

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**Writ Petition (S) No. 2701 of 2021**

1. Suneeta Verma W/o Shri Himachal Verma, Aged About 38 Years Presently Working As Lab Technician On Contractual Basis At Gandai CHC, At Present R/o Ward No. 07 Government Hospital Campus, District Rajnandgaon Chhattisgarh- 491888 Permanent Add- Village- Changori, Post Bathena, P.S. Patan, District Durg Chhattisgarh. 491111.

**---Petitioner(s)**

**Versus**

1. State of Chhattisgarh Through Its Secretary, Health Services Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh.
2. Director, O/o Directorate of Health Services, HOD Block-1, 3rd Floor, Indrawati Bhawan, Capital Complex, New Raipur, District Raipur (CG)
3. Divisional Joint Director, O/o Divisional Joint Director, Raipur/Durg Division, District Raipur Chhattisgarh.
4. Jyoti Yadav C/o Shri Hem Raj Yadav, Community Health Center, Nikum, District Durg (Chhattisgarh).

**---Respondents**

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|----------------------|---|---------------------------------|
| For Petitioner       | : | Shri Vinod Deshmukh, Advocate.  |
| For Respondent-State | : | Shri Rahul Jha, Govt. Advocate. |

**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**21.06.2021**

1. Aggrieved of the merit list published by the respondents for the selection to the post of Medical Lab Technologist arising out of advertisement dated 13.08.2020, the present writ petition has been filed.
2. From the pleadings of the writ petition it appears that initially merit list was published where the name of the petitioner stood at serial No.7 in the OBC category and the name of respondent No.4 stood in the unreserved category at serial No.24. In all, there were 50 posts advertised. 28 of the said posts were kept for unreserved category of which 8 posts were reserved for unreserved female category. In addition, there were 7 posts reserved for candidate belonging to OBC category of which 2 posts stood reserved for OBC female category.

3. Admittedly from the pleadings it appears that the respondent No.4 has scored more marks than the petitioner and such she was more meritorious. She also happens to be belonging to OBC category.
4. After the merit list was initially published, one Smt. Bhawna Sahu had filed a writ petition being WPS No.2321 of 2021. This court vide interim order dated 13.04.2021 directed the respondents to keep one post of Medical Lab Technologist in the category to which Smt. Bhawna Sahu belonged to be kept vacant till the next date of hearing. The said writ petition is still pending and the interim order is still in operation. Given the said interim order of this court, the respondents has published the revised merit list. They kept one post in the unreserved category vacant and as a consequence of keeping one post vacant, the merit list had to be revised and the respondent No.4 who earlier was shown as selected candidate from the unreserved female category was brought down against the OBC Female category and the petitioner herein has been brought down as waiting list No.1 candidate amongst the OBC Female category and waiting list No.12 under the unreserved category.
5. The contention of the petitioner seems to be that since they have kept one post in the unreserved category vacant, they ought to have kept the respondent No.4 out in the waiting list and should have granted appointment to the petitioner subject to outcome of the writ petition which was filed by Smt. Bhawna Sahu.
6. This contention of the petitioner cannot be accepted for the reason that admittedly the respondent No.4 is more meritorious than the petitioner. The respondent No.4 also undoubtedly falls within OBC category. Therefore, the moment one post from unreserved category was kept vacant by virtue of interim order passed by this court in Bhawna Sahu's

case, the name of respondent No.4 who till now was under reserved category by virtue of her merit, she had to be brought down and has been accommodated against the OBC Female quota by virtue of her merit and the petitioner happens to be next meritorious in the OBC female category and that is the reason the petitioner has been brought down as waiting list No.1 candidate in the OBC female category.

7. This action on the part of the respondents cannot be said to be either arbitrary or malafide because of the merit position of respondent No.4 who has admittedly scored much better than the petitioner. In the event of writ petition of Bhawna Sahu getting dismissed, as a consequence the petitioner would have to be considered to be accommodated against one post which has been kept vacant and the merit list would have to be revised again and it appears that admittedly the respondent No.4 who has now been accommodated against OBC Female would again go back in the merit list as an unreserved candidate by virtue of her merit and the petitioner would have to be accommodated being the waiting list No.1 candidate from among the OBC female category. The claim of the petitioner therefore would all depend upon the outcome of WPS No.2321 of 2021 i.e. in case of Bhawna Sahu. In the event if for some reason the writ petition of Bhawana Sahu gets allowed even then the appointment of the said petitioner would also be subject to the comparison of merits of the candidates who have scored more than Bhawna Sahu and until and unless the petitioner scores more than Bhawna Sahu, the petitioner would not be in a position of claiming appointment as a matter of right. Hence the entire claim as stated above would all depend upon the outcome of WPS No.2321 of 2021.

8. Accordingly, keeping the claim of the petitioner open subject to the outcome of WPS No.2321 of 2021 in Bhawna Sahu's case, the present writ petition at this juncture stands disposed of.

Sd/-  
(P. Sam Koshy)  
**Judge**

inder