

**113 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CWP-27707-2022
Decided on 02.12.2022.****Anuj Yadav****...Petitioner****Versus****State of Haryana and others****..... Respondents****CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE VIKRAM AGGARWAL****Present: Mr. Nfees Ahmad Khan, Advocate
for the petitioner.****Mr. Nilesh Bhardwaj, Advocate
for respondents No.2 and 3.****Mr. Pravindra S. Chauhan, Sr. Additional AG, Haryana.*************AUGUSTINE GEORGE MASIH, J. (ORAL)**

This writ petition has been preferred by a candidate who has applied for admission in MD/MS course. According to the petitioner he belongs to the Backward Class Category. The certificate of he belonging to, the Backward Classes Category, has been issued on 18.01.2022 (Annexure P-5) and it is on the basis of the said certificate he had pressed for his claim against a seat meant for the Backward Class Category. The said plea of the petitioner on the basis of his merit in the NEET Examination resulted in he being allotted a provisional seat in the mop up round according to his merit where he was placed as Serial No.154. The name in the list ultimately after the verification of the document was found missing. On verification the petitioner has been informed that because of the

Backward Class Category (non-creamy layer) Certificate not having been issued in the financial year 2022-2023, he had been deprived of the seat which he was entitled to and has been provisionally allotted to him. Counsel for respondents No.2 and 3/Nodal Agency which is carrying out the admissions for the State of Haryana asserts that although initially in the check list which was issued it was mentioned on 11.10.2022 in Point No.12 thereof that the certificate issued after 17.11.2021 would be considered for admission. However, a subsequent public notice dated 13.10.2022 (Annexure P-16) had been issued wherein it has been clarified qua Point No.12 that the certificate for the year 2022-23 would be taken into consideration for admission at the time of physical document verification. Counsel contends that this actually meant for the financial year 2022-23 and it is on this basis that the petitioner has been found to be ineligible as the Backward Class (non-creamy layer) Certificate which has been issued to the petitioner is dated 18.01.2022.

Considering the submission as has been made for respondents No.2 and 3, we do not find anything in the documents which have been referred to by the counsel for the respondents. In Annexure P-10, Point No.12 reads as follows:-

*“12. Creamy/Non-creamy certificate for BCA-A/BC-B category candidates as per Govt of Haryana notification dated 17.11.2021. **Certificate issued after 17.11.2021 will only be considered.**”*

and, thereafter, as per the public notice dated 13.03.2022 (Annexure P-16) which relates to the Point No.12 reads as follows:-

1. Point No.12 may be read as “Creamy/ Non-creamy certificate for BC-A/ BC-B category candidates as per Govt. of Haryana notification dated 17.11.2021 certificate for the year 2022-2023” should be brought at the time of Physical document verification.

A perusal of the above would nowhere indicate as to whether it was

for the financial year 2022-23 or the calendar year 2022-23. The interpretation which is being sought to be projected by the counsel for the respondents cannot be accepted. Therefore, a common person is bound to take it to be of the year 2022. Admitted position as per the record is that the Backward Class Category (non-creamy layer) Certificate which has been issued to the petitioner is of January, 2022 and, therefore, within the period which had been laid down in both the notices which have been referred to above. The removal of the name of the petitioner from the merit list-cum-provisional allotment list thus cannot not be sustained. The action of the respondents, therefore, cannot be upheld. Petitioner is held eligible for admission to the MD Course for which he had applied and for which he had been provisionally selected according to the merit list. The respondents may proceed to grant him admission to the course for which he had already been selected.

Writ petition stands allowed accordingly.

Copy of this order be given *dasti* to the counsel for the parties under signatures of Bench Secretary of this Court.

(AUGUSTINE GEORGE MASIH)
JUDGE

02.12.2022

rekha sharma

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned : *Yes/No.*
Whether reportable : *Yes/No.*