

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-23075-2024

Reserved on: 19.09.2024

Date of decision: 25.09.2024

ARANAV BHARGAV

..Petitioner

Versus

THE BABA FARID UNIVERSITY OF HEALTH SCIENCES,
FARIDKOT AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Arjun Partap Atma Ram, Advocate; and
Mr. Sumbhav Parmar, Advocate for the petitioner.

Mr. Nitin Kaushal, Advocate for respondent No.1-University.

Mr. J.S. Gill, Addl. Advocate General, Punjab.

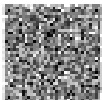
ANIL KSHETARPAL, J.

1. **Brief facts of the case:**

1.1 The petitioner herein aspires for admission under the category of 'Wards of Gallantry Award recipients among police officials' in the MBBS course. He has already been allocated a Non-Resident Indian (in short 'NRI') seat in his first preferred college. Through this writ petition, the petitioner is attempting to avoid payment of the fee for the NRI seat.

1.2 The substantive prayers made by the petitioner read as under:-

"Issue a Writ in the nature of Certiorari, quashing the decision/action of the respondents in not considering the petitioner against seats meant for Indian citizens in State Quota seats in MBBS admissions 2024, including seats meant for wards of Punjab Gallantry Award Winners by treating the petitioner exclusively against NRI quota seats; and quashing clause 17(vi) of the Punjab notification dated 9/8/24 contained in the BFU prospectus;



(iii) Issue a Writ in the nature of Mandamus directing the Respondents to consider the petitioner and include him in the admission process for M.B.B.S. Sessions 2024 a OCI card holder (period to 2021) in terms of the Judgment of the Hon’ble Supreme Court against seat for State Quota seats meant for India Citizens, including those reserved for wards of Punjab Gallantry Award medallists; and also in the NRI Category.”

1.3 In order to comprehend the issues involved in the present case, the relevant facts in brief are required to be noticed.

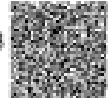
1.4 After the National Testing Agency (NTA) conducted NEET (UG) 2024, the State of Punjab authorized Baba Farid University of Health Sciences, Faridkot (in short ‘BFUHS’) as the nodal agency to conduct counselling for admission to the 85% State quota. On 09.08.2024, the prospectus was issued with the following schedule for admission:-

SCHEDULE FOR ADMISSION UNDER
NEET UG-2024 IMPORTANT DATES

1	Availability of Prospectus on University website www.bfuhs.ac.in	09.08.2024
2	Last date for applying online Admission Application Form through University Website	15.08.2024
3	Last date for depositing fee of Rs. 5000 + 18% GST(Rs. 5900/-) & Rs. 2500 + 18% GST (Rs. 2950/-) for SC candidates through Online payment gateway	16.08.2024
4	Sports Category Candidates will submit printed/hard copy of online submitted form personally (by hand) in the University along with Sports Gradation Certificate issued by the Director, Sports, Punjab and other supporting self-attested copies of certificates/documents.	16.08.2024
	Note: Persons with Disability-PWD (Category Code 16)-Shall produce Disability certificate (as per prospectus Page No. 35) duly issued by the Designated Centre(s) as informed by DGHS, New Delhi to the Principal at the time of reporting in the provisionally allotted college	
5(i)	Verification for eligibility of Christian Minority Quota Candidates for admission to MBBS/BDS Courses, session 2024 will be conducted at the following venue: Christian Minority-At Christian Medical College, Ludhiana	09.08.2024 to 17.08.2024
5(ii)	Verification for eligibility of Sikh Minority Quota Candidates for admission to MBBS/BDS Courses, session 2024 will be conducted at the following venue: Sikh Minority- At SGRD Institute of Medical Sciences & Research, Amritsar	16.08.2024 to 18.08.2024

Note: Candidates who have applied under Sikh/Christian Minority Quota must report to the respective Institute(s) as cited in para 5(i) & 5(ii) above alongwith all original certificates/documents including document in support of claim under Minority Quota as per rules/notification otherwise you will not be able to fill the Choices/preferences of concerned minority quota seats		
<u>For NRI candidates</u>		
6	Last date for submitting physical application form for NRI quota (Application form for Eligibility certificate and admission application form for NRI candidates is separately available on University website i.e. www.bfuhs.ac.in)	19.08.2024
7	Display of Provisional Merit List of candidates	Upto 20.08.2024
8	Last date for submission of objections in Provisional Merit List(if any) by the NEET UG aspirants. Note: Objections can be submitted only by personal appearance/visit alongwith relevant documents/record in Admission Branch, BFUHS, Faridkot.	21.08.2024 (upto 05:00 PM)
9	In case there is any change in Provisional Merit List after considering objections, the same will be displayed through university website on	Upto 23.08.2024
The Schedule for 1st Round of Online Counseling		
Sno	Particulars	
1.	Choice filling for 1st Round of Online Counselling	10.08.2024 to 24.08.2024
2.	Processing of Seat Allotment	25.08.2024 to 27.08.2024
3.	Display of Result	28.08.2024
4.	Last date for submission of objections in Provisional Allotment List(if any) by the NEET UG aspirants. Note: Objections can be submitted only by personal appearance/visit alongwith relevant documents/record in Admission Branch, BFUHS, Faridkot. <u>Objections received through email will not be accepted.</u>	29.08.2024 (upto 04:00 PM)
5.	In case there is any change in provisional allotment after considering objections, the same will be displayed through University website on	30.08.2024
6.	Physical Reporting by candidates to the respective provisionally allotted colleges and deposition of six months tuition fee through University Payment Gateway available on the University website in Student Login	31.08.2024 to 05.09.2024

1.5 The petitioner submitted a physical application form to claim admission under the NRI quota. He did not claim admission under any other category, including the wards of Gallantry Award recipients among Police



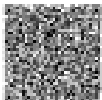
Personnel, for which the last date for submitting online application form was 15.08.2024. He participated in online counselling as a candidate belonging to the NRI category. He filed CWP-21865-2024, claiming admission under open category, which was dismissed on 10.09.2024. He was born on 24.02.2006 in California, USA, and he completed his schooling from Sacred Heart Convent School, Ludhiana. He appeared as an Overseas Citizen of India (in short 'OCI') in NEET (UG) 2024 and secured an All India Rank of 2,86,066 with 448 marks. As per the schedule, the first round of counselling for State quota seats falling under the open category, except for the NRI quota, was held in the month of August. For the second round of counselling, the State of Punjab issued a fresh admission notice on 06/07.09.2024, operative part whereof, reads as under:-

***Admission Notice to MBBS/BDS Courses under NEET UG-2024
(2nd Round)***

Fresh online Registration/Application are invited through University website from eligible candidates on the basis of NEET-UG-2024 for vacant seats as per Punjab Govt. Notification/Prospectus for admission to MBBS/BDS Courses in Govt./Private Colleges, Private Universities and Minority Institutions in the State of Punjab w.e.f 07.09.2024 to 10.09.2024. Last date for submitting willingness by fresh registered and already registered candidates alongwith Security deposit to participate in 2nd Round is 10.09.2024. Online Counseling will be conducted as per schedule published on the University website. Any update issued by MCC/Govt. of India/Govt. of Punjab regarding UG admissions session 2024 shall be applicable. For Prospectus/Schedule/Fee/Details and updates visit at www.bfuhs.ac.in

REGISTRAR

1.6 The schedule for the second round of counselling reads as under:-

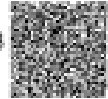


Schedule for 2 nd round of UG Medical/Dental online Punjab State counseling under NEET UG-2024		
1.	Display of tentative vacancy position of seats for 2 nd round of counselling	06.09.24
2.	Date for fresh online registration/application and deposition of application and security deposit for fresh applicants alongwith fee of Rs. 5900/- (Rs. 2950/- for SC candidates) including 18% GST through university payment portal. (All registered candidates (including fresh) who are interested to participate in 2 nd Round will have to submit willingness alongwith security deposit for 2 nd online counseling. Failing which their candidature will not be considered. Note: The aspirant can correct/edit in online application form multiple times till the last date i.e. 10.09.2024. Thereafter application will get automatically locked.	07.09.24 to 10.09.24
3.	The last date for submitting willingness alongwith security deposit for 2nd round of counselling by all the candidates (already registered candidates and fresh applicants). The amount of security to be deposited for submitting willingness will be as under: For Government colleges - Rs. 10000/- (5000/- for SC/BC) For both Govt. & Private Colleges – Rs. 2,00,000/- For Private Colleges – Rs. 2,00,000/-	07.09.24 to 10.09.24
4.	Last date of correction/editing in online filled application form. Note: Since, fresh applications are invited for 2nd round of online counseling under NEET UG 2024 from 07.09.2024, hence already registered candidates of 1st round counseling (if any) and fresh registered candidate who intends to edit any Category/Minority Quota/other particulars will give request/application personally in the Admission Branch, BFUHS on 11.09.2024(upto 04:00 PM) alongwith relevant proof for consideration in 2nd round of online counseling as last chance. No request shall be entertained through email. Thereafter no request will be accepted/entertained.	11.09.24
5.	Last date for submitting admission application form for NRI quota (Application form for getting Eligibility certificate and admission application form for NRI candidates is separately available on University website.)	10.09.24
6.	The candidates who will apply under Sikh Minority/Christian Minority Quota will report to the respective minority institution (SGRD Institute of Medical Sciences, Amritsar / Christian Medical College, Ludhiana) for verification of minority status. The candidates who have already got verified their minority status at the time of 1 st counseling, need not report to the respective institute for verification again. The candidates who have already registered under Minority Quota during 1 st counseling and did not get their minority status verified, can report to the respective institute for verification of their minority status for 2 nd round of counseling.	09.09.24 & 10.09.24
7.	Display of Provisional Merit List of candidates who will submit willingness to participate in 2nd round of online counseling.	12.09.24
8.	Candidates who will submit willingness for 2nd round including NRI candidates will fill/submit the online choices/ preferences of course/college/quota/category	12.09.24 to 15.09.24
9.	Processing of seat allotment	16.09.24 & 17.09.24
10.	Display of provisional allotment / Result	18.09.24
11.	The last date/time of submission of objections to provisional allotment (if any) by the NEET UG aspirants Note: Objections can be submitted only by personal appearance/visit alongwith relevant documents/record in Admission Branch, BFUHS, Faridkot.	19.09.2024 (upto 04.00 PM)
12.	In case there is a change in the Provisional allotment after considering objections, the same will be displayed on the University website	20.09.2024
13.	The provisionally selected candidates will pay the balance amount of fee (Six month fee after deducting amount of security deposit) through university payment gateway available on university website and will report to the respective college for joining in the respective allotted college.	21.09.2024 to 26.09.2024

1.7 The petitioner filed the present writ petition on 09.09.2024, which came up for preliminary hearing on 12.09.2024. A reply on behalf of respondent No.1-University has been filed contesting the writ petition.

2. Arguments put forth by learned counsel representing the parties:

2.1 This Bench has heard learned counsel for the parties at length and with their able assistance perused the paperbook.



2.2 The learned Senior counsel representing the petitioner has contended that the Punjab Government, vide a letter dated 04.02.2022, had issued instructions acknowledging that OCI card holders are to be treated at par with Indian citizens. The Supreme Court, following its judgment passed in **Anushka Rengunthwar Vs. Union of India, 2023 SCC (online) SC 102**, has passed various interim orders directing that OCI card holders are entitled to be considered at par with Indian citizens; the seats available for the wards of recipients of the President's Gallantry Medal are vacant, and the final counselling is scheduled for 29.09.2024, and during this time, the petitioner is eligible to apply.

2.3 Per contra, the University's counsel as well as State counsel jointly submit that the admission of OCI card holders is restricted to NRI seats only for which he applied and failed to challenge Clause 17(vi) of the prospectus, which reads as follows:-

"17. Non-Resident Indian (NRI) SEATS

xx xx xx xx

(i) xx xx xx xx

(ii) xx xx xx xx

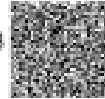
(iii) xx xx xx xx

(iv) xx xx xx xx

(v) xx xx xx xx

(vi) OCI/PIO candidates shall be considered only for 15% NRI Quota seats."

2.4 It is also contended that the Supreme Court orders pertain only to 2021-2022 Session, and the petitioner did not file any online application. The submission of hard copies is permissible for NRI's. The learned State counsel further submitted that persons belonging to the OCI category can claim benefits of being an Indian citizen only after obtaining Indian citizenship. The last date to apply for participating in the second round of counselling was 10.09.2024, which has already lapsed. In rejoinder, the petitioner's Senior counsel while referring to **Anushka Rengunthwar's case**



citizens and, consequently, eligible to be considered against 'ward of a Gallantry awardee' category.

2.5 Section 4 and 7 of the Citizenship Act, 1955 (in short '1955 Act') provide for citizenship by descent and outline the rights of OCIs, are extracted below:-

"4. Citizenship by descent.—(1) A person born outside India shall be a citizen of India by descent,—

(a) on or after the 26th day of January, 1950, but before the 10th day of December, 1992, if his father is a citizen of India at the time of his birth; or

(b) on or after the 10th day of December, 1992, if either of his parents is a citizen of India at the time of his birth:

Provided that if the father of a person referred to in clause (a) was a citizen of India by descent only, that person shall not be a citizen of India by virtue of this section unless—

(a) his birth is registered at an Indian consulate within one year of its occurrence or the commencement of this Act, whichever is later, or, with the permission of the Central Government, after the expiry of the said period; or

(b) his father is, at the time of his birth, in service under a Government in India:

Provided further that if either of the parents of a person referred to in clause (b) was a citizen of India by descent only, that person shall not be a citizen of India by virtue of this section, unless—

(a) his birth is registered at an Indian consulate within one year of its occurrence or on or after the 10th day of December, 1992, whichever is later, or, with the permission of the Central Government, after the expiry of the said period; or

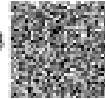
(b) either of his parents is, at the time of his birth, in service under a Government in India:

Provided also that on or after the commencement of the Citizenship (Amendment) Act, 2003 (6 of 2004), a person shall not be a citizen of India by virtue of this section, unless his birth is registered at an Indian consulate in such form and in such manner, as may be prescribed,—

(i) within one year of its occurrence or the commencement of the Citizenship (Amendment) Act, 2003(6 of 2004), whichever is later; or

(ii) with the permission of the Central Government, after the expiry of the said period:

Provided also that no such birth shall be registered unless the parents of such person declare, in such form and in such manner as may be prescribed, that



the minor does not hold the passport of another country.

(1A) A minor who is a citizen of India by virtue of this section and is also a citizen of any other country shall cease to be a citizen of India if he does not renounce the citizenship or nationality of another country within six months of attaining full age.]

(2) If the Central Government so directs, a birth shall be deemed for the purposes of this section to have been registered with its permission, notwithstanding that its permission was not obtained before the registration.

(3) For the purposes of the proviso to sub-section (1), 1 [any person] born outside undivided India who was, or was deemed to be, a citizen of India at the commencement of the Constitution shall be deemed to be a citizen of India by descent only.

OVERSEAS CITIZENSHIP

[7A. Registration of Overseas Citizen of India Cardholder.]—*(1) The Central Government may, subject to such conditions, restrictions and manner as may be prescribed, on an application made in this behalf, register as an Overseas Citizen of India Cardholder—*

(a) any person of full age and capacity,—

(i) who is a citizen of another country, but was a citizen of India at the time of, or at any time after the commencement of the Constitution; or

(ii) who is a citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the Constitution; or

(iii) who is a citizen of another country, but belonged to a territory that became part of India after the 15th day of August, 1947; or

(iv) who is a child or a grandchild or a great grandchild of such a citizen; or

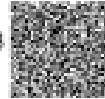
(b) a person, who is a minor child of a person mentioned in clause (a); or

(c) a person, who is a minor child, and whose both parents are citizens of India or one of the parents is a citizen of India; or

(d) spouse of foreign origin of a citizen of India or spouse of foreign origin of an Overseas Citizen of India Cardholder registered under section 7A and whose marriage has been registered and subsisted for a continuous period of not less than two years immediately preceding the presentation of the application under this section:

Provided that for the eligibility for registration as an Overseas Citizen of India Cardholder, such spouse shall be subjected to prior security clearance by a competent authority in India:

Provided further that no person, who or either of whose parents or grandparents or great grandparents is or had been a citizen of Pakistan, Bangladesh or such other country as the Central Government may, by



notification in the Official Gazette, specify, shall be eligible for registration as an Overseas Citizen of India Cardholder under this sub-section.

(2) The Central Government may, by notification in the Official Gazette, specify the date from which the existing persons of Indian Origin Cardholders shall be deemed to be Overseas Citizens of India Cardholders.

Explanation.—For the purposes of this sub-section, “Persons of Indian Origin Cardholders” means the persons registered as such under notification number 26011/4/98 F.I., dated the 19th August, 2002, issued by the Central Government in this regard.

(3) Notwithstanding anything contained in sub-section (1), the Central Government may, if it is satisfied that special circumstances exist, after recording the circumstances in writing, register a person as an Overseas Citizen of India Cardholder.

7B. Conferment of rights on Overseas Citizen of India Cardholder.—*(1) Notwithstanding anything contained in any other law for the time being in force, an Overseas Citizen of India Cardholder shall be entitled to such rights, other than the rights specified under sub-section (2), as the Central Government may, by notification in the Official Gazette, specify in this behalf.*

(2) An Overseas Citizen of India Cardholder shall not be entitled to the rights conferred on a citizen of India—

(a) under article 16 of the Constitution with regard to equality of opportunity in matters of public employment;

(b) under article 58 of the Constitution for election as President;

(c) under article 66 of the Constitution for election as Vice-President;

(d) under article 124 of the Constitution for appointment as a Judge of the Supreme Court;

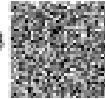
(e) under article 217 of the Constitution for appointment as a Judge of the High Court;

(f) under section 16 of the Representation of the People Act, 1950 (43 of 1950) in regard to registration as a voter;

(g) under sections 3 and 4 of the Representation of the People Act, 1951 (43 of 1951) with regard to the eligibility for being a member of the House of the People or of the Council of States, as the case may be;

(h) under sections 5, 5A and section 6 of the Representation of the People Act, 1951 (43 of 1951) with regard to the eligibility for being a member of the Legislative Assembly or the Legislative Council, as the case may be, of a State;

(i) for appointment to public services and posts in connection with affairs of the Union or of any State except for appointment in such services and posts as the Central Government may, by special order in that behalf,



specify.

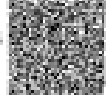
(3) Every notification issued under sub-section (1) shall be laid before each House of Parliament.”

3. **Analysis and Discussion:**

3.1 After having heard learned counsel for the parties, this Court now proceeds to analyse the submissions.

Legal implications of Quashing Clause 17(vi) in the prospectus:

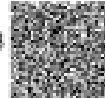
i. In MBBS admissions, adhering to the prescribed schedule is crucial, and any delay may sometimes lead to denial of relief by Constitutional Courts. On 09.08.2024, the prospectus was issued, stipulating that OCI cardholders shall only be entitled to seats in the 15% NRI quota. The petitioner submitted his application for admission in the NRI quota seats on 19.08.2024. He did not claim admission under the ‘open category’ or the sub-category reserved for ‘wards of President’s Medal/Gallantry awardees’ in 85% seats belonging to State quota. After participating in online counselling and being assured of a seat in the NRI category, he filed CWP-21865-2024, which was dismissed on 10.09.2024. The first round of counselling for admission in the State has already been completed. Now, he claims a fresh cause of action due to a new admission notice issued for second counselling. These applications were invited on 06/07.09.2024. Online applications were required, but they were restricted to Indian citizens only. The last date for submitting the admission application form for the NRI quota was 10.09.2024. The petitioner appeared to have submitted a physical application, which was returned because there was no provision for submitting a physical application for



Indian citizens. If Clause 17(vi) is quashed, the consequences would be significant, as the entire admission process shall be required to be conducted afresh. According to the Supreme Court, the cut off date for completing MBBS admissions is 30.09.2024. He lost opportunity because he did not challenge the validity of Clause 17(vi) in his previous writ petition and he has already been admitted to his first preferred college under the seats reserved for the NRI category. Though, the difference in the fee amount is substantial, however, that alone cannot be a valid reason at this stage to set aside a provision in the prospectus issued on 09.08.2024. There may be a significantly large number of OCI cardholders, who may claim admission in open State quota seats or other sub-categories. Vacant seats in the category reserved for 'wards of President's Police Medal for Gallantry awardees' are required to be offered to open category candidates, who may not be eligible or able to pay the fees for the NRI category. Therefore, at this stage it would not be appropriate for the Court to interfere.

OCI Cardholders and their Admission Rights:

ii. In **Anushka Rengunthwar's case (supra)**, the Supreme Court laid down that the notification dated 04.03.2021 shall not have retroactive effect. This judgment was delivered in the context of notifications issued by the Union of India under Section 7B of the 1955 Act. The petitioner has annexed notifications dated 11.04.2005, 05.01.2007, 05.01.2009 and 04.03.2021. The operative parts of the notifications regarding the 'wards of the President's Gallantry Medal awardees' are



extracted as under:-

11.04.2005:-

S.O. 542(E). In exercise of the powers conferred by Sub-section (1) of Section 7B of the Citizenship Act, 1955 (57 of 1955), the Central Government hereby specifies the following rights to which the persons registered as Overseas Citizens of India under Section 7A of the said Act shall be entitled, namely: -

a. grant of multiple entry lifelong visa for visiting India for any purpose;

b. exemption from registration with Foreign Regional Registration Officer or Foreign Registration Officer for any length of stay in India; and

c. parity with Non-Resident Indians in respect of all facilities available to them in economic, financial and educational fields except in matters relating to the acquisition of agricultural or plantation properties.

05.01.2007:-

1. Registered Overseas Citizens of India shall be treated at par with Non-Resident Indians in the matter of inter-country adoption of Indian children.

2. Registered Overseas Citizens of India shall be treated at par with resident Indian Nationals in the matter of tariffs in air fares in domestic sectors in India.

3. Registered Overseas Citizens of India shall be charged the same entry fee as domestic Indian visitors to visit national parks and wildlife sanctuaries in India.

05.01.2009:-

(b) to appear for the All India Pre-Medical Test or such other tests to make them eligible for admission in pursuance of the provisions contained in the relevant Acts.

04.03.2021:-

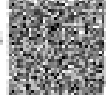
(4) Parity with Non-Resident Indians in the matter of,-

(i) inter-country adoption of Indian children subject to the compliance of the procedure as laid down by the competent authority for such adoption;

(ii) appearing for the all India entrance tests such as National Eligibility cum Entrance Test, Joint Entrance Examination (Mains), Joint Entrance Examination (Advance) or such other tests to make them eligible for admission only against any Non-Resident Indian seat or any supernumerary seat; Provided that the OCI cardholder shall not be eligible for admission against any seat reserved exclusively for Indian citizens;



it becomes evident that OCI cardholders were extended parity with NRIs considering all resources available to them in various fields, including education. The notification dated 05.01.2007 does not pertain to admission in the education field. As per the notification dated 05.01.2009, OCI cardholders were allowed to appear for All India Pre-medical Tests or other similar exams, making them eligible for admission under relevant provisions of various Acts. However, this notification does not relate to State quota seats. It is nowhere stated that OCI cardholders shall be treated as Indian citizens for all intents and purposes. The Supreme Court, while deciding Anushka Rengunthwar's case (supra), has laid down that the notification dated 04.03.2021, represents a step towards retrogression and, therefore, shall not have retroactive effect. However, the notification dated 04.03.2021 has not been quashed/set aside. It is evident that Clause 4(ii) provides that OCI cardholders shall be at par with NRIs in the matter of appearing for All India Entrance Tests such as NEET or JEE. They were never granted parity with Indian citizens. Moreover, **Section 4.—Citizenship by Descent** is applicable only after renouncing the citizenship of another country. The petitioner has never renounced US citizenship and does not claim any intent to surrender it. Similarly, the petitioner may be entitled to apply for Indian citizenship under Section 5(1)(d) of 1955 Act; however, he has never applied for the same. He is now 18 years and 7 months old and has never made any such choice. In fact, the parity of OCI cardholders with Indian citizens has been considered by a



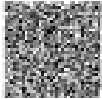
Division Bench of Karnataka High Court in **Meghna Kuruwali Vs. State of Karnataka, W.P. No.15400 of 2024, decided on 04.09.2024.** After taking note of the judgment in **Anushka Rengunthwar's case (supra)**, the Division Bench has held that OCI cardholders are not at par with Indian citizens. Similarly, another Division Bench of Gujarat High Court in **Vatsa Shah Through Father Bhavesh Ajit Kumar Shah Vs. State of Gujarat, LPA-1459-2019, decided on 16.10.2023,** has also formed the same opinion. With the highest respect, the judgment passed in **Anushka Rengunthwar's case (supra)**, does not establish that OCI cardholders before 04.03.2021 shall be entitled to admissions against the seats reserved for Indian citizens.

Scope of Supreme Court's Interim Orders:

iii. The reliance placed by learned Senior counsel on various interim orders passed by the Supreme Court is in the context of participation in NEET and other entrance tests. These orders do not pertain to admissions under the State quota.

iv. As already noticed, the vacant seats must be allocated to candidates in the open category as per the prospectus; therefore, the petitioner cannot claim indulgence on the ground that seats are lying vacant.

v. Before seeking reservation under the category of 'wards of President's Gallantry Medal awardees', the petitioner is required to fulfil the basic criteria for admission to State quota seats. Clause 11(a) of the prospectus provides that the candidate must be a Citizen of India. Since the petitioner does not meet



this requirement, he cannot claim entitlement for consideration under the aforementioned sub-category, particularly, when he does not fulfil the eligibility conditions laid down for State quota seats.

4. **Decision:**

- 4.1 Resultantly, finding no merit, the writ petition is dismissed.
- 4.2 All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

25th September, 2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No