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WPA 18279 of 2023

**Sanu Shaw & Anr.
Vs.
Indian Statistical Institute & Anr.**

Mr. Ayan Kumar Boral
Mr. Sabyasachi Bhattacharjee
... For the petitioners.

Ms. Sayani Roy Choudhury
... For respondents.

Indian Statistical Institute issued an admission notice for the academic session 2023-24 for admission in the Master of Science in Quality Management Science (MSQMS) course.

The relevant prospectus and other information were made available online. There were total twenty seats with seven designated for General category students. Three seats were reserved for the Scheduled Caste candidates and two seats were reserved for the Scheduled Tribe candidates.

Petitioner nos. 1 and 2 applied for the said seats as General category candidates. A merit list was published on June 29, 2023. Petitioner nos. 1 and 2 ranked 15th and 16th position respectively in the merit list of General category.

Out of selected four Scheduled Caste candidates, one took admission as a General category candidate on his own merit, while another candidate declined to take admission. Remaining two seats under the Scheduled Tribe category could not be filled up since no eligible candidates were found. Ultimately, out of the total 20 seats, 17 were filled up by the students from different categories leaving three seats unfilled.

By filing this writ petition, petitioner nos. 1 and 2 sought to contend that unfilled three seats under the Scheduled Caste and Scheduled Tribe category should be de-reserved and the petitioners should be admitted against the said de-reserved seats.

In support of this submission, the petitioners relied upon the following judgments:

- 1) **(1999) 7 SCC 120, paragraph 116 (v)**
(Preeti Srivastava (Dr) vs. State of M.P.,
- 2) **(2008) 6 SCC 1, paragraph 358 (iii)**
(Ashoka Thakur vs. Union of India,
- 3) **(1997) 3 SCC 90 paragraph 27 (Sadhna**
Devi (Dr) vs. State of M.P. and
- 4) **(2001) 8 SCC 664 paragraph 18 (State**
of Punjab vs. Dayanand Medical College
and Hospital and others).

Ms. Sayani Roy Choudhury, learned advocate appearing on behalf of the Institute submits that the institute is governed by the Central Educational Institutions (Reservation in Admission) Act, 2006. She submits that Section 3 of the said Act does not provide for de-reservation of any seats reserved for Scheduled Caste and Scheduled Tribe candidates. She further submits that the applicable Rules namely, Business Rules for Admission 2023-2024 (All Masters Degree and Diploma Programmes) framed by the Institution provides the protocol for de-reservation of seats in the following manner:

- “(a) If the number of seats in OBC-NCL category in any particular round of seat allocation is greater than the number of candidates in the OBC-NCL list, then the difference will be de-reserved and treated as GEN category seats for allocation in every round of seat allocation.
- (b) If the number of seats in GEN-PwD category in any particular round of seat allocation is greater than the number of candidates in the GEN-PwD list then the difference will be de-reserved as GEN category seats.
- (c) If the number of seats in SC category in any particular round of seat allocation is greater than the number of candidates in the SC

list, unfilled SC seats will be open to ST category candidates. Similarly, if the number of seats in ST category in any particular round of seat allocation is greater than the number of candidates in the ST list, unfilled ST seats will be open to SC category candidates. However, unfilled SC and ST category seats will NOT be de-reserved as GEN seats.

- (d) If the number of seats in GEN-EWS or category in any particular round of seat allocation is greater than the number of candidates in the GEN-EWS list then the difference will not be de-reserved.”

She contends that though the Rules provide for de-reservation of seats under ‘Other Backward Classes’ category, de-reservation seats under the Scheduled Caste and Scheduled Tribe category has been specifically prohibited.

It may be noted that there is a specific bar for de-reservation of seats/posts under the Scheduled Caste and Scheduled Tribe category in public employment under the Article 16(4-B) of the Constitution of India. [(see) **(2016) 6 SCC 532 Kulwinder Pal Singh and Another Vs. State of Punjab and Others**].

It is also crucial to note that Section 8 of the West Bengal State Higher Educational Institutions (Reservation in Admission) Rules, 2013 provides for procedure for de-reservation of seats under the Scheduled Casts, Schedules Tribe and Other Backward Classes. No similar piece of legislation applicable to Central Educational Institutions has been brought to the notice of this Court by the parties.

In the present case, the rank of the petitioners were 15 and 16 in the General category merit list. If it is assumed that said three seats were liable to be treated or converted into General category, the petitioners would not be eligible for admission. In such a scenario, the admission against the said three seats should have given to the candidates who secured higher position in the merit list.

Therefore, the question of de-reservation of any seat from the SC and ST category becomes academic in this case.

In the given facts, this Court is not inclined to interfere with the selection process.

Accordingly, **WPA 18279 of 2023** is dismissed.

Urgent photostat certified copies of this order, if applied for, be made available to the

parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)