

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 13540/2022**

Date of Decision: 28.03.2023

IN THE MATTER OF:

DR. MEGHA SUGANDH
D /0 MR. SHIV KUMAR SUGHANDH,
R/0 C-39, ACHARYA KRPLANI ROAD,
ADARSH NAGAR, DELHI-33 PETITIONER

Through: Mr. Rahul Malhotra and Mr. Rishu
Kant Sharma, Advocates

versus

STATE OF NCT OF DELHI
THROUGH CHIEF SECRETARY,
DELHI SECRETARIAT,
IP ESTATE, NEW DELHI-110002
..... RESPONDENT NO. 1

GURU GOBIND SINGH INDDRAPRASTHA UNIVERSITY
THROUGH ITS VC
SECTOR 16C, DWARKA
NEW DELHI-110078 RESPONDENT NO. 2

CHAUDHARY BRAHM PRAKASH AYURVED
CHARAK SANSTHAN
VILLAGE KHERA DABAR,
NAJAFGARH, NEW DELHI-110073
..... RESPONDENT NO. 3

Through: Mr. Avishkar Singhvi, Mr. Vivek
Kumar and Mr. Naved Ahmed,
Advocates for respondent No. 1
Ms. Anita Sahahi and Mr. Rahul
Mourya, Advocates for respondent

No. 2

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**J U D G M E N T****PURUSHAINDRA KUMAR KAURAV, J. (ORAL)**

1. The present petition has been filed under Article 226 of the Constitution of India seeking the following reliefs:-

“a. Issue a writ of certiorari or any other appropriate writ, order or direction, directing the Respondent No. 1 to expunge the observation made by Sub Divisional Magistrate ('SOM '), Model Town in its order bearing file no. F. NO./SDM/MT /2021/519 dated 05.02.2022 on the basis of which the SOM has cancelled EWS certificate issued to the Petitioner;

b. Issue a writ in the nature of Certiorari or any other appropriate writ, order or direction, quashing the letter dated 05.08.2022 issued by Respondent No. 2;

c. Issue a writ in the nature of mandamus directing the Respondent No. 2 to restore the admission of the Petitioner to Respondent No. 3.

d. Pass such other or further orders which this Hon'ble Court may deem fit and proper.

2. The brief facts of the case are that on 30.12.2020, the petitioner was issued a certificate of belonging to the Economically Weaker Section (hereinafter referred to as 'EWS Certificate') by SDM, Model Town. On the same day, the petitioner applied for a change in category from OBC to EWS at the respondent No.2-University. On 01.01.2021, the petitioner was admitted into the MD (Ayush)- Post Graduate Ayurveda Course by the respondent No.2-University. However, on 18.02.2022, the petitioner's EWS



certificate was cancelled by respondent No.1. Furthermore, on 01.09.2022 *vide* letter dated 05.08.2022, the admission of petitioner by respondent No.2-University was also cancelled. Hence, the present petition.

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner took an admission in the Post Graduation Ayurveda Course for the Academic Year 2020-21. According to him, the petitioner as advised by respondent No. 2-University, submitted an application to respondent No. 1 for issuance of EWS certificate. The petitioner, therefore, filed an application before the concerned SDM for surrender of her OBC certificate and also applied for the granting of an EWS certificate.

4. The concerned SDM issued an EWS certificate after thorough investigation. The petitioner applied to respondent No. 2-University seeking admission in the concerned course with a request to change category from OBC to EWS. The counselling took place and the petitioner was granted admission under the EWS category for the concerned course in the relevant Academic Year.

5. Learned counsel appearing on behalf of the petitioner submits that some of the candidates who belonged to the EWS category, raised their grievances, stating therein that some admissions have been granted to non-deserving candidates under the EWS category. On the basis of the complaints, respondent No. 1 cancelled the EWS certificate of the petitioner pursuant thereto the respondent No. 2-University also cancelled the admission of the petitioner. He, therefore, submits that by the time, the cancellation of the EWS certificate and the admission of the petitioner took place; the petitioner was already in the second year. He further submits that it was only a three year course and two years of study was already completed

by the petitioner. He further submits that the application for change of category was submitted as per advise by the respondent No. 2-University and, therefore, if the petitioner has *bonafidely* filed the application the same should not be the reason to disallow her in completion of the entire course. He, therefore, submits that under the facts of the present case, when the petitioner has already a studied for two years and if her admission is cancelled at this stage, the same would not be in the interest of justice. According to him, the petitioner also undertakes not to accept any stipend, if she is allowed to complete the course.

6. Learned counsel appearing on behalf of respondent Nos. 1 and 2 opposed the prayer and submitted that once the petitioner herself has given the application for change of category and produced the relevant certificate, there is no reason to deny the said aspect. They further submit that the petitioner was already a graduate, when she submitted the application claiming admission against the EWS category.

7. Learned counsel appearing on behalf of respondent Nos. 1 and 2 explains that the EWS certificate once is cancelled, the necessary consequences must follow and in no case, the admission of the petitioner against the EWS category can be allowed to continue. They, therefore, submit that whether the petitioner surrenders the future stipend or not, should be a non-consideration, as the admission of the petitioner has been found to be contrary to law. They submit that the petitioner was not eligible for the granting of admission under the general category.

8. I have heard learned counsel for the parties and perused the record.

9. If the application dated 30.12.2020 submitted by the petitioner is perused, the same would clearly indicate that the petitioner herself has

undertaken the responsibility for showing the original EWS certificate at the time of counselling. She claimed admission against EWS category. The application made by the petitioner reads as under:-

*“To
The Joint Registrar (Admissions)
Guru Govind Singh Indraprastha University
Sector 16C, Dwarka
New Delhi - 110078*

Date: 30/12/2020

Subject: Changing the OBC reservation into EWS Reservation

Respected Sir,

I Megha Sugandh, BAMS graduate from your esteemed University GGSIPU [College Name : Dr. Brahm Prakash Ayurveda Charak: Sansthan have registered myself for the Admission in the MD (Ayush). Post graduate Ayurved Course LET CODE - 196. My OGSIPU App No. is 1PU121850.

Sir, I would like to change my category from OBC to GEN (EWS) Category as in our college there is no OBC Reservation. So, I want to change it in my application form.

I will undertake the Responsibility for showing the original EWS Certificate at the time of Counselling which will be on 1/1/2021.

I shall be very thankful to you for this act of kindness.

Thanking you

Your Sincerely

Megha Sugandh

Sd/- 30/12/2020

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Stamp”

10. It is thus seen that if the petitioner was aware of the fact that she does not belong to the EWS category, then there was no reason for submitting such an undertaking. Admittedly, the petitioner does not belong to EWS category and admission to the petitioner has been granted under the EWS category. It is thus seen that the decision of the respondent in cancelling the EWS certificate and the subsequent cancellation of admission on the ground of the EWS Certificate, which acted as the underlying basis for making the petitioner eligible under the EWS category, being cancelled, does not call for any interference.

11. Learned counsel appearing on behalf of the petitioner, however, submits that during the course in question, the petitioner has also practised in respondent No. 3-Hospital. He, therefore, submits that for the period she has practised as a PG student the necessary experience certificate may be directed to be issued to the petitioner.

12. The submissions so made by the petitioner deserve to be considered.

13. The petitioner did practise for the period she has undergone the course in question. The petitioner may not be entitled for the degree on account of non-completion of the course or for cancellation of her admission. However, the experience she has gained during her study cannot be washed away. The respondent No. 3-hospital, is therefore directed to issue the certificate of experience to the petitioner within a period of two weeks from the date of receipt of copy of the order passed today.

14. The petition stands disposed of with the aforesaid directions.

PURUSHAINDRA KUMAR KAURAV, J

MARCH 28, 2023

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