IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.9175 of 2025
Date of Decision: 18.06.2025

Dr. Richa Gupta .…….Petitioner

Versus

State of H.P. and Others ….Respondents

Coram:
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting? [1] Yes.

For the Petitioner: Mr. Vishwa Bhushan, Advocate.

For the Respondents: Mr. Anup Rattan, Advocate General, with Mr. Rajan Kahol and Mr. B.C. Verma, Additional Advocates General and Mr. Ravi Chauhan, Deputy Advocate General, for State.

Ms. Sheetal Vyas, Central Government Counsel, for respondent No.5.

Mr. Sandeep K. Pandey, Advocate, for respondent No.6.

Mr. Vikrant Thakur, Advocate, for respondent No.7.

Sandeep Sharma, Judge (oral):

Before case at hand could be heard and decided on its own merits, learned counsel representing the petitioner, on instructions, states that petitioner would be content and satisfied in case directions are issued to respondent No.1 to create post of Assistant Professor in the Department of Immunohematology and Blood Transfusion, in all the Medical Colleges, without any delay.

2. While making this Court peruse instructions placed on record by learned Additional Advocate General dated 16.06.2025, issued under the signatures of Special Secretary (Health) to the Government of

[1] *Whether the reporters of the local papers may be allowed to see the judgment? Yes.*

Himachal Pradesh, Mr. Vishwa Bhushan, learned counsel representing the petitioner, states that otherwise also, proposal to create department/specialty of Immunohematology and Blood Transfusion in Shri Lal Bahadur Shastri Government Medical College, Mandi at Ner Chowk along with one post of Assistant Professor is under consideration of the Government.

3. Learned Additional Advocate General while responding to aforesaid submission made on behalf of learned counsel representing the petitioner states that since petitioner is otherwise not eligible for relief, as prayed for in the instant petition, as has been held by the Division Bench of this Court in CWP No.907 of 2021, titled ***Dr. Nitika Verma Vs. State of H.P. and Others***, decided on 13.08.2021, coupled with the fact that Government is seized of the matter with regard to creation of post in the Department of Immunohematology and Blood Transfusion, there is no justification to issue directions to respondents for creation of Department as well as post, as detailed hereinabove.

4. True it is that by way of instant petition, petitioner has approached this Court seeking directions to respondents to fill-up the post of Assistant Professor in the Department of Immunohematology and Blood Transfusion in Dr. Y.S.P. Government Medical College, Nahan, by way of promotion considering his candidature, but the same cannot be considered in terms of judgment passed by Division Bench of this Court in ***Dr. Nitika Verma*** case (supra), wherein it has been

categorically held that balance shall be maintained between the promotees and direct recruits in achieving their respective quota of reservation to the extent of 50% each. However, no prejudice, if any, shall be caused to either of the parties in case directions are issued to respondents to consider creation of Department of Immunohematology and Blood Transfusion, in such of Medical Colleges situated in the State of Himachal Pradesh, where such Department is not in in existence as of today, especially when it cannot be disputed that aforesaid Department is very much essential in a Medical College.

5. Moreover, this Court finds that Special Secretary (Health) to the Government of Himachal Pradesh, taking note of urgency in the matter, by way of communication dated 30.10.2024 (Annexure P-39), called upon Director, Medical Education & Research, Himachal Pradesh, to submit a consolidated proposal for creation of Department of Immunohematology and Blood Transfusion or changing the nomenclature of Blood Bank to the Department of Immunohematology and Blood Transfusion in Government Medical Colleges Mandi, Hamirpur and Chamba, with full justification/recommendations as per the NMC norms.

6. Pursuant to aforesaid communication, Principal, Shri Lal Bahadur Shastri Government Medical College, Mandi at Ner Chowk, vide communication dated 11.03.2025 (Annexure P-40), has apprised Director, Medical Education & Research, Himachal Pradesh, that Blood

Bank is currently functioning under the Department of Pathology, but according to NMC guidelines, the nomenclature of Blood Bank is required to be changed to Department of Immunohematology and Blood Transfusion from the year 2021. It is further submitted in the aforesaid communication that one post of Assistant Professor is also required to be created for the smooth functioning of the said department.

7. Since it is quite apparent from the aforesaid communication that as per NMC guidelines, nomenclature of Blood Bank is required to be changed to Department of Immunohematology and Blood Transfusion and at present, such Department does not exist in Colleges, detailed hereinabove, this Court deems it fit to dispose of the present petition with the direction to respondent No.1 to ensure that proposal to create Department of Immunohematology and Blood Transfusion in Dr. Y.S.P. Government Medical College, Nahan as well as other Medical Colleges, where such Department does not exist, is taken to its logical end, expeditiously, preferably, within a period of six months. Ordered accordingly.

8. Though this Court is fully alive to the situation that it is the sole prerogative of the Government to create infrastructure or Department in a Colleges or Department concerned, but having taken note of the urgency in the matter, where NMC guidelines themselves provide for creation of Department, as detailed hereinabove, this Court has issued aforesaid direction, so that ultimately students studying in

afore Colleges are not made to suffer on account of non-compliance of guidelines issued by NMC or omission, if any, on the part of Department of Medical Education & Research. Compliance to the direction contained in the aforesaid order shall be filed within a period of two weeks, after expiry of six months and same shall be placed before this Court for its perusal.

The present petition is disposed in the above terms, so also the pending miscellaneous application(s), if any.

(Sandeep Sharma),
Judge

June 18, 2025
(Rajeev Raturi)