

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.7797 of 2021(O&M)

Date of Decision:30.06.2021.

Vrinda Goel

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MRS. JUSTICE ARCHANA PURI**

**Present: Mr. Mohan Singla, Advocate
for the petitioner.**

Mr. Ankur Mittal, Addl.A.G., Haryana

**Mr. Nilesh Bhardwaj, Advocate
for respondent no.3.**

ANIL KSHETARPAL, J.

1. Through this writ petition filed under Article 226 of the Constitution of India, the petitioner seeks issuance of a writ in the nature of mandamus to direct the respondents to give her admission in M.B.B.S Course for the Session 2020-2021 under Economically Weaker Section (EWS) category.

2. Some facts are required to be noticed.

2.1 The petitioner is alleged to have secured 596 marks out of 720 marks in National Eligibility Entrance Test (NEET), 2020. Her All India NEET rank is 21941, whereas All India EWS category rank is 2522. In the writ petition, she claims that as per the information supplied under the Right to Information Act, 2005, for EWS category, the cut off is 547 marks, whereas she has secured 596 marks and therefore, she has been wrongly denied admission. In the written statement, the respondents have clarified

that there is a typographical mistake in the information supplied, as Ms. Deepika, the last candidate, who has been admitted under EWS-cum-ESM (Priority-VI) category got 547 marks, whereas the petitioner seeks admission under the EWS category. It has further been pointed out that the writ petition has been filed in April, 2021, whereas the admissions were finalized on 15.01.2021 and therefore, the petition is liable to be dismissed on the ground of delay and laches. The maintainability of the writ petition has also been questioned, on account of non-joinder of necessary parties as the last successful candidate has not been impleaded as a party-respondent.

2.2 During the pendency of the writ petition, the petitioner filed an additional affidavit claiming that as per paragraph 6 of the reservation policy dated 25.01.2019, the candidates belonging to EWS category cannot be denied the right to compete for admission against unreserved seats. In other words, if a candidate belonging to EWS category gets selected on the basis of merit amongst general/open category, such candidate will not be counted against the reserved seats of EWS category. In response thereto, the respondents have forwarded a note on the official E-mail of the Court pointing out that the counselling process for admission to MBBS/BDS course has been conducted as per the notification dated 29.12.2020. As per the criteria, the counselling has been held in two rounds plus Mop Up round and Stray round. After the declaration of the NEET result, the students are required to give their course preferences as well as their preference with respect to college(s). During the counselling, the students are admitted on the basis of preference of college(s) and courses opted by the candidates, respectively. It has further been pointed out that the reserve category candidates who secure good marks are considered under General category

subject to the availability of the seats in the specific college of their choice.

It has further been pointed out that it is quite common that some times, the student with a higher rank who, for any reason, did not participate in the first round of counselling gets admission in the second round due to which the merit in different colleges under different categories keeps changing. Hence, the prayer for dismissal of the writ petition has been made.

3. We have heard learned counsels for the parties at length and with their able assistance perused the paper book.

4 Learned counsel for the petitioner, while reiterating, has stated that even if the information supplied under The Right to Information Act, 2005, was incorrect, still, the petitioner is required to be accommodated by adjusting the candidates who have secured higher marks against the General/open category seats.

5. In this regard, it is significant to note that in the affidavit dated 24.04.2021, the petitioner has pleaded that she has received the information from Maharaja Agrasen Institute of Medical Research and Education, Agroha, Hisar, to the effect that the EWS candidates who have secured more marks than the last selected candidates in General /open category, have been considered against EWS category instead of General/open category. It is important to note that the petitioner, neither in the writ petition nor in the additional affidavit, disclosed the college(s) or the course, chosen by her. The pleadings in the affidavit dated 22.04.2021 are not only vague but also lack in material particulars . It was incumbent upon the petitioner to lay a foundation by making a specific assertion as to the college(s) and the course of her choice and then her marks viz-a-viz various candidates admitted in those colleges. She was also expected to disclose the

number of seats in that particular college, the numbers of students admitted under EWS category and their rank in the NEET viz-a-viz students of general/open category to enable the bench to examine the contention in a proper perspective. In the absence of the aforesaid pleadings, this bench is of the view that the petitioner has failed to disclose the complete facts so as to enable it to examine the merits of the aforesaid contention.

6. The writ petition is also bad for non-joinder of parties as the petitioner has neither impleaded the last successful candidate nor disclosed or impleaded the college(s) of her choice. Now, the Academic Session is already mid-way.

7. It is appropriate to note that a larger bench of the Hon'ble Supreme Court in *S.Krishna Sradha vs.The State of Andhra Pradesh & Ors., 2019 (SCC online) SC, 1609*, has held that the courts ordinarily shall not order admission in the year beyond 30th October of the Academic Session in which the admission is sought. In the present case, the admissions for Academic Session 2020-2021 to M.B.B.S/B.D.S. courses were over on 15.01.2021.

8. Hence, finding no merit, the writ petition is dismissed.

(ANIL KSHETARPAL)
JUDGE

(ARCHANA PURI)
JUDGE

30th June, 2021
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Whether speaking/reasoned	:YES/NO
Whether reportable	:YES/NO