

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
101**

CWP No. 13951 of 2020

Date of Decision: 29th September, 2020

Sunny

....Petitioner

VERSUS

State of Haryana and another

....Respondents

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

Present: Mr. Hardial Singh Batth, Advocate for the Petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

Dr. S. Muralidhar, J.

1. This is the second round of litigation at the instance of this very Petitioner, who had earlier filed CWP No. 7708 of 2020, aggrieved by his non-selection for a seat in the Oral Maxillofacial Surgery stream of the MD course for the Academic Sessions 2020-2021.

2. CWP No. 7708 of 2020 was heard by this very Bench. After noticing the stand of the Respondent No. 2/PGIMS, Rohtak in its reply affidavit, Mr. Hardial Singh Batth, learned Counsel for the Petitioner, who also represented the Petitioner in the previous round of litigation, sought leave to withdraw CWP No. 7708 of 2020 with liberty to seek other appropriate remedies in accordance with law. The Court by an order dated 25th June, 2020 dismissed the writ petition as withdrawn granting to the Petitioner liberty prayed for by Counsel for the Petitioner.

3. However, the Petitioner has chosen to file this second writ petition on the same cause of action, this time aggrieved by the fact that the seat for which

the Petitioner had opted, had not been reserved for persons with disability i.e. those falling in the PWD category.

4. It must be mentioned here that the Petitioner claims to fall under the SC and the PWD categories. However, he admits that he applied for the PG course in Oral and Maxillofacial Surgery against the 5% quota for the PWD category.

5. It has now been stated in the reply filed on behalf of the Department of Medical Education and Research, Haryana (Respondent No. 1) that the Petitioner had filled only one preference online and that preference was for a seat in the Oral and Maxillofacial Surgery stream. It is stated that in view of his being a PWD candidate, he could be considered only under the PWD seat. Since this particular branch viz., Oral and Maxillofacial Surgery was not reserved for PWD candidates, he could not be allocated a seat in the said stream.

6. It is contended by Mr. Hardial Singh Batth, learned Counsel for the Petitioner that non-reservation of the aforementioned seat for the PWD candidate is contrary to the decision of the Supreme Court in ***Indra Sawhney v. Union of India AIR 1993 SC 477 Supp 2 SCR 454.***

7. On the contrary, in the reply filed on behalf of the Respondent No. 1, not only has the aforementioned contention been refuted, but it has also been pointed out that the earmarking of the MD seats in the present academic year is not only in terms of the judgment of the Supreme Court in ***Indra Sawhney (supra)*** but is also as per the State Reservation Policy dated 15th July, 2014. It is further pointed out that the seat distribution has also been upheld by this Court in its order dated 6th May, 2020 in CWP No. 7283 of 2020 (***Dr.***

Vikram Pal v. State of Haryana). The review petition against the said order

RA-CW-129-2020 was also dismissed by this Court with costs of Rs. 50,000/- by an order dated 14th May, 2020.

8. The Court is inclined to agree with the stand taken by the Respondent No. 1 in its reply.

9. In that view of the matter, the plea of the Petitioner to quash the allocation of seats, annexed as P-4 with the petition, and a direction to the Respondents allocate a seat to the Petitioner in the stream of Oral and Maxillofacial Surgery in the MD course, is hereby rejected. It may be pointed out that the repeated filing of the writ petition on the same cause of action actually amounts to an abuse of process of law.

10. The writ petition is without merit and is dismissed as such.

(S. MURALIDHAR)
JUDGE

(AVNEESH JHINGAN)
JUDGE

29th September, 2020
jk

Whether speaking/reasoned Yes/No

Whether reportable Yes/No