taken is that the Government Medical College and Hospital, Sector 32, Chandigarh had sought increase in intake capacity from 100 to 150 seats for the academic session 2019-20 and accordingly, the Central Government vide letter dated 13.7.2018 had forwarded the application dated 28.6.2018 received from the said institution. After consideration of the case and after carrying out inspection of the infrastructure, teaching faculty, clinical material and other physical facility, certain deficiencies were pointed out. The Principal Secretary (Home)-cum-Health-cum-

Medical Education and Research, Chandigarh Administration had submitted an undertaking dated 28.5.2019 that deficiencies would be removed within a short time. Accordingly, permission for increase in intake capacity was granted vide letter dated 31.5.2019. It is, further submitted that vide letter dated 29.1.2019, the Central Government had directed that the EWS quota could be implemented over a period of two years beginning with the academic session 2019-20 in cases of financial, physical or academic limitation of a particular institution. Since the Government Medical College and Hospital, Sector 32, Chandigarh had been granted permission to increase its intake by 50 seats during the academic session 2019-20, there was pressure on its infrastructural facilities, because of which implementation of the EWS quota for the academic session 2019-20 had been deferred. The same would be implemented in the next academic session.

4. The petitioner has appeared in person and has argued that reservation for EWS in all educational institutions, except minority educational institutions, was directed to be introduced by the Central Government vide its Office Memorandum dated 17.1.2019 and the non-introduction of the said quota in Government Medical College and Hospital, Sector 32, Chandigarh is violative of the said Office Memorandum. All government and private institutions are bound to introduce the EWS quota with effect from the academic session 2019-20. The petitioner belongs to the EWS category and the relevant certificate dated 10.7.2019 issued by the Tehsildar, U.T Chandigarh is on record as Annexure P-3. Her rights have been infringed by virtue of

non-introduction of EWS quota and accordingly, direction be issued for introduction of the said quota and for consideration of the candidature of the petitioner in the said quota.

5. Learned counsel representing the respondents have argued in accordance with the stand taken in respective written statements.

6. It is true that 10% EWS quota has been introduced in all educational institutions w.e.f. academic session 2019-20. Only the minority educational institutions have been exempted from the said quota. However, vide communication dated 29.1.2019, copy of which is on record as Annexure P-10, leeway has been granted, in case a particular educational institution is prevented from introducing the quota on account of financial, physical or academic limitation or in order to maintain the standards of education. In such cases, the institution concerned has been permitted to implement the quota over a two year period beginning with the academic session 2019-20. The reply of the Board of Governors in supersession of Medical Council of India makes it abundantly clear that the intake capacity of Government Medical College and Hospital, Sector 32, Chandigarh has been increased by 50 seats during the academic session 2019-20. On account of this reason, educational facilities available in the said college are under strain. Thus, a considered decision has been taken to exclude the said college from the purview of the EWS quota during the academic session 2019-20. The implementation of the EWS quota is permissible over a period of two years in such cases and the action of the respondents in non-implementation of the EWS quota during

the academic session 2019-20 cannot be said to be illegal or violative of any Government instructions.

7. Accordingly, no direction can be issued for consideration of the petitioner in the EWS quota during the academic session 2019-20.

8. The writ petition is without merit and is dismissed.

(DAYA CHAUDHARY)
JUDGE

(SUDHIR MITTAL)
JUDGE

27.09.2019
Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No