

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWPC No. 4445 of 2021

Dr. Srishti Hariharno D/o Gajendra Kumar Hariharno Aged About 24 Years
R/o Hariom Nagar, Ward No. 07, Dongargaon, Post Dongargaon, District
Rajnandgaon Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through The Secretary, Department of Medical Education, Mahanadi Bhawan, Mantralaya, Atal Nagar, Post Office And Police Station Naya Raipur District Raipur Chhattisgarh.
2. Director Directorate of Medical Education, Indrawati Bhawan, Atal Nagar, Post Office And Police Station Naya Raipur District Raipur Chhattisgarh.
3. Dean Maitri College of Dentistry And Research Centre, Anjora, Durg District Durg Chhattisgarh.

---- Respondents

(Cause-title taken from Case Information System)

For Petitioner	: Mr. Vivek Kumar Shrivastava, Advocate.
For Respondents No 1 and 2 / State	: Mr. Sudeep Agrawal, Deputy Advocate General.

Hon'ble Shri Arup Kumar Goswami, Chief JusticeHon'ble Shri Goutam Bhaduri, JudgeOrder on boardPer Arup Kumar Goswami, Chief Justice23.11.2021

Heard Mr. Vivek Kumar Shrivastava, learned counsel for the petitioner.
Also heard Mr. Sudeep Agrawal, learned Deputy Advocate General for respondents
No. 1 and 2 / State.

2. The petitioner appeared in NEET – MDS, 2021, where she secured 275 marks out of 960, thereby, securing rank 11660. The respondent No. 2 issued provisional allotment letter vide allotment No. A-63 in favour of the petitioner allotting

Maitiri College of Dentistry and Research Centre, Anjora, Durg, under category of GQ-OBC-NC for the course of Orthodontics and Dentofacial Orthopedics.

3. It is the case of the petitioner that she belongs to Other Backward Class (Non-Creamy Layer) and her father is a Class-III employee. But the respondent No. 3 declined to allot her a seat under the OBC (Non-Creamy Layer) on the ground that her father's income being more than Rs. 8.00 Lacs per annum, she could not be given the benefit of non-creamy layer. Challenging such decision, the present writ petition is filed by the petitioner.

4. In the reply-affidavit filed by respondents No. 1 and 2, stand is taken, amongst others, that the petitioner had failed to submit proper income certificate at the time of scrutiny and therefore, as she failed to demonstrate that she belongs to category OBC (Non-Creamy Layer), she was not allotted a seat under the aforesaid category.

5. Mr. Shrivastava submits that income is not a relevant factor for a salaried employee and what is relevant is the category of post, which the petitioner's father was holding.

6. It is pointed out by the learned counsel for the parties that the petitioner was, however, during the pendency of the petition, offered a seat in the same subject of Orthodontics and Dentofacial Orthopedics under general category and the petitioner has also availed the seat and had taken admission and is presently pursuing the course in the same College *i.e.* Maitiri College of Dentistry and Research Centre, Anjora, Durg.

7. It is submitted by Mr. Agrawal that after admission, General Category candidates and OBC (Non-Creamy Layer) candidates are at the same footing and there is no difference in respect of fees / facilities etc. and therefore, in the attending facts and circumstances, further adjudication on the writ petition will be purely academic. It is further submitted by him that if and when any occasion arises in future as to whether the petitioner belongs to the OBC (Non-Creamy Layer), liberty may be reserved to the petitioner to agitate against the same.

8. Mr. Shrivastava, learned counsel for the petitioner also submits that the writ petition can be disposed of reserving liberty to the petitioner to challenge any decision taken in future, if any, rejecting the status of the petitioner as belonging to OBC (Non-Creamy Layer).

9. Agreeing with the submission made by learned counsel for the parties, without going into the legality or otherwise of the decision not to allot the seat to the petitioner under OBC (Non-Creamy Layer), we dispose of the writ petition, reserving liberty to the petitioner to challenge any decision, if taken in future, rejecting the status of the petitioner as belonging to OBC (non- creamy Layer), as claimed by the petitioner. No cost.

Sd/-
(Arup Kumar Goswami)
Chief Justice

Sd/-
(Goutam Bhaduri)
Judge