



**101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-24441-2025 (O&M)

Date of Decision: 27.08.2025

RITIKA CHAUHAN

...PETITIONER

Vs.

STATE OF HARYANA AND ORS

...RESPONDENTS

**CORAM:- HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present:- Mr. Bhupender Pratap Singh, Advocate and
Mr. Yoginder Singh Rana, Advocate
for the petitioner.

Mr. Sourabh Mohunta, DAG, Haryana.

Mr. Nilesh Bhardwaj, Advocate with
Mr. Dushyant Singh, Advocate
for respondents No.2 and 3-University.

Mr. Amit Rao, Advocate
for respondent No.4.

ASHWANI KUMAR MISHRA, J. (ORAL)

CM-12357-CWP-2025

This application under Section 151 CPC has been filed on behalf of the petitioner for placing on record the short reply by way of affidavit along with annexures.

For the reasons mentioned in the application, the same is allowed. The short reply along with annexures are taken on record. Registry is directed to tag the same at an appropriate place.

Main Case

1. Rejoinder has been filed on behalf of petitioner to the reply

filed by the respondent Nos.2 and 3. The same is taken on record.

2. Petitioner is seeking admission in NEET-MDS 2025 pursuant to counselling undertaken by the Government of Haryana vide Haryana Government Gazette Notification dated 10.07.2025 (*for short, 'Notification dated 10.07.2025'*).

3. The procedure for admission to the State quota seats has been prescribed in Clause 10 of the Notification dated 10.07.2025. Sub-Clause (i) & (iv) of the Notification dated 10.07.2025 are relevant for the present purposes and are reproduced hereunder:-

“(i) The admissions under above stated categories among all the registered candidates on the admission web portal will be made online on the basis of Haryana State Merit list prepared on the basis of NEET MDS 2025 merit.

“(iv) In case of a tie between two or more candidates having equal marks, the inter se ranking of such candidates will be based on NEET MDS 2025 Rank. For admissions under ESM Category, preference will be given as per State Government Notification No.22/10/2013-I GS-III dated 10.08.2017.”

4. The grievance of the petitioner is that though fourth respondent is much lower in merit yet she has been offered admission overlooking the claim of the petitioner. It is not in dispute that the petitioner has secured 613 marks and the rank of the petitioner is 779. Respondent No.4 has secured 573 marks and her rank is 1439. According to petitioner, giving preference to fourth respondent in the admission for

the seat violates the rule of merit which alone ought to constitute the basis of allocation of seats.

5. Taking cognizance of the grievance raised, we entertained the petition and reply(ies) was invited from the respondent(s). An affidavit has been filed in response to the submissions made in the writ petition by Dr. Dhruva Chaudhary, Dean Academic Affairs-cum-Chairman, Admission Committee, PT. B. D. Sharma University of Health Sciences, Rohtak. In the affidavit, it is stated that the allocation of seats for MDS Courses has to be as per the Government Orders which lays down following criteria for reservation of seats:-

<i>UR (Unreserved)</i>	<i>SC</i>	<i>SCD INS</i>	<i>BCA</i>	<i>BCB</i>
<i>UR INS</i>	<i>SC INS</i>	<i>SCD INS PWBD</i>	<i>BCA INS</i>	<i>BCB INS</i>
<i>UR INS PWBD</i>	<i>SC INS PWBD</i>	<i>SCD IP</i>	<i>BCA INS PWBD</i>	<i>BCB INS PWBD</i>
<i>UR IP INS</i>	<i>SC IP</i>	<i>SCD IP PWBD</i>	<i>BCA IP</i>	<i>BCB IP</i>
<i>UR PWBD</i>	<i>SC IP PWBD</i>	<i>SCD</i>	<i>BCA IP PWBD</i>	<i>BCB PWBD</i>
<i>UR IP PWBD</i>			<i>BCA PWBD</i>	
<i>UR IP</i>				

6. It is undisputed that the seat in question was initially earmarked for Unreserved IP PWD seat. Since no candidate in such Category was available, the seat was shifted to ESM Category. It is contended that once the seat is to be filled in the ESM Category, the priority for allotment will have to be as per the Notification issued by the Ministry of Defence, Department of Ex-Serviceman Welfare D(Res-II) dated 19.05.2017 (*for short, 'Notification dated 19.05.2017'*) as per which the fourth respondent falls in Priority-IV i.e. Wards of disabled in

service and boarded out with disability attributable to Military service as against the present petitioner who is placed in Priority-VI i.e. Wards of Ex-servicemen. The respondent(s) therefore justify allocation of seat to fourth respondent notwithstanding the higher merit of petitioner, by stating that the seat once falls in the ESM Category it had to be allocated to a candidate on the strength of priority for such candidate specified in the Government Notification dated 17.05.2017. It is therefore submitted that fourth respondent has rightly been found higher in priority and therefore, admission offered to her merits no interference.

7. The arguments of the Pandit Bhagwat Dayal Sharma University of Health Sciences (*for short, 'University'*) is adopted by the counsel appearing for respondent No.4.

8. Learned counsel for the petitioner states that the merit in itself ought to constitute the basis for allocation of seat and even if the priority as per Government Notification dated 17.05.2017 was to be applied even then the *inter se* merit of the candidates cannot be given a complete go-by. It is submitted that the process by which the seat has been allocated to fourth respondent violates the 'principles of merit' and therefore is arbitrary and violative of Article 14 of the Constitution of India. Learned counsel for the petitioner places reliance upon the judgment of the Supreme Court in Asha v. Pt. B. D. Sharma University of Health Sciences and others, (2017) 7 SCC 389.

9. I have heard Mr. Bhupender Pratap Singh, Advocate and Mr. Yoginder Singh Rana, Advocate for the petitioner, Mr. Sourabh Mohunta,

DAG, Haryana, Mr. Nilesh Bhardwaj, Advocate appearing on behalf of respondent Nos.2 and 3-University and Mr. Amit Rao, Advocate appearing on behalf of respondent No.4 and have perused the material appended with the instant writ petition.

10. The facts as have been noticed above are not in issue.

11. The fact that the petitioner stands higher in merit compared to respondent No.4 is an admitted position. It is however equally undisputed that the vacancy in question on account of non-availability of PWD candidate has since fallen in ESM Category. The short question that arises for our consideration is as to whether the priority specified in the Notification dated 19.05.2017 would determine the allocation of such seat or the 'principles of merit' based upon the NEET ranking would constitute the basis for admission?

12. The Notification dated 19.05.2017 has been adopted by the State of Haryana vide Notification No.22/10/2013-I GS-III dated 10.08.2017 (*for short, 'Notification dated 10.08.2017'*). The contents of the said Notification, insofar as it refers to creation of Category, reads as under:-

".....I am directed to invite your kind attention to the Government instructions issued vide letter of even number dated 15.07.2014 on the subject noted above.

It is intimated that Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare D(Res-II) has intimated that vide letter number 6(I)/2017-D (Res-II) dated 19.05.2017, the following priorities for reservations of

preferences to the wards of Armed Forces personnel should be applied by States/UTs/Central/State Universities/Autonomous Institutions for admission in medical/professional/non-professional courses.....”

13. The priorities have then be delineated in the Notification dated 10.08.2017 as per which Priority-I is given to Widows/Wards of Defence Personnel killed in action; Priority-II: Wards of disabled in action and boarded out from service; Priority-III: Widows/Wards of Defence Personnel who died while in with death attributable to Military service; Priority-IV: Wards of disabled in service and boarded out with disability attributable to Military service; Priority-VI: Wards of Ex-servicemen.

14. The grant of reservation in admission in Government/Government-aided Educational Technical/Professional Institutions is regulated by the State of Haryana *vide* Notification dated 10.08.2017. Once a particular seat falls in the ‘ESM Category’, the priority which has to be afforded to a candidate has to be in terms of the Notification which specifically deals with grant of admission in the ESM Category. The fourth respondent since is placed higher on account of her belonging to Priority-IV will therefore be entitled to grant of preference over the petitioner who falls in Priority-VI. We are, therefore, of the view that merely because the petitioner is ranked higher in merit in Un-reserved Category would not be sufficient to dislodge the claim of the fourth respondent, once she is placed higher in priority as per the applicable Notification of the Central Government dated 19.05.2017 as

adopted by the State of Haryana.

15. So far as the determination of *inter se* merit of petitioner vis-a-vis respondent No.4 is concerned, the petitioner would be entitled to preference if the seat was to be allocated in the Un-reserved Category. However, once the allocation of seat is in the ESM Category, the *inter se* merit of petitioner vis-a-vis respondent No.4 would not be based upon their NEET score rather it will be the priority specified in the Notification dated 10.08.2017.

16. So far as the judgment of the Supreme Court in ***Asha*** (supra) is concerned, the issue before the Supreme Court was somewhat distinct as would be reflected from paragraph No.4 of the judgment, where the questions falling for consideration were noticed and is reproduced:-

“4. The questions are:

(a) Is there any exception to the principle of strict adherence to the rule of merit for preference of courses and colleges regarding admission to such courses?

(b) Whether the cut-off date of 30th September of the relevant academic year is a date which admits any exception?

(c) What relief the courts can grant and to what extent they can mould it while ensuring adherence to the rule of merit, fairness and transparency in admission in terms of rules and regulations?

(d) What issues need to be dealt with and finding returned

by the court before passing orders which may be more equitable, but still in strict compliance with the framework of regulations and judgments of this Court governing the subject?”

17. The kind of situation with which we are concerned in the instant matter was not the issue before the Supreme Court in *Asha* (supra). The judgment in the case of *Asha* (supra) therefore cannot come to the aid of the petitioner. The claim of petitioner for preference over fourth respondent, therefore, cannot be accepted.

18. Towards the end, learned counsel for the petitioner has also raised some issue with regard to genuineness of the Certificate issued to fourth respondent on the strength of which she has been placed in Priority-IV. It is always open for the petitioner to raise such issues before the competent forum and the merits of such Certificate would be open for examination by the concerned forum.

19. In that view of the matter, the instant writ petition fails and consigned to records subject to observations made above. Pending application(s), if any also stand(s) disposed of.

**[ASHWANI KUMAR MISHRA]
JUDGE**

**[ROHIT KAPOOR]
JUDGE**

AUGUST 27, 2025

Rahul Joshi

- | | | |
|----|---------------------------|--------|
| 1. | Whether Speaking/reasoned | Yes/No |
| 2. | Whether Reportable | Yes/No |