

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 10721 of 2020

Date of Decision: 28th July, 2020

Dr. Hitesh Kumar

....Petitioner

VERSUS

Government Medical College and Hospital, Sector 32, Chandigarh and others

....Respondents

**CORAM: JUSTICE S. MURALIDHAR
JUSTICE AVNEESH JHINGAN**

Present: Mr. B.S. Sidhu, Advocate
for the Petitioner.

Mr. Aditya Jain, Advocate
for the Respondents

DR. S. MURALIDHAR, J.

1. This order should be read in continuation of the order passed by this Court yesterday i.e. 27th July, 2020.

2. Learned Counsel for the Petitioner as well as for the Respondent No. 1 have been heard.

3. It appears that the reduction of the cut-off marks for the Scheduled Caste (SC) category seats was notified on 15th July, 2020, by which time, even as per the Petitioner's admission, the second round of counselling had concluded.

4. Mr. B.S. Sidhu, learned Counsel for the Petitioner, refers to the result of the seat allotment published on 17th July, 2020, the opening para of which states *inter alia* that "physical counselling was carried out on 16th July, 2020 for verification of the documents and allotment of seats". Although, the word 'counselling' has been used, the fact of the matter is that the second

round of counselling had already concluded and what transpired on 16th July, 2020 was only a verification of documents. The Court is, therefore, unable to agree with Mr. Sidhu's contention that the second round of counselling had not concluded as on 16th July, 2020, by which date the cut-off mark for SC candidates stood reduced.

5. The further contention of Mr. Sidhu is that the seats earmarked for SC candidates were de-reserved for General Category (GC) candidates and that this was contrary to the instructions of the Medical Counselling Committee ('MCC') for post-graduate counselling for the year 2020. According to him, conversion of the seats could be carried out where there is seat allotment for the All India Quota ('AIQ') during the second round of seat allotment and where it is a Deemed and Central University/Institute (like the Respondent No. 1), such de-reservation is permissible can take place only during the 'Mop-up Round'. Incidentally, it must be mentioned here that the mop-up round, as far as the Respondent No. 1, is concerned is scheduled for 29th July, 2020.

6. It appears that the instructions issued by the MCC applies only to such institutes where there is a consideration of AIQ, whereas, admittedly as far as Respondent No. 1/Institute is concerned, that factor does not arise.

7. Mr. Aditya Jain, Counsel for the Respondent No. 1 is right in his contention that as far as earmarking and de-reserving of the seats is concerned, it is the prospectus issued by the Respondent No. 1, which will govern the situation. In terms of Clause PG-6, sub-clauses 11 and 12 of the said prospectus, the sequence in the second round of counselling "will be for SC category seats first, followed by general category seats (to facilitate conversion of vacant seats from SC to General Category seats)". In the

present case at the time that the second round of counselling took place on 13th and 14th July, 2020, the Petitioner belonging to SC category did not qualify and rightly, did not opt to participate in the second round of counselling for the seats reserved for SC candidates. It is only at the end of the second round of counselling, that the de-reservation of those seats for the GC candidates took place. It so happened that one day after the second round of counselling, the cut-off marks for the SC seats got reduced. In other words, the Petitioner narrowly missed the bus. In the circumstances, the Court does not consider the decision of the Respondent No. 1 to de-reserve the SC category seats and make them available for GC to be illegal.

8. The Petitioner can participate in the mop-up round for the seats that are available. No other relief is possible to be granted as far as the present case is concerned.

9. The petition is disposed of in the above terms.

(S. MURALIDHAR)
JUDGE

(AVNEESH JHINGAN)
JUDGE

28th July, 2020
jk

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