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WP.No.28176 of 2023  
& WMP.Nos.27702 and 27703 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 02.11.2023

Pronounced on: 27.11.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

**WP.No.28176 of 2023**  
**& WMP.Nos.27702 and 27703 of 2023**

C.Resma

... Petitioner

Vs.

- 1 Government of Puducherry  
rep. by Under Secretary to Government  
Department of Health and Family Welfare Services  
Government of Puducherry,  
Puducherry-605 001.
- 2 The Director  
Department of Health and Family Welfare Services/  
Nodal Officer Neet (UG)  
Government of Puducherry, Puducherry - 605 001.
- 3 Centralized Admission Committee (CENTAC)  
Government of Puducherry  
Rep. by its Convenor  
KamarajarManiMandapam, Lawspet,  
Puducherry - 605 008



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4 Thirumurugan

5 M.Priyadarshini

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India raying to issue a Writ of Certiorarified Mandamus calling for the entire records related to the proceeding vide No.27209/Health/H5/2023-24 dated 14.09.2023 of the 1st Respondent along with Annexures and the First Round Provisional Allotment List for UG NEET - Medical/Dental/BAMS Ayurveda/BVSC and AH (National SS and NRI) - (2023-24) issued along with the Press Release of the 3rd Respondent in Proceedings No. CENTAC/Admn-UG Medical/2023-24 dated 18.09.2023 and Reply dated 19.09.2023 issued under the Grievance Redressal by the 3rd Respondent herein and the Order No.CENTAC/2023/Legal/23163 dated 05.10.2023 issued by the 3<sup>rd</sup> Respondent herein and quash the same to the limited extent of allotting the single seat for admission to UG Medical Course for the year 2023-24 in Indira Gandhi Medical College and Research Institute under EXM Quota in Karaikal Region to MBC Category instead of allotting the same to the Petitioner herein and the consequential allotment of seat to the 4<sup>th</sup> and 5<sup>th</sup> Respondents as the case may be instead of allotting the same to the petitioner herein and to the limited extent of non-allotment of the said seat to the petitioner herein and to consequently direct the official respondents herein to forthwith allot the seat for admission to First Year MBBS Course for the year 2023-24 in Indira Gandhi Medical College and Research Institute.

(Prayer amended vide order dated 11.10.2023 made in WMP No.29258 of 2023)



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For Petitioner : Mr.M.Ravi

For Respondents : Mr.ARL.Sundaresan  
Additional Solicitor General  
Assisted by  
Mr.S.Ravikumar (R1 to R3)  
Government Pleader (Pondy)  
Mr.R.Hariprasad (for R5)  
No appearance – R4

### **ORDER**

The petitioner had appeared for the NEET 2023-24 examinations conducted for Under Graduate (UG) MBBS Course in May 2023. She belongs to Other Backward Class (OBC) and had applied under Ex-serviceman Quota (EXM) as her father had served in the Indian Army and the Government of Puducherry, Department of Sainik Welfare had duly issued Dependency Certificate entitling her for availing EXM quota for higher studies. The eligibility of the petitioner under EXM quota is not in question.

2. The relevant sequence of dates and events that arises in the matter is as follows:

- (i) Information Brochure for NEET 2023-24 was uploaded in the Centac Website on 12.07.2023 which provided for the following



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categories of vertical and horizontal reservations to various courses  
in the Union Territory of Puducherry:

## 22.RESERVATION OF SEAQTS

*Reservation in admission to various courses for the candidates of the U.T. of Puducherry belonging to different categories is as given below. Further, SC / ST/ BT / EBC / MBC / BCM / OBC candidates are also eligible for selection under Open competition / General category in addition to the reservations made to them.*

| Sl. No.                     | CATEGORIES                     | % OF RESERVATION FOR OTHER REGIONS | % OF RESERVATION FOR MALE |
|-----------------------------|--------------------------------|------------------------------------|---------------------------|
| <b>VERTICAL RESERVATION</b> |                                |                                    |                           |
| 1                           | Open General                   | 50%                                | 50%                       |
| 2                           | Other Backward Classes (OBC)   | 11%                                | 16%                       |
| 3                           | Backward Classes Muslims (BCM) | 2%                                 | 10%                       |
| 4                           | Most Backward Classes (MBC)    | 18%                                | 7%                        |
| 5                           | Extreme Backward Classes (EBC) | 2%                                 | NIL                       |
| 6                           | Backward Tribes (BT)           | 0.5%                               | 0.5%                      |
| 7                           | Scheduled Caste (SC)           | 16%                                | 16%                       |
| 8                           | Scheduled Tribe (ST)           | 0.5%                               | 0.5%                      |

|                               |                                                    |              |
|-------------------------------|----------------------------------------------------|--------------|
| <b>HORIZONTAL RESERVATION</b> |                                                    |              |
| 1                             | Children/Grand Children for Freedom (Fighter) (FF) | 4%           |
| 2                             | Person With Disabilities (PWD)                     | 5%           |
| 3                             | Wards of Ex-Servicemen (ESM)                       | 1% and 3% ** |
| 4                             | Candidate who are Meritorious in                   | 1%           |



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*Sports (MSP)*

*\*\* 1% for MBBS and 3% for all other courses.*

- (ii) NEET Examination for UG course was conducted in May, 2023.
- (iii) Results were declared on 13.06.2023 and the score card of the petitioner reveals her NEET All India Rank as 236594 and category rank as 106784.
- (iv) Seat Matrix I was issued on 07.09.2023 which sets out the details of the seat matrix for conduct of counselling by Centac, as follows:

*No.27209/Health/H5/2023-24*  
*GOVERNMENT OF PUDUCHERRY*  
*HEALTH SECRETARIAT*

*&&&*

*Puducherry, dated 07.09.2023*

*To*  
*The Co-ordinator (Admin.),*  
*CENTAC,*  
*Puducherry.*

*Sir,*

*Sub: Health Secretariat – Admission of Students in 1<sup>st</sup> year MBBS course in Indira Gandhi Medical College & Research Institute, Puducherry – Seat matrix for conduct of counselling by CENTAC for the academic year 2023-24 – Sponsoring of students – Reg.*

*\*\*\*\*\**

*The Seat-Matrix to be followed by CENTAC for conduct of counselling for admission of students in first year MBBS course in Indira Gandhi Medical College & Research Institute,*



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WEB COPY Puducherry for the academic year 2023-24, is furnished hereunder:

**MBBS**  
**Indira Gandhi Medical College & Research Institute**  
**(Government College)**

| <b>Total No. of seats</b> | <b>Government quota</b> | <b>All India quota(15%)</b> | <b>NRI quota</b> |
|---------------------------|-------------------------|-----------------------------|------------------|
| <b>180</b>                | <b>131</b>              | <b>27</b>                   | <b>22</b>        |

| Regions                 | Total<br>Seats | Vertical reservation |            |            |            |           |           |           |            |            | Horizontal reservation  |          |          |           |               |
|-------------------------|----------------|----------------------|------------|------------|------------|-----------|-----------|-----------|------------|------------|-------------------------|----------|----------|-----------|---------------|
|                         |                | Gen<br>40%           | EWS<br>10% | OBC<br>11% | MBC<br>18% | SC<br>16% | EBC<br>2% | BCM<br>2% | ST<br>0.5% | BT<br>0.5% | Govt.<br>Schools<br>10% | PH<br>5% | FF<br>4% | EXM<br>1% | MS<br>P<br>1% |
| Puduche<br>rry<br>(75%) | 98             | 39                   | 10         | 11         | 17         | 16        | 02        | 02        | 00         | 01*        | 09                      | 05       | 04       | 01        | 01            |
| Karaika<br>l<br>(18%)   | 24             | 10                   | 02         | 03         | 05         | 03        | 00        | 01*<br>*  | 00         | 00         | 02                      | 01       | 01       | 01        | 00            |
| Yanam<br>(3%)           | 04             | 02                   | 00         | 00         | 01         | 01        | 00        | 00        | 00         | 00         | 01                      | 00       | 00       | 00        | 00            |
| TOTAL                   | 126            | 51                   | 12         | 14         | 23         | 20        | 02        | 03        | 00         | 01         | 12                      | 06       | 05       | 02        | 01            |

*Reservation in respect of Mahe region as per G.O.Ms.No.7/SES/2017 dated 3/7/2017*

| Regions      | Total<br>Seats | Vertical reservation |            |            |            |           |           |           |            |            | Horizontal reservation  |          |          |           |           |  |
|--------------|----------------|----------------------|------------|------------|------------|-----------|-----------|-----------|------------|------------|-------------------------|----------|----------|-----------|-----------|--|
|              |                | Gen<br>40%           | EWS<br>10% | OBC<br>11% | MBC<br>18% | SC<br>16% | EBC<br>2% | BCM<br>2% | ST<br>0.5% | BT<br>0.5% | Govt.<br>Schools<br>10% | PH<br>5% | FF<br>4% | EXM<br>1% | MSP<br>1% |  |
| Mahe<br>(4%) | 05             | 02                   | 00         | 01         | 00         | 01        | 00        | 01        | 00         | 00         | 01                      | 00       | 00       | 00        | 00        |  |
| TOTAL        | 05             | 02                   | 00         | 01         | 00         | 01        | 00        | 01        | 00         | 00         | 01                      | 00       | 00       | 00        | 00        |  |

\* Last year one seat was earmarked for ST, this year, the same seat is earmarked to BT on rotation basis.

\*\* Last year one seat was earmarked for EBC, this year, the same seat is earmarked to BCM on rotation basis in Karaikal region.

2. This has the approval of the Hon'ble Lieutenant Governor.

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(v) The above seat matrix reveals the break-up of 24 seats allotted to Karaikal out of the 180 seats allotted to the Union Territory of Puducherry. To the extent to which relevant to this Writ Petition,



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the number of seats in OBC category is 3 and 1 seat has been allotted to EXM category.

- (vi) On 14.09.2023 yet another Seat Matrix (Seat Matrix II) had been issued, which contains certain revisions to Seat Matrix I.
- (vii) Seat Matrix II was accompanied by letter dated 14.09.2023 from the office of the Health Secretariat addressed to Centac. Along with Seat Matrix II, there were 4 enclosures giving the split-up of seats for each category of horizontal reservation.
- (viii) Letter dated 14.09.2023 accompanying Seat Matrix II and the 4 enclosures is as follows:

**No.27209/Health/H5/2023-24**  
**GOVERNMENT OF PUDUCHERRY**  
**HEALTH SECRETARIAT**  
**&&&**

*Puducherry, dated 14.09.2023*

*To*  
*The Co-ordinator (Admin.),*  
*CENTAC,*  
*Puducherry.*

*Sir,*

*Sub: Health Secretariat – Seat Matrix for UG NEET courses – Horizontal split up of the seats category-wise among Vertical Reservation for the academic year 2023-24 – Communicated – Reg.*  
*Ref: This Secretariat letter of even No. dated 07.09.2023.*

**&&&**



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*In continuation of this Secretariat's reference cited, the Seat Matrix to be followed by CENTAC for UG NEET Courses with Horizontal split-up of the seats category-wise among the Vertical Reservation for the academic year 2023-24 is communicated herewith.*

*2. This has the approval of the Hon'ble Lieutenant Governor.*

.....

(ix) The manner in which the horizontal and vertical reservations have been integrated is as follows:

**Horizontal reservation for the 10% seats to Govt. Schools Students**

**MBBS**

**Indira Gandhi Medical College & Research Centre**

| Regions      | Govt. Schools 10% | Horizontal reservation |          |          |          |          |          |          |          |          |
|--------------|-------------------|------------------------|----------|----------|----------|----------|----------|----------|----------|----------|
|              |                   | Gen 40%                | EWS 10%  | OBC 11%  | MBC 18%  | SC 16%   | EBC 2%   | BCM 2%   | ST 0.5%  | BT 0.5%  |
| Puducherry   | 09                | 3                      | 1        | 1        | 2        | 1        | 0        | 1*       | 0        | 0        |
| Karaikal     | 02                | 1                      | 0        | 0        | 0        | 1        | 0        | 0        | 0        | 0        |
| Yanam        | 01                | 1                      | 0        | 0        | 0        | 0        | 0        | 0        | 0        | 0        |
| Mahe         | 01                | 1                      | 0        | 0        | 0        | 0        | 0        | 0        | 0        | 0        |
| <b>TOTAL</b> | <b>13</b>         | <b>6</b>               | <b>1</b> | <b>1</b> | <b>2</b> | <b>2</b> | <b>0</b> | <b>1</b> | <b>0</b> | <b>0</b> |

\* This year one seat is earmarked for BCM, next year the same seat is earmarked to EBC on rotation basis.

**Horizontal reservation for FF Quota**

**MBBS**

**Indira Gandhi Medical College & Research Centre**

| Regions      | FF 4%    | Horizontal reservation |          |          |          |          |          |          |          |          |
|--------------|----------|------------------------|----------|----------|----------|----------|----------|----------|----------|----------|
|              |          | Gen 40%                | EWS 10%  | OBC 11%  | MBC 18%  | SC 16%   | EBC 2%   | BCM 2%   | ST 0.5%  | BT 0.5%  |
| Puducherry   | 4        | 2                      | 0        | 0        | 1        | 1        | 0        | 0        | 0        | 0        |
| Karaikal     | 1        | 1                      | 0        | 0        | 0        | 0        | 0        | 0        | 0        | 0        |
| Yanam        | 0        | 0                      | 0        | 0        | 0        | 0        | 0        | 0        | 0        | 0        |
| Mahe         | 0        | 0                      | 0        | 0        | 0        | 0        | 0        | 0        | 0        | 0        |
| <b>TOTAL</b> | <b>5</b> | <b>3</b>               | <b>0</b> | <b>0</b> | <b>1</b> | <b>1</b> | <b>0</b> | <b>0</b> | <b>0</b> | <b>0</b> |



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**Horizontal reservation for PH Quota**

**MBBS**

**Indira Gandhi Medical College & Research Centre**

| Regions      | PH<br>4% | Horizontal reservation |            |            |            |           |           |           |            |            |
|--------------|----------|------------------------|------------|------------|------------|-----------|-----------|-----------|------------|------------|
|              |          | Gen<br>40%             | EWS<br>10% | OBC<br>11% | MBC<br>18% | SC<br>16% | EBC<br>2% | BCM<br>2% | ST<br>0.5% | BT<br>0.5% |
| Puducherry   | 5        | 2                      | 0          | 1          | 1          | 1         | 0         | 0         | 0          | 0          |
| Karaikal     | 1        | 1                      | 0          | 0          | 0          | 0         | 0         | 0         | 0          | 0          |
| Yanam        | 0        | 0                      | 0          | 0          | 0          | 0         | 0         | 0         | 0          | 0          |
| Mahe         | 0        | 0                      | 0          | 0          | 0          | 0         | 0         | 0         | 0          | 0          |
| <b>TOTAL</b> | <b>6</b> | <b>3</b>               | <b>0</b>   | <b>1</b>   | <b>1</b>   | <b>1</b>  | <b>0</b>  | <b>0</b>  | <b>0</b>   | <b>0</b>   |

**Horizontal reservation for EXM Quota**

**MBBS**

**Indira Gandhi Medical College & Research Centre**

| Regions      | EXM<br>4% | Horizontal reservation |            |            |            |           |           |           |            |            |
|--------------|-----------|------------------------|------------|------------|------------|-----------|-----------|-----------|------------|------------|
|              |           | Gen<br>40%             | EWS<br>10% | OBC<br>11% | MBC<br>18% | SC<br>16% | EBC<br>2% | BCM<br>2% | ST<br>0.5% | BT<br>0.5% |
| Puducherry   | 1         | 1                      | 0          | 0          | 0          | 0         | 0         | 0         | 0          | 0          |
| Karaikal     | 1         | 0                      | 0          | 0          | 1          | 0         | 0         | 0         | 0          | 0          |
| Yanam        | 0         | 0                      | 0          | 0          | 0          | 0         | 0         | 0         | 0          | 0          |
| Mahe         | 0         | 0                      | 0          | 0          | 0          | 0         | 0         | 0         | 0          | 0          |
| <b>TOTAL</b> | <b>2</b>  | <b>1</b>               | <b>0</b>   | <b>0</b>   | <b>1</b>   | <b>0</b>  | <b>0</b>  | <b>0</b>  | <b>0</b>   | <b>0</b>   |

- (x) At this juncture, it is necessary to point out the differentiation between Seat Matrices I and II. It is the submission of the respondents that there is really no distinction or difference between Seat Matrices I and II. There is however one material factor which comes through only from the Annexures to Seat Matrix II which is that communal reservation will stand integrated or read into



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horizontal reservations as well. It is thus not correct to say that Seat Matrices I and II are the same.

- (xi) That apart, and admittedly, there have been amendments to the number of seats assigned to the vertical reservations in the cases of MBC and SC. While the reservation for MBC and SC in Seat Matrix I was 5 and 3 respectively, they have been revised to 4 and 4 respectively in Seat Matrix II. By application of communal reservation to horizontal reservations, the manner of allocation of seats would stand amended between Seat Matrix I to Seat Matrix II. Thus, there has, indeed, been a revision of the seat matrix between 07.09.2023 and 14.09.2023.
- (xii) Seat Matrix II and enclosures dated 14.09.2023 were uploaded on 16.09.2023, which was a Saturday. On the same day, the petitioner has filed an objection to the changes in the pattern of counselling. The next day, Sunday 17.09.2023, R3/Centac communicates with the petitioner advising her to raise her queries in the grievance option in the login dash board of the website.



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- (xiii) On the same day, the petitioner complies, parallelly, addressing representations to the official respondents as well as to the Lieutenant Governor of Puducherry.
- (xiv) On 18.09.2023, public holiday on account of Vinayaka Chathurthi, there was a press release issued by Centac to the effect that the first round of provisional allotment list along with final merit list for NEET UG was published in the website.
- (xv) In that list, the name of the petitioner had been omitted. In fact, according to the petitioner, there was no other candidate who had applied under the EXM category in Karaikal and hence that horizontal reservation had simply been done away with as far as Karaikal was concerned.
- (xvi) The press release instructed the candidates to download the allotment order and report to the college concerned on or before 23.09.2023. The same press release also provided for the transfer of the fee to the account of Centac.
- (xvii) On the same day, i.e., 18.09.2023, a corrigendum was issued by Centac to the effect that the conversion procedure set out for



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horizontal reservation under Annexure XII of the seat conversion algorithm stands deleted. All other conditions of the Information Brochure were to remain unaltered.

(xviii) On 19.09.2023, Centac replied to the petitioner reiterating that the allotments made on 18.09.2023 were correct.

(xix) The petitioner has obtained a supporting letter dated 21.09.2023 from the Department of Sainik Welfare urging that the EXM seat be issued to the petitioner.

(xx) This present Writ Petition has been filed on 22.09.2023.

(xxi) On 25.09.2023 and 27.09.2023 orders were passed by my predecessor noting that a strong prima facie case has been made out by the petitioner. A direction was issued to the Centac to consider the case of the petitioner for admission to MBBS course under EXM category upon condition that she satisfies all required criteria including merit.

(xxii) On 05.10.2023 an order of rejection came to be passed by Centac on the ground that the request for admission by the petitioner under EXM category was not acceptable.



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WEB COPY (xxiii) On 07.10.2023 a revised second round provisional list was made for UG NEET.

(xxiv) On 13.10.2023, the matter was adjourned by the Court at the instance of the respondents. The Court also recorded the specific position that all admissions were expected to be completed as per the Information Brochure prior to 30.09.2023. The submission of the respondents was that permission had been sought by them before the Hon'ble Supreme Court for extension of time. This Court recorded that if such extension were not to be granted by the Hon'ble Supreme Court, any admission made after 30.09.2023 would have to go.

(xxv) On 16.10.2023, the petitioner was permitted to attend classes after this Court recorded the reliance of the respondents on the judgement of the Hon'ble Supreme Court in *Anil Kumar Gupta and others V. State of U.P.*<sup>1</sup> particularly the observations in paragraph 18.

(xxvi) The respondents challenged the aforesaid order by way of Writ Appeal that came to be closed by the Division Bench in

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<sup>1</sup>(1995) 5 SCC 173



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W.A.No.3001 of 2023 vide order dated 26.10.2023 not intervening in order dated 16.10.2023.

(xxvii)The Division Bench records the petitioner's submission that no Contempt Petition would be moved as against non-compliance by the respondents of the direction in order dated 16.10.2023.

(xxviii)In the subsequent hearings, notice was directed to be issued by the respondents to a candidate, by name, Amudha Geedhan M at serial No.98 (Application No.62302529), since it was their stand that if at all the petitioner were to succeed in this Writ Petition, it would be this candidate who would have to be disturbed from the seat granted to him.

(xxix)Finally on 01.11.2023, the respondents have issued notice to the aforesaid candidate enclosing the Writ Petition for necessary response by him.

(xxx) Incidentally, the petitioner has arrayed two private respondents, R4 and R5 as, per her interpretation of the seat matrices and seat allotment, it is only R5 and R4 in that order, who would have to be disturbed if her Writ Petition were to be allowed.



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WEB COPY (xxxix) R5 is duly represented by a counsel, whereas R4 and Amudha

Geedhan have not chosen to appear before this Court.

3. The submissions of the petitioner represented by Mr.Ravi, learned counsel are that the petitioner is the sole applicant in EXM category in Karaikal, though the respondents have arbitrarily and unilaterally and without any good reason amended the rules by which the admission process was to conducted at the eleventh hour; that her candidature was liable to be accepted in substitution of the candidature of R5, who is an MBC candidate; that there is no rhyme, reason or justification in law for the choice of R4 and R5 in preference over her candidature; that the entire process of admission was skewed and incorrect; that she deserves to have been granted a seat under the EXM category in Karaikal and that there was no justification for the revision of seat allocation between 07.09.2023 and 14.09.2023, i.e., Seat Matrices I and II.

4. Learned counsel for the petitioner relies on the following citations (i) *State of U.P. and others v. M.C.Chattopadhyaya and others*<sup>2</sup> and (ii) *Dar-Us-Slam Educational Trust and Others v. Medical Council of India and*

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<sup>2</sup>[(2004) 12 SCC 333]



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WEB *others*<sup>3</sup> for the proposition that rules of procedure must not be changed midway or at the fag end of the selection process, as in the present case.

5. Per contra, Mr.AR.L.Sundaresan, learned Additional Solicitor General appearing for the official respondents would stoutly defend the action of the respondents pointing out that there is no error in procedure as alleged. According to the respondents, the process followed has been transparent apart from being correct. They point out that Seat Matrix I dated 07.09.2023 had not been revised. Instead what was done was to provide for a different methodology of seat allocation which has been explained in the annexures to Seat Matrix II.

6. The Government of Puducherry had sought approval from the Centre for a horizontal reservation for Government School students. Necessary permission was received on 04.09.2023 and by Government Order dated 05.09.2023, the Union Territory of Puducherry had implemented the reservation. It is relevant to note that, on 07.09.2023 when Seat Matrix I had been issued, it contained a horizontal reservation for Government School students.

7. The cases cited by R1 are:

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<sup>3</sup>[WP(Civil)No.267 of 2017 dated 09.05.2017]



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- WEB (i) *Federation of Puducherry Parents – Students Affected by Region wise Reservation and others v. Government of Puducherry and others*<sup>4</sup>
- (ii) *Tamil Nadu Dr.MGR Medical University v. SVS Educational and Social Trust*<sup>5</sup>
- (iii) *Anupal Singh and Others v. State of Uttar Pradesh*<sup>6</sup>
- (iv) *Saurav Yadav and Others v. State of Uttar Pradesh and Others*<sup>7</sup>
- (iv) *Neil Aurelio Nunes (OBC Reservation) and others v. Union of India and others*<sup>8</sup>

8. The cases cited by R5, represented by Mr.R.Hariprasad, learned counsel are:

- (i) *Rajendra Prasad Mathur v. Karnataka University and another*<sup>9</sup>
- (ii) *Abha George and others v. All India Institute of Medical Sciences (AIIMS) and another*<sup>10</sup>

9. The issues that arise for consideration are as to (i) the proper methodology for application of horizontal reservation and whether they are to be integrated with vertical reservations (ii) whether at all there can be a vertical

<sup>4</sup> (WP.Nos.13130 of 2010 and etc. batch dated 06.08.2010)

<sup>5</sup> [(2019) 12 SCC 613]

<sup>6</sup> [(2020) 2 SCC 173]

<sup>7</sup> [(2021) 4 SCC 542]

<sup>8</sup> [(2022) 4 SCC 1]

<sup>9</sup> [1986 (Supp) SCC 740]

<sup>10</sup> [WP(C)No.12263 of 2021 & CM Appl.No.38369 of 2021 dated 02.02.2022]



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reservation in respect of a single seat reserved horizontally and (iii) whether the rules have been changed at the last minute, that is to say, whether there has been a material change between Seat Matrix I dated 07.09.2023 and Seat Matrix II dated 14.09.2023.

10. Coming to the last issue first, it appears clear to me and the respondents are unable to deny this position, that the integration of horizontal and vertical reservations has been done only at the stage of Seat Matrix II. Evidently, the allocation of seats as per Seat Matrix I, though not elaborated, was to be done without integration of vertical reservation into horizontal reservation. It is only after the publication of Seat Matrix I that the official respondents had woken to the fact that they wished to integrate communal reservation with horizontal reservation provided for Government School students.

11. It is in the note sheet of the Health Department that had been placed before the Lieutenant Governor for approval on 13.09.2023 (internal pages 20 to 27 of the note) that for the first time, the Union Territory of Puducherry has sought integration of vertical and horizontal reservation.



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12. This act has been triggered by the CENTAC upon whose instructions, the authorities of the Union Territory has prepared the Seat Matrix providing for integration of horizontal and vertical reservations. At paragraph 80 of that note, the authorities state as follows:

*80. It is pertinent to mentioned that usually the Seat Matrix will be sent with category wise break-up under Vertical Reservation alone. Now, the CENTAC has insisted to furnish the Seat Matrix with category-wise allocation of seats for the 10% of seats allocated for the students of Govt. Schools.*

13. Even there, the insistence of Centac was for category-wise allocation/integration for the 10% of the seats allotted for Government school students only, and not for the other categories. However, in response, the authorities have proceeded to integrate all categories of horizontal reservation with vertical reservation. At paragraph 86, the orders sought for are in regard to the following matters:

*86. With the above the file is submitted for order*

- a) Horizontal split-up among the Vertical Reservation.*
- b) Revision of Allocation of seats of Karaikal and Puducherry Region under MBC & SC categories as per rounding of Reservation seats.*



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c) *Issue of Revised seat matrix to CENTAC incorporating the above modifications.*

14. In *Neil Aurelio Nunes* (supra), the Hon'ble Supreme Court deliberated in depth on the binary that resulted when one sought to balance merit and reservation. One of the arguments raised related to the submission that the rules of play must not be changed mid-way. In that context, the Court noted that the information bulletin in that case specified that the reservation applicable would be notified by the counselling authority before the beginning of the counselling process.

15. This was unlike, in the case of *Prerit Sharma Vs. Billu B.S<sup>11</sup>*, and the candidates while applying for NEET PG were not provided with any information on the distribution of seat matrix and such information was provided by the counselling authority only just prior to commencement of the counselling session. In that context, the Court held that the rules of the game had been left open at the initial state and had been set only proximate to the counselling itself. They thus rejected the arguments that the rules had been set even when the registration for the examination closed, noticing that at that

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<sup>11</sup>(2022) 2 SCC 751



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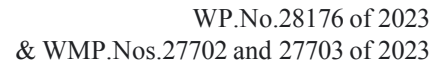
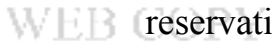
stage, no rule had been set, but the authorities had reserved their right to set the rules at a later juncture.

16. However, in this case, the records clearly reveal that there is a shift in methodology of seat allocation between Seat Matrix I dated 07.09.2023 and Seat Matrix II dated 14.09.2023. Seat Matrix I dated 07.09.2023 was itself issued very belatedly, but at least leaving a few weeks till the counselling was to be commenced.

17. However, Seat Matrix II dated 14.09.2023 is literally at the eleventh hour, as the list was uploaded on 16.09.2023, being a Saturday and the first list implementing Seat Matrix II was issued on 18.09.2023, which was a holiday on account of Vinayaka Chathurthi.

18. The critical shift in procedure between Seat Matrices I and II relates to the communalization of seats allotted to horizontal reservations and evidently, the rules have not only been changed at the last minute, but matters have been carried forward in haste.

19. This conclusion is also supported from the counter itself, where at paragraph 11, the respondents concede that Seat Matrix I, published on 07.09.2023 did not comprise of any correlation between horizontal and vertical



20. In the present case, there is a clear and categorical change between Seat Matrices I and II. The first seat matrix proceeded on the basis that horizontal reservations were to be implemented as stand-alone reservations while the second seat Matrix proceeded to implement the two kinds of reservation. There was thus a definite difference in the manner of implementation qua the two seat matrices. The question is as to whether this will result in effecting a definitive change to the rules at the very end of the selection process, and my answer is, in the facts and circumstances of this case, in the affirmative.

21. I now advert to the cases cited in the context of the methodology to be followed in the integration of horizontal and vertical reservation. The cases cited at the Bar are discussed below:

22. In *Anil Kumar Gupta* (supra), the Supreme Court held thus:

18. Now, coming to the correctness of the procedure prescribed by the revised notification for filling up the seats, it was wrong to direct the fifteen per cent special reservation seats to be



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*filled up first and then take up the OC (merit) quota (followed by filling of OBC, SC and ST quotas). The proper and correct course is to first fill up the OC quota (50%) on the basis of merit; then fill up each of the social reservation quotas, i.e., SC, ST and BC; the third step would be to find out how many candidates belonging to special reservations have been selected on the above basis. If the quota fixed for horizontal reservations is already satisfied - in case it is an overall horizontal reservation - no further question arises. But if it is not so satisfied, the requisite number of special reservation candidates shall have to be taken and adjusted/accommodated against their respective social reservation categories by deleting the corresponding number of candidates therefrom. (If, however, it is a case of compartmentalised horizontal reservation, then the process of verification and adjustment/accommodation as stated above should be applied separately to each of the vertical reservations. In such a case, the reservation of fifteen per cent in favour of special categories, overall, may be satisfied or may not be satisfied.) Because the revised notification provided for a different method of filling the seats, it has contributed partly to the unfortunate situation where the entire special reservation quota has been allocated and adjusted almost exclusively against the OC quota.*

23. The Gujarat High Court in the case of *Tamannaben Ashokbhai*

*Desai V. Shital Amrutlal Nishar*<sup>12</sup> was concerned with reservation for women

in the recruitment of Police Inspector (unarmed) and held as follows:

*“69. For the future guidance of the State Government, we would like to explain the proper and correct method of implementing horizontal reservation for women in a more lucid manner.*

<sup>12</sup> 2020 SCC Online Guj. 2592



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**WEB COPY “PROPER AND CORRECT METHOD OF IMPLEMENTING  
HORIZONTAL RESERVATION FOR WOMEN.**

|                                                                           |           |
|---------------------------------------------------------------------------|-----------|
| No. of posts available for recruitment.                                   | ..... 100 |
| Social Reservation Quota (49%)                                            |           |
| Open Competition (OC)                                                     | ..... 51  |
| Scheduled Caste (SC )                                                     | ..... 12  |
| Scheduled Tribe (ST)                                                      | .....17   |
| Socially and Educationally<br>Backward Classes (SEBC)                     | .....20   |
| Horizontal Reservation for Women (33% in each of the above<br>categories) |           |
| OC                                                                        | .....17   |
| SC                                                                        | ....04    |
| ST                                                                        | ....06    |
| SEBC                                                                      | ....07    |

*Step 1: Draw up a list of at least 100 candidates (usually a list of more than 100 candidates is prepared so that there is no shortfall of appointees when some candidates do not join after offer) qualified to be selected in the order of merit. This list will contain the candidates belonging to all the aforesaid categories.*

*Step 2: From the aforesaid Step 1 List, draw up a list of the first 51 candidates to fill up the OC quota (51) on the basis of merit. This list of 51 candidates may include the candidates belonging to SC, ST and SEBC.*

*Step 3: Do a check for horizontal reservation in OC quota. In the Step 2 List of OC category, if there are 17 women (category does not matter), women's quota of 33% is fulfilled. Nothing more is to be done. If there is a shortfall of women (say, only 10 women are available in the Step 2 List of OC category), 7 more women have to be added. The way to do this is to,*



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*first, delete the last 7 male candidates of the Step 2 List. Thereafter, go down the Step 1 List after Item 51, and pick the first 7 women (category does not matter). As soon as 7 such women from Step 1 List are found, they are to be brought up and added to the Step 2 List to make up for the shortfall of 7 women. Now, the 33% quota for OC women is fulfilled. List of OC category is to be locked. Step 2 List becomes final.*

*Step 4: Move over to SCs. From the Step 1 List, after Item 51, draw up a list of 12 SC candidates (male or female). These 12 would also include all male SC candidates who got deleted from the Step 2 List to make up for the shortfall of women.*

*Step 5: Do a check for horizontal reservation in the Step 4 List of SCs. If there are 4 SC women, the quota of 33% is complete. Nothing more is to be done. If there is a shortfall of SC women (say, only 2 women are available), 2 more women have to be added. The way to do this is to, first, delete the last 2 male SC candidates of the Step 4 List and then to go down the Step 1 List after Item 51, and pick the first 2 SC women. As soon as 2 such SC women in Step 1 List are found, they are to be brought up and added to the Step 4 List of SCs to make up for the shortfall of SC women. Now, the 33% quota for SC women is fulfilled. List of SCs is to be locked. Step 4 List becomes final. If 2 SC women cannot be found till the last number in the Step 1 List, these 2 vacancies are to be filled up by SC men. If in case, SC men are also wanting, the social reservation quota of SC is to be carried forward to the next recruitment unless there is a rule which permits conversion of SC quota to OC.*



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Step 6: Repeat steps 4 and 5 for preparing list of STs.

Step 7: Repeat steps 4 and 5 for preparing list of SEBCs.”

70. *The State Government as well as the GPSC shall, for all times to come, bear in mind that the effect of horizontal reservation, being provided under each category, is that it is only women, who belong to the Other Backward Classes, who can compete for the posts reserved for Other Backward Classes (Women) and not women who belong to the Scheduled Castes, the Scheduled Tribes and the unreserved category. Likewise, it is only women belonging to the Scheduled Castes and the Scheduled Tribes who can compete for the posts horizontally reserved in favour of Scheduled Castes (Women) and Scheduled Tribes (Women). A woman, not belonging to the reserved category (OBC, SC and ST), is not entitled to compete for posts reserved in favour of Other Backward Classes (Women), Scheduled Castes (Women) and Scheduled Tribes (Women).*

71. *The converse, however, is not true. All women, irrespective of whether they belong, or do not belong, to the reserved category are entitled to compete for posts earmarked in favour of women under the General Category. There is no reservation for posts in the General Category, and horizontal reservation in favour of women in the General Category is available to be filled up from amongst all women irrespective of their caste status. The posts, reserved in favour of General Category (Women), are available for all women from the State of Gujarat, and that would include women belonging to the reserved categories such as OBCs, SCs and STs, and women who do not. Holding otherwise, would result in surreptitious introduction of reservation in favour of those who do not belong to the socially and educationally backward classes, and a disguised attempt at communal reservation has been frowned upon by the Supreme Court in *State of Madras vs. Champakam Dorairajan* and another (AIR 1951 SC 226).”*



24. In *Saurav Yadav* (supra), the Supreme Court was considering the proper methodology to be applied in implementing horizontal reservations for women in the recruitment to the post of Constables in U.P. Police. The Court took note of the earlier judgements in *Anil Kumar Gupta* and *Tamannaben Ashokbhai Desai* (supra) and held as follows:

*27. The High Courts of Rajasthan, Bombay, Uttarakhand, and Gujarat have adopted the same principle while dealing with horizontal reservation whereas the High Court of Allahabad and Madhya Pradesh have taken a contrary view. These two views, for facility, are referred to as the “first view” and the “second view” respectively. The second view that weighed with the High Courts of Allahabad and Madhya Pradesh is essentially based on the premise that after the first two steps as detailed in para 18 of the decision in Anil Kumar Gupta and Others and after vertical reservations are provided for, at the stage of accommodating candidates for effecting horizontal reservation, the candidates from reserved categories can be adjusted only against their own categories under the vertical reservation concerned and not against the “Open or General Category”.*

.....

*33.3. The candidates at Serial Nos.48 and 49 being more meritorious than the candidates originally placed in the vertical column of reservation for Scheduled Castes, must go back to their own vertical column. This will cause resultant displacement of two candidates in that vertical column of reservation. The 20<sup>th</sup> candidate, whose overall merit position is at Serial No.86, though a female, but being in excess of quota for Scheduled Castes female and a male candidate immediately above the 19<sup>th</sup> candidate will thus get displaced.*



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25. In *Anupal Singh* (supra) the question that arose related to filling in of unfilled vacancies of horizontal reservation by candidates holding vertical reservation. The relevant paragraph, being paragraph 62, is extracted below:

*'62.The contention of the private respondents is that as per the statutory requirement, the horizontal reserved vacancies were unfilled and those unfilled vacancies of horizontal category were filled by vertical reservation candidates/other category candidates, which is in violation of the statutory provisions vitiating the selection process. On behalf of the UP Public Service Commission, Mr. Shrish Kumar Misra, learned counsel has furnished the details as to the number of vacancies reserved for horizontal category and the number of candidates found suitable and placed in the respective categories. The said details are as under:-*

| <i>Category</i>                       | <i>No. of Vacancies</i> | <i>No. of Selected Candidates</i> |
|---------------------------------------|-------------------------|-----------------------------------|
| <i>Women</i>                          | <i>1325</i>             | <i>156</i>                        |
| <i>Dependents of Freedom Fighters</i> | <i>132</i>              | <i>45</i>                         |
| <i>Ex-Servicemen</i>                  | <i>330</i>              | <i>NIL</i>                        |
| <i>Partially blind</i>                | <i>84</i>               | <i>84</i>                         |
| <i>Partially deaf</i>                 | <i>84</i>               | <i>57</i>                         |
| <i>One-arm</i>                        | <i>42</i>               | <i>42</i>                         |
| <i>One-leg</i>                        | <i>42</i>               | <i>42</i>                         |

*On behalf of the UP Public Service Commission, it was submitted that one of the policies of the State Government regarding horizontal reservation is that, if the suitable candidates for filling*



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*the vacancies reserved for such posts of horizontal reservation are not available and the same are not carried forward; they are filled up by other suitable candidates from amongst the candidates belonging to vertically reserved categories according to their merit. It was submitted that unfilled horizontal reservation vacancies were thus filled up by suitable candidates of respective vertical categories according to their merit which is as per the policy of the Government. The High Court was not right in finding fault with the filling up of vacancies reserved for horizontal reservation with other candidates of respective vertical reservation.'*

26. I find that there is no uniform pattern of integration that is followed and Courts have adopted/adapted methodologies based on the unique compulsions in each matter, bearing in mind merit, to arrive at differing methods of integrating horizontal reservations with communal reservations.

27. That apart, there is one unique and distinguishing factor that arises in this case. In all those cases, multiple seats have been assigned to the category of horizontal reservation whereas in the matter before me, there is only one seat assigned to ward of Ex-serviceman (EXM), thus, begging the question as to whether at all that single seat can be subject to communalization.

28. Though there are several judgments rendered in the context of applicability of communal roster to single cadre posts, I have not come across any, and none have been brought to my notice, that would apply directly to the



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question of seat allocation in educational institutions. However, the principle being one and the same, those judgments are, to my mind equally applicable to the present case.

29. The first judgment in this regard is *Chakradhar Paswan v State of Bihar and others*<sup>13</sup>. While considering the question of whether the posts of a Director and three Deputy Directors could be grouped together for implementing the policy of reservation in the Directorate of Indigenous Medicines, the Hon'ble Supreme Court noted that the post of Director was an isolated one, that constituted a cadre of its own.

30. In hierarchy, the Director was senior/superior to a Deputy Director and hence there could be no consolidation of the post of Director with the post of Deputy Director. The conclusion was that if there is only one post in a cadre, there could be no reservation with reference to that post, either for recruitment at the initial stage or for filling up of future vacancies in respect of that post.

31. In *Union of India v Madhav*<sup>14</sup> the Hon'ble Supreme Court made a distinction holding that in a case of isolated or a single cadre post, reservation at the first instance should be general, but thereafter, the post should be

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<sup>13</sup> ((1998) 2 SCC 214)

<sup>14</sup> (1997) 2 SCC 332



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considered as reserved. The matter was thus referred to a Constitution Bench and in the case of *Post Graduate Institute of Medical Education and Research v Faculty Association and others*<sup>15</sup> the view taken in the case of *Chakradhar Paswan* (supra) was approved.

32. The position that holds the field now is in terms of paragraph 37 of the order in Review Petition in the case of *Post Graduate Institute of Medical Education and Research v Faculty Association* (supra) as follows:

*“37.We, therefore, approve the view take in Chakradhar case that there cannot be any reservation in a single post cadre and we do not approve the reasonings in Madhav case, Brij Lal Thakur case and Bageshwari Prasad case, upholding reservation in a single post cadre either directly or by device of rotation of roster point. Accordingly, the impugned decision in the case of Post Graduate Institute of Medical Education & Research cannot also be sustained. The review petition made in Civil Appeal No.3175 of 1997 in the case of Post Graduate Institute of Medical Education & Research, Chandigarh, is therefore allowed and the judgment dated 2-5-1997 passed in Civil Appeal No.3175 of 1997 is set aside.”*

33. Admittedly, there is no communal roster that has been prepared by the respondents in this case. Reconciling the methodologies for integration of

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<sup>15</sup> (1998) 4 SCC 1



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vertical and horizontal reservations as set out in the judgements at paragraphs 21 to 23 is rendered unnecessary in this particular case, in light of the fact that the seat allocation is unitary. That issue is thus not answered and reserved for another appropriate case. Issue (ii) is answered in favour of the petitioner.

34. The question of merit has been repeatedly brought up by the respondents who point out that the petitioner is far below in merit when compared with the candidate now selected. I am equally conscious of the fact that merit has to play an important consideration in selection of candidates and that Courts consistently strike the balance between implementing policies of reservation and merit.

35. In cases of horizontal reservation, particularly, a unitary seat allocation, the premise is to carve out a demarcated number of seats for considerations other than communal compulsions, for instance, ward of a Freedom Fighter or Ex-servicemen, Physically Handicapped etc. This is bearing in mind the services rendered by the parent to the Nation or other personal considerations and constitutes a policy different and distinct from the policy provided for communal reservation.



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36. The very creation of a horizontal reservation is for a different purpose, which purpose would thus stand defeated if one were to insist upon equality in merit between candidates opting for horizontal reservations and general candidates.

37. That apart, in the present case, the methodology for assignment of seat has been set out at paragraphs 13 and 14 of the counter that read as follows:

*13. I respectfully submit that the 18% of Govt. quota seats of IGMC i.e., 24 seats have been earmarked for Karaikal region, of which 10 for General, 2 for EWS, 3 for OBC, 4 for MBC, 4 for SC and 1 for BCM have been earmarked. The horizontal reservation for EXM category is 1 for admission to MBBS in IGMC. However to satisfy the overall Horizontal reservation of 14 seats, one additional seat has been earmarked for EXM this year making the total number seats to 2 and the additional seat will be given to other category next year. This year one EXM has been earmarked to Puducherry and another one for Karaikal Region to satisfy the regional reservation as per the G.O.Ms.No.99, dated 10.08.2006 of the Chief Secretariat (Education), Govt. of Puducherry. Further, the EXM reservation of one seat for Puducherry has been earmarked for General category and another EXM reservation for Karaikal Region is earmarked to MBC of Karaikal Region.*



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14. *I respectfully submit that the EXM seat earmarked for Puducherry- General has been allotted to M.Sriram having NEET score of 478 and applied under General-EXM category, who is the first in the separate merit list prepared for EXM category. Another EXM category earmarked for Karaikal-MBC could not be allotted due to non-availability of EXM-MBC candidate in Karaikal region. Hence, a policy decision was taken to convert the unfilled Horizontal reservation seat as MBC candidate. Such policy decision cannot be challenged by the Writ Petitioner. In this context, the Hon'ble Supreme Court in ANUPAL SINGH Case (2020 2 SCC 173 held that:*

*"(vi) The filling up of the unfilled horizontal reservation by the candidates from the respective vertical reservation is in accordance with the policy of the government and the same cannot be faulted with"*

38. The seat reserved for EXM category in Karaikal has been ear-marked to MBC category and there is absolutely no justification as to the reason why. The methodology followed, as reflected in the above paragraphs, is completely arbitrary and does not reveal any application of mind. Decisions have been taken by the authorities unilaterally to shift the allocation between one category and another, unsupported by any reasoning whatsoever.

39. The respondents state that the EXM seat ear-marked for Puducherry General was allotted to a candidate who has a Neet score of 478 and who



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applied in the general EXM category. That may be so. They go on to say that the EXM seat ear-marked for Karaikal MBC could not be allotted due to non-availability of EXM MBC candidate in Karaikal region.

40. This statement is mischievous as even when Seat Matrix I was generated on 07.09.2023, they were well aware of the position by then that there were no applications for EXM candidate in the MBC category. The respondents are seen to have taken a unilateral decision to convert the seat to a MBC seat for no ostensible reason. As per Seat Matrix dated 07.09.2023, the seat ought to have gone to the EXM category in Karaikal region benefitting the petitioner.

41. Finally, I refer to paragraph 18 of the counter affidavit of CENTAC where they state as follows:

*18. I respectfully submit that if the category-wise seats are not earmarked under horizontal reservation, then many candidates of a particular vertical category may be allotted seats and the seats could not be allotted to other candidates of other category of vertical reservation. Every year 3 seats have been earmarked for Ex-Servicemen under Horizontal reservation in the past years of which 1 seat is allocated to government college and 2 to private colleges. In the year 2020-21, the EXM seats allotted to OBC was 1 and MBC was 2*



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*and in the year 2021-22 all the 3 seats have been allotted to General category. In the year 2022-23, one EXM for General and two MBC candidates have been allotted seats.*

42. The initial intention of the respondents appears to be to extend communal reservation to Government school students who have been brought in via horizontal reservation. They have however not stopped with that and have proceeded to extend the same to other categories of horizontal reservation as well. The counter reveals that over the last few years, the award of seats under the EXM quota to OBC, MBC and General has been completely random and there is no proper methodology followed.

43. Finally, even if the entirety of the seats allotted to horizontal reservations were permitted to be communalised, the distribution of those seats would only be in the first four or five categories of vertical reservation and there would be no seat left over for the subsequent categories, for which reason too, this method also does not appeal.

44. This Writ Petition is allowed and the respondents are directed to accommodate the petitioner in the seat allotted for EXM category in Karaikal.



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WEB C All consequences to follow. No costs. Connected Miscellaneous Petitions are closed.

**27.11.2023**

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Index : Yes

Speaking Order

Neutral citation: Yes

To

- 1 Government of Puducherry  
rep. by Under Secretary to Government  
Department of Health and Family Welfare Services  
Government of Puducherry,  
Puducherry-605 001.
- 2 The Director  
Department of Health and Family Welfare Services/  
Nodal Officer Neet (UG)  
Government of Puducherry, Puducherry - 605 001.
- 3 Centralized Admission Committee (CENTAC)  
Government of Puducherry  
Rep. by its Convenor  
Kamarajar Mani Mandapam, Lawspet,  
Puducherry - 605 008.



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**DR.ANITA SUMANTH,J.**

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Pre-delivery order in

**WP.No.28176 of 2023**

**& WMP.Nos.27702 and 27703 of 2023**

Dated: 27.11.2023