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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 4244/2020

FURQUAN AHMAD & ORS. Petitioner

Through Mr. Shivendra Singh, Advocate

versus

UNION OF INDIA & ORS. Respondent

Through Mr. Manish Mohan, CGSC with
Ms. Manisha Saroha, Advocate for R-1

Ms. Anita Sahani Advocate for R-2/GGSIPU

Mr. T Singhdev with Ms. Michelle B. Das &

Ms. Puja Sarkar for R-3/MCI

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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21.07.2020

This hearing is conducted through Video Conferencing.

CM Nos.15262-15264/2020

Exemption allowed, subject to all just exceptions.

W.P.(C) 4244/2020 & CM No.15261/220

1. This Writ Petition is filed by the petitioner seeking the following relief:-

“a. Issue a writ of mandamus to the Respondent No. 1 Union of India/Medical Counselling Committee to modify the seat matrix published on its website on 14.07.2020 to accurately reflect the five reverted seats (mentioned at page 6-7 of the present petition) of VMMC- Safdarjung Hospital and Atal Bihari Vajpayee Institute of Medical Sciences- Dr. Ram Manohar Lohia Hospital of the Respondent No. 2 University as ‘OBC seats’;

b. Issue a writ of mandamus to the Respondent No. 1 Union of India/Medical Counselling Committee to ensure that the three unfilled OBC seats (mentioned at page 6-7 of the present petition) in ESIC-PGIMS, Basaidarapur affiliated to Respondent No. 2 University are reverted to the State Quota for mop-up round of counselling as 'OBC seats' ”

2. On 17.7.2020 this court passed the following order:-

“2.This writ petition is filed by the petitioners seeking an appropriate writ to respondent No.1/(Union of India-Medical Counselling Committee) to modify the seat matrix published on its website on 14.07.2020 accurately reflecting the five reverted seats, mentioned at pages 6-7 of the writ petition as 'OBC seats'.

3.The case of the petitioners is that in the two All India Quota rounds of counselling certain stipulated seats were reserved for OBC category. These seats remained vacant and now stand reverted to the State Quota. It is further pleaded that while in the State Quota they have not been shown in the seat matrix as 'OBC seats'.

4. Learned counsel appearing for the respondents have pointed out that once the seats are reverted to the State Quota, the reservation policy of the respective States is applied. A particular seat is not labelled in a particular category for all time to come. Hence, in the present case, the reservation policy of the States would be applicable.

5.Let respondent No.1/Medical Counselling Committee file a short affidavit in response by 20.07.2020. A copy of the affidavit would also be given to the learned court master and the learned counsel for the parties.

6. List on 21.07.2020.”

3. This court had directed the respondent No.1 UOI/Medical Counselling Committee to file a short affidavit within two days given the fact that counselling was to be done by MCI in a time bound manner.

4. Respondent No.1 has filed its counter-affidavit. In the counter-affidavit Respondent No.1 has stated that the policy followed by respondent No.1 is in compliance with the directions of the Supreme Court in the case of W.P.(C) 76/2015 titled *Ashish Ranjan and Others vs. UOI* which provides that once the seats remain vacant after round 2 of All India Quota, they shall be reverted back to the respective State. The seats which are sent back to the respective State are without applying any reservation/category. The seats are deemed to be converted to State Quota and rules/regulations/reservation of the concerned State applies. Hence, the state reservation rules are applied on All India Quota seats which are reverted back to the State. Appropriate notice to the said effect dated 15.7.2020 has also been filed. Based on the above notification the affidavit also places on record the old and the new roster position of the seats in question.

5. A perusal of the notice dated 15.7.2020 shows that the relevant portion reads as follows:-

“In this regard, it is mentioned that MCC is following the Guidelines formulated by the Hon’ble Supreme Court of India in IA No.7 & 8 in WP No.76 of 2015 *Ashish Ranjan & Ors. Vs. Union of India & Ors.* which states as under:

“All India Quota Seats remaining vacant after last date for joining, after Round 2 will be deemed to be converted into state quota.”

Once the seats are reverted back to the respective states they are deemed to be converted to State Quota and rules/regulations/reservation of the concerned state will apply.

Hence, the Institution/State reservation rules have been applied on All India Quota reverted seats and the categories have been changed as per existing running roster of State/Institution.”

6. Based on the above, it is manifest that the seats which were reverted from the All India Quota are being treated as per the rules and regulations of the State in question and cannot continue to remain earmarked/reserved under the OBC category as is sought to be urged by the petitioner.

7. Today, learned counsel for the petitioner has, however, sought to raise a different contention. He has urged relying upon Annexure R-3 to the counter affidavit that the new roster for the State seats has been prepared in an erroneous fashion. He states that the sequence of institutes which has been mentioned in the roster has been given in an alphabetical order. He, however, states that the ten seats of ESIC-PGIMSR, Basaidarapur have all been clubbed at the bottom contrary to the alphabetical order. This he submits has affected the seat availability for the OBC category in some of the important clinical courses. Learned counsel further states that the seats in MD Paediatrician, Basaidarapur have been placed over General Surgery in violation of the sequence in which the roster ought to have been prepared

8. Clearly, the said submission is now being raised for the first time in the course of arguments. Further, it is not the case of the petitioner that the prescribed quota of 27% has not been followed while forming the Roster. In this context reference may be had to paragraph 5 of the counter affidavit of the respondent No.1 which reads as follows:-

“5.That the total number of seats in the above stated three Central Institutes are 69 in the MoP - Up round, out of which 19 seats have been allotted to OBC Category. It is pertinent to note that the number of seats for OBC remains the same even though the subjects have changed due to application of fresh roster in the MoP-up round.”

9. Hence, it is clear that the number of seats for the OBC category is as prescribed. The Roster as drawn up is not in violation of the State policy, rules and regulations.

10. There is no merit in the present petition. Same is accordingly dismissed. All pending applications, if any, also stand disposed of accordingly.

JAYANT NATH, J

JULY 21, 2020/n