

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2025:PHHC:012871-DB



Civil Writ Petition No. 18187 of 2016 (O&M)

Date of Decision: 28.01.2025

Shivani

.....Petitioner

versus

U. T., of Chandigarh through its Secretary and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUMEET GOEL, JUDGE

Present : Mr. Samarth Sagar, Advocate and
Mr. Sunil Kumar, Advocate, for the petitioner.

Mr. Ashish Rawal, Advocate, for U.T. Chandigarh.

Mr. Nitin Kant Setia, Advocate, for respondent-CBSE.

Mr. Ravi Sharma, Advocate and
Mr. Raywant Kaushish, Advocate, for respondent No.5.

Mr. Akshay Kumar Goel, Advocate, for respondent No.7.

SHEEL NAGU, CHIEF JUSTICE (Oral)

The petitioner who was aspirant for admission to MBBS course after completing her National Eligibility cum Entrance Test for the session 2016-17 approached this Court through the present petition praying for the following reliefs:-

- i) *A writ in the nature of mandamus directing the respondent-authorities to consider the candidature of the petitioner for admission to MBBS course at Govt. Medical College & Hospital, Sector 32, Chandigarh (GMCH) i.e. respondent No.6, as based*

upon National Eligibility cum Entrance Test (NEET) for the session 2016-17, according to the mandatory provisions of the Central Educational Institutions (Reservation in Admission) Act, 2006, as applicable to the Central Educational Institutions;

- ii) *A writ/direction declaring the impugned action of the respondent-authorities as illegal, arbitrary, unconstitutional and against the principles of natural justice, while not considering the case of the present petitioner under OBC category, according to the provisions of Central Educational Institutions (Reservation in Admission) Act, 2006.”*

2. While taking cognizance of the matter, this Court on 02.09.2016 passed the following interim order:-

“Inter alia submits that the petitioner belongs to backward class and referred to the certificate issued by the SDM, U.T. Chandigarh dated 05.08.2015 (Annexure P-2). It is submitted that she sat in the NEET-2016 and has got percentile score of 96.058521, as per the result declared on 16.08.2016 (Annexure P-6) in the category of OBC. Her overall rank is 28621 and her category rank is 10663. It is submitted that the respondent-college is not considering her case against the reserved vacancy, on account of the fact that the prospectus (Annexure P-5) does not prescribe any reservations for OBC category. In such circumstances, the petitioner is shown as a General Category candidate and figuring at Sr. No.183 of the merit list (Annexure P-7).

It is, accordingly, contended that Section 3 of the Central Educational Institutions (Reservation in Admission) Act, 2006 provides that reservation to the extent of 27% is to be provided for Other Backward Classes out of the annual permitted strength in each branch of study. Reliance is also placed upon similar reservation provided by the, PGIMER, University of Delhi and JIPMER (Annexures P-8 to P-10).

Notice of motion.

Mr. Ashish Rawal, Advocate accepts notice on behalf of respondents No.1, 2 and 6.

Respondents No.3, 4, 5 and 7 be served by way of dasti process for 13.09.2016.

In the meantime, the petitioner's case shall be considered provisionally by treating her as a reserved candidate. In case the petitioner is within the zone of consideration, she will be permitted to deposit her fees.

Copy of this order be given under signatures of the Special Secretary of this Court, to the counsel for the parties.”

3. Pursuant to the interim order dated 02.09.2016, directing respondents to consider the candidature of petitioner, the same was considered but rejected since there was no reservation prescribed for Other Backward Classes (OBC) in Chandigarh and also that her caste ‘Hindu Vaniyas’ was not a Backward class in Chandigarh.

4. Interim order dated 02.09.2016 was assailed by Union Territory, Chandigarh in LPA No. 2507 of 2016 which came to be dismissed on-merits on 24.01.2017 by this Court.

5. This Court thereafter passed interim orders dated 07.09.2016 and 16.11.2016, pursuant to which the petitioner was given provisional admission in November-2016. Since then petitioner completed her course of MBBS sometimes in the year 2022 but neither her Detailed Marks Certificate nor degree was issued to her which compelled her to file an appropriate application before this Court which came to be disposed of vide interim order dated 24.08.2023 whereby the following directions were passed by this Court:-

“The applicant-petitioner had been given admission in MBBS course in pursuance of interim orders passed by this Court. Admittedly, her result for all the years of this Course has been declared. The question as to

whether the registration certificate by the University can be issued to her, can be decided only at the time of disposal of the main petition on-merits and not in these miscellaneous applications. The applications moved by the applicant-petitioner had already been ordered to be listed along with the main case and were to be heard with the same. Therefore, in our opinion, at this stage it would not be proper to give any direction to respondent No.7 to issue registration number of the applicant-petitioner. However, since it is not in dispute that the petitioner has cleared the examination of 1st Professional, 2nd Professional, Final Part-I and Final Part-II and result has also been declared therefore, it would be proper that the respondent No.7 issues the Detailed Marks Certificates of the result of the applicant-petitioner for the aforementioned years. Accordingly, direction is given to respondent No.7 to issue Detailed Marks Certificates of the results of the aforementioned years of the applicant-petitioner, as the fact of issuance of the Detailed Marks Certificates would have no bearing on the merits of the case.

So far as the prayer made by the applicant-petitioner that the Government of India vide notification dated 29.07.2021 has decided to implement 27% reservation of Other Backward Classes (non creamy layer) in the courses of M.B.B.S/B.D.S. and M.D. w.e.f. academic session 2021-2022 is concerned, she deserves to be considered under the purview of that notification. It may be mentioned that the pleas so taken in these applications are not a part of pleadings of the original petition no prayer has been made by the applicant-petitioner for making any amendment in the writ petition to this effect. Hence, point cannot be considered at this stage and the applications stand disposed of in these terms”.

6. The aforesaid interim order dated 24.08.2023 was assailed by the petitioner before the Apex Court essentially on the ground that prayer for issuance of Detailed Marks Certificate (DMC) was not considered by the High

Court. The Apex Court vide order dated 02.12.2024 passed the following order:-

“5. Taking note of the fact that the appellant has to produce the M.B.B.S degree certificate for counseling for admission in Post-Graduate course, we are of the considered view that respondent No.7 can be directed to issue a provisional degree certificate to the appellant, subject to the outcome of the pending writ Petition No. 18187/2016 pending before the High Court of Punjab and Haryana. Ordered accordingly. In view of the urgency of the matter, it shall be done on or before 09.12.2024.

6. Since the CWP No. 18187/2016 is pending before the High Court of Punjab and Haryana since 2016, we are of the considered view that these captioned appeals can be disposed of with the aforesaid direction to respondent No.7 and with a request to the High Court to dispose of the pending appeal as expeditiously as possible, taking note of the nature of the issue involved.

7. Accordingly, these civil appeals stand disposed of.

8. Pending application(s), if any, shall also stand disposed of.”

7. In the aforesaid circumstances, where the petitioner has already completed the course of MBBS and has been granted detailed Mark-Certificate as well as provisional degree pursuant to the orders passed by this Court as well as Apex Court, this Court is left with no option but to regularize the admission of the petitioner.

8. The aforesaid decision is taken especially in the light of the revelation made by learned counsel for U.T. Administration that no other unreserved candidate had to suffer to accommodate the petitioner. It is also informed that the petitioner had been admitted on the supernumerary seat.

9. In view of the above, this Court declines to interfere into the merits of the dispute raised as regards the validity of admission of the petitioner and dispose of this petition with the observation that the present order shall not be cited as a precedent.
10. The respondent-University is directed to ensure release all the original credentials of the petitioner of having passed the MBBS course.
11. With these observations, the petition stands disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(SUMEET GOEL)
JUDGE

28.01.2025

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√