



2025:DHC:2096



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

RESERVED ON – 17.02.2025

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PRONOUNCED ON – 27.03.2025

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W.P.(C) 14708/2024

AVIKA SHAHI AND ANR

.....Petitioners

Through: Mr.Sudhir Nandrajog, Sr. Advocate
with Mr.Abhay Kumar, Mr.Shagun
Ruhil, Mr.Karan Chopra, Mr.Tirupati
Gauram Shahi and Ms.Ankita Singh,
Advocates

versus

MEDICAL COUNSELLING COMMITTEE AND ORS

.....Respondents

Through: Mr.Amit Tiwari, CGSC with
Mr.Arnab Mittal, Gov. Pleader,
Ms.Ayushi Srivastava and Mr.Ayush
Tanwar, Advocates for R-1, 3 & 4.
Mr. Mohinder J.S. Rupal, Mr. Hardik
Rupal, Mr. Neemesh and Ms.
Aishwary Malhotra, Advocates for
DU (Through VC)
Mr. T. Singhdev, Ms. Anum Hussain,
Mr. Abhijit Chakravarty, Mr. Saurabh
Kumar, Mr. Bhanu Gulati, Ms.
Yamini Singh, Mr. Tanishq
Srivastava and Ms. Ramanpreet Kaur,
Advocates for NMC
Ms. Anita Sahani, Advocate for R-7/
GGSIPU

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T



DINESH KUMAR SHARMA,J :

1. The present writ petition has been filed under Article 226 read with Article 227 of the Constitution of India by the Petitioners, Ms. Avika Shahi and Ms. Anjali Singh, seeking relief against the denial of admission to the MBBS Course under the NEET-UG 2024-25 Examination. Petitioners seek a writ of Mandamus or other appropriate order directing the Respondent Authorities to evaluate the Petitioners' eligibility by applying the reservation policy for Children/Widows of Armed Forces under Priority V(x) of the Bulletin, including the CW conversion algorithm as specified in Chapter 6 of the Bulletin issued by Respondent No.1, and to allocate them the seats in the MBBS Course through NEET (UG) – 2024-25 Examination either under the CW category or by creating two supernumerary seats specifically for the Petitioners. Further, the Petitioners seek directions to the Respondents (particularly Respondent Nos. 1, 2, and 3) to revise the Third Counselling Round results of NEET (UG)-2024 declared on 12.10.2024, and all subsequent actions.
2. Briefly stated the facts of the present case are that the Petitioners appeared for the NEET-UG 2024 examination on 05.05.2024 and qualified with eligible ranks. Petitioner no.1 and Petitioner no. 2 were eligible for educational concession for admission by virtue of certificates issued by the Ministry of Home Affairs, Government of India, i.e., Respondent no. 4, making them eligible for educational concession for admission to Delhi University against the Armed Forces quota under Priority V (x), i.e. 'Police Medal for Gallantry'.



3. The first round of counselling for NEET-UG 2024 was conducted by the Medical Counselling Committee (MCC)/Respondent no. 1 from 14.08.2024 to 24.08.2024. A list of provisionally eligible candidates under the CW category for admission to UG medical courses (MBBS/BDS/BAMS/BUMS/BHMS) 2024-2025 under 85% Delhi quota was issued on 14.08.2024 and subsequently revised lists were issued on 16.08.2024 and 23.08.2024, wherein the name of the Petitioners were there at serial no. 86 and serial no. 11, respectively. The results of the first round of counselling were declared on 28.08.2024, wherein the Petitioners were not allotted any seats. The fathers of the Petitioners submitted a representation to Respondent no. 1 pointing out a discrepancy in the selection process used by Delhi Medical Colleges, specifically that candidates from the OBC category with CW category ranks of 45, 50, 53, and 86, who are classified under Priority VI, were granted seats. Meanwhile, candidates from the General category who should have received higher consideration under Priority V were not allocated any seats despite their higher priority status. Similarly, in the second and third rounds of counselling as well, the Petitioners were not allotted any seats despite the availability of seats as per the seat matrix published before the second round of counselling on 05.09.2024 and as per the seat matrix published before the third round of counselling on 07.10.2024.
4. Subsequently, on 11.10.2024, Respondent No. 1/MCC issued a notice soliciting queries or objections from candidates. In response, the Petitioners submitted emails/objections to Respondent No. 1/MCC on the same day, highlighting that the CW seat conversion algorithm



specified in Chapter 6 of the Information Bulletin and Counselling Scheme for NEET 2024 was not being properly followed. However, no response was given by the Respondent no.1.

5. It is submitted by the Petitioners that despite being eligible for MBBS seats in DU/GGS IP Universities (five colleges) under the CW category, the Petitioners were not allocated seats even after the third counselling round results. Throughout all counselling rounds, the published seat matrix consistently showed seats reserved for the CW Category, and candidates were invited to submit their preferences for these seats. The Petitioners submitted that during each counselling round, they selected choices for the seven available seats under the CW Category, which should have been allocated to CW (UR) candidates, since no SC or ST candidates from the CW category were available to claim these seats, as per conversion policy and established legal precedent. The Petitioners have solely based their case on the earlier conversion algorithm for CW candidates as mentioned in the Information Bulletin, which is reproduced as under:-

S.NO.	CONVERSION CATEGORY	CATEGORY CONVERTED TO
1	ST (CW)	SC (CW)
2	SC (CW)	UR (CW)
3	OBC (CW)	Nil
4	EWS(CW)	UR(CW)

6. The Petitioners submitted that despite the Petitioners raising queries/objections and their fathers submitting representations, Respondent No.1/MCC neither responded nor provided any explanation for not allocating seats to the Petitioners, and seven seats



seemingly disappeared without explanation from the Respondents, considering the availability of seven CW Category seats through the third counselling round and the existence of a seat conversion policy.

7. It has further been submitted that the Respondents have committed a serious error by failing to implement Chapter 6 of the Bulletin of Information, which lays down the rules for the CW Conversion Algorithm. This bulletin, published by Respondent No. 2, the Faculty of Medical Sciences, University of Delhi, governs the seat allocation process for NEET (UG) – 2024. The non-implementation of these rules has directly resulted in the wrongful deprivation of the Petitioners' rightful allocation under the CW reservation. Additionally, this arbitrary action has severely impacted the Petitioners' rights, amounting to a clear violation of Articles 14, 15, 16, 19, and 21 of the Constitution of India.
8. The Petitioners further contended that, as per the Bulletin of Information published by Respondent No. 2, the Faculty of Medical Sciences, University of Delhi, for NEET (UG) – 2024, 5% horizontal reservation is mandated for CW category candidates, which includes Children and Widows of Officers of the Armed Forces. This reservation applies to admissions in both the University of Delhi and Guru Gobind Singh Indraprastha University. The provision for this horizontal reservation is explicitly outlined in Section-B of the Information Bulletin under the heading 'E,' as published by the University of Delhi. It was also submitted that Chapter 6 of the Bulletin of Information issued by Respondent No. 1 mandates that unfilled ST (CW) seats be converted to SC (CW) and, if still vacant, to UR (CW)



during the third round of counseling. However, despite vacant ST (CW) and SC (CW) seats, the prescribed conversion process was not followed, and no corresponding changes were reflected in the round-3 counseling results.

9. It was also submitted that instead of applying the horizontal reservation policy in accordance with established guidelines and settled legal principles, MCC deviated from the correct procedure. The Petitioners contended that the Supreme Court, in Saurabh Yadav & Ors. v. State of U.P. & Ors.¹ had *inter alia* held that the candidate belonging to the category as per choice cannot be given reservation in other category. However, in clear contravention of this ruling, MCC allotted four seats—three to candidates from the Other Backward Classes (OBC) category and one to a candidate from the Economically Weaker Section (EWS) category from the open category. This misallocation not only undermined the principles of horizontal reservation but also unjustly deprived eligible CW candidates of their rightful seats.
10. Sh. Sudhir Nandrajog, Learned senior counsel appearing for the Petitioners, submitted that Seats reserved/earmarked for CW Category candidates, in the present case, vide 5% horizontal reservation, cannot be converted/reverted to a non-CW category, in view of the judgment of Constitution Bench (9JJ) in Indira Sawhney v. Union of India² which is followed in various other judgments including in Saurav Yadav & Ors. v. State of U.P.³. It was submitted by the learned senior counsel that if the seat conversion is permitted to be allowed as per the

¹ (2021) 4 SCC 542

² (1992) Suppl. (2) SCC 217

³ (2021) 4 SCC 542



changed algorithm, the same would amount to a case of apparent and manifest arbitrariness and discrimination to CW category candidates, which is impermissible in law. Reliance has also been placed upon ***Shayara Bano v. Union of India & Ors.***⁴.

11. Learned senior counsel submitted that the change of conversion algorithm apropos CW category candidate vide letter dated 28.08.2024 in the midst of admission process is ex-facie illegal *per se*. Reliance has been placed upon ***K. Manjusree v. State of Andhra Pradesh & Anr.***⁵. Learned senior counsel further submitted that pursuant to a letter dated 28.08.2024, seven seats of the CW category have been allotted to the non-CW category i.e. in effect 5% of seats allotted to the CW category is decreased by seven seats.
12. Learned senior counsel further submitted that this Court was misled by Respondent No.1/MCC during the hearing on 21.10.2024, whereby it was wrongly submitted that the said change of conversion algorithm was done by the intervention of this Court. However, no order of this effect has been placed before this Court, as there is no such order passed by this Court. Learned senior counsel further submitted that the letter dated 28.08.2024 was neither notified nor published by Respondent No. 1 or the University of Delhi, depriving the Petitioners of any prior knowledge of the revised conversion algorithm. It was also argued that following the second round of counselling, a seat matrix was published on 07.10.2024, which clearly reflected seven vacant seats under the CW category. Based on this, the Petitioners were

⁴ (2017) 9 SCC 1

⁵ (2008) 1 SCC 512



invited to submit their preferences for the third round of counselling, which they duly submitted on 10.10.2024, within the stipulated timeline. Additionally, it was submitted that the principle of legitimate expectation applies in favour of the Petitioners, as they were led to believe that the allocation of CW seats would be in accordance with the previously established conversion algorithm. Learned senior counsel further submitted that the pleas of Respondents are not only contrary to each other, but also shifting the blame upon each other, without any legal basis.

13. Learned senior counsel for the Petitioners submitted that in the light of the declaration of law made by the Supreme Court in the judgment of S. Krishna Sradha v. State of Andhra Pradesh & Ors.⁶, which is followed recently by the Division Bench of this Court in Yashika Malik v. University of Delhi Faculty of Medical Sciences & Ors.⁷, the number of seats in the CW category may either be increased or directions may be issued to create supernumerary seats to accommodate the petitioners. Learned senior counsel submitted that, admittedly, there is no fault on the part of the Petitioners in the present case. Had an illegal letter dated 28.08.2024 not been acted upon, the Petitioners would have got their respective seats out of seven vacant CW categories at the third round of counselling, which has been illegally reverted to the non-CW category. The result of the third round of counselling was published on 11.10.2024, and on the same day, a representation was given by the Petitioners followed by another

⁶ (2020) 17 SCC 465

⁷ 2024:DHC:7051-DB



representation on 14.10.2024. Learned senior counsel submitted that therefore, no delay can be attributed to the Petitioners. It was submitted that the admission process stood over only on 05.12.2024.

14. Learned senior counsel submitted that the Petitioners belong to the CW General Category and are ranked 86 and 11, respectively in the CW general category, being the daughters of Police officers awarded by Police Medal for Gallantry i.e. under Priority V (x) of Reservation of Armed Forces (CW). Learned senior counsel submitted that if the original conversion algorithm for CW is correctly applied, the Petitioners are entitled to get their respective seats out of 7 vacant seats at the third round.
15. Sh. Amit Tiwari, Learned CGSC, appearing for Respondent no.1/MCC, Respondent no. 3 and 4 submitted that the role of MCC in the NEET-UG counselling process is purely administrative and that it functions only as an implementing authority. Learned counsel submitted that the seat allocation is conducted based on merit and choices submitted by candidates, as per the guidelines provided by the relevant authorities. Learned counsel submitted that the Conversion Algorithm for CW category seats was not formulated by MCC but was instead provided by Respondent No. 2/University of Delhi.
16. Learned counsel for Respondent no.1 further submitted that the Conversion Algorithm relied upon by the Petitioners in which unfilled ST (CW) and SC (CW) seats were to be converted to UR (CW) was challenged before this Court in **Mahi Jeph v. Union of India and**



Ors.⁸. Learned counsel submitted that the said conversion algorithm was duly amended by Respondent No. 2, and Respondent No. 1 received a communication from Respondent No. 2, vide Letter No. FMDS/086/330/UG-MBBS Course/2024/5448, dated 28.08.2024, thereby communicating the fresh changes in the Conversion Algorithm and the same were to be incorporated in the third round of the NEET UG Counselling in the manner i.e., unfilled ST (CW) and SC (CW) seats would revert to ST and SC categories, respectively, rather than being converted to UR (CW). It was further submitted that after considering the communication dated 28.08.2024, this Court disposed of Mahi Jeph (Supra) vide its order dated 19.09.2024, and thereafter, the seats were allocated in the third round of counselling as per the aforementioned new conversion algorithm.

17. Learned counsel for Respondent no.1 submitted that the third round of counselling, where the conversion was implemented, was conducted as per the revised algorithm and that the change was announced before the third round of counselling commenced on 03.10.2024. Further, it was submitted by the learned counsel that as per clause 7 of the Information bulletin, the conversion of seats were to be carried out during the Round three, only if the candidates belonging to the said conversion category had exhausted. Learned counsel also submitted that no UR (CW) seats were left vacant in the third round, and hence, the Petitioners could not have been accommodated under the CW quota. It was also submitted that all seats were allocated based on the amended conversion algorithm.

⁸ WP (Civil) No. 11814/2024



18. Learned counsel for Respondent No. 1 submitted that the Supreme Court, in **Indra Sawhney** (supra), has *inter alia* laid down the principle that after providing for the horizontal reservations (Like CW, PWD, etc.), vertical reservations (i.e., SC, ST, OBC) should remain the same. Reliance has also been placed upon **Anupal Singh & Ors. v. State of Uttar Pradesh**⁹.
19. Learned counsel for Respondent no.1 highlighted that the Petitioners' All India Ranks (AIRs) were significantly lower than the last candidate admitted under UR (CW). Therefore, the Petitioners did not qualify for a seat under their category based on merit also. Learned counsel for Respondent no.1 lastly submitted that the Division Bench of the High Court of Delhi had already dismissed the Petitioners' Letter Patent Appeal (LPA No. 1087/2024) on 29.10.2024, affirming that there was no need for judicial interference hence, the petitioners' grievances have already been adjudicated upon and rejected.
20. Sh. T. Singhdev, learned counsel appearing for the National Medical Commission (NMC)/Respondent No.5, submitted that the seat conversion algorithm for CW category seats was originally framed to allow unfilled ST (CW) seats to be converted into SC (CW) seats and further into UR (CW) seats. However, upon legal scrutiny, this conversion mechanism was found to be inconsistent with constitutional reservation principles, and thus, required modification.
21. Learned counsel submitted that Article 16(4) of the Constitution of India empowers the State to provide reservation in favor of any class of citizens within the total number of available seats. Under this

⁹ (2020) 2 SCC 173



provision, 15% of seats are reserved for Scheduled Castes (SC), 7.5% for Scheduled Tribes (ST), and 27% for Other Backward Classes (OBC) as per the Central OBC List, bringing the total reservation to 49.5%. Learned counsel submitted that in **Indra Sawhney** (supra), the Apex Court held that reservations cannot exceed 50% and that reserved category seats must remain within their respective categories. The earlier CW seat conversion algorithm was contrary to this legal principle, as it allowed reserved CW seats to be converted into unreserved (UR) seats, effectively disturbing the constitutional framework for reservations. It was submitted that to rectify this legal inconsistency, the revised CW Conversion Algorithm was introduced before the third round of counselling, ensuring that unfilled reserved CW seats remained within their respective vertical categories (SC, ST, OBC, and UR).

22. Learned counsel for Respondent No.5 further submitted that the old conversion algorithm for CW Category was contrary to the mandate of the Constitution of India, as well as the judgments of the Apex Court. Learned counsel submitted that Respondents no. 2 & 6 – University of Delhi, upon receiving a representation from Ms. Mahi Jeph dated 21.08.2024 regarding the legal error in the conversion algorithm for CW Category, had informed Respondent No.1/MCC that the aforesaid erroneous conversion algorithm had not been provided by University of Delhi and requested Respondent No.1/MCC vide letter dated 28.08.2024 to make appropriate corrections in the conversion algorithm for CW Category for the academic session 2024-25 in respect of seats of the Medical Colleges affiliated to University of Delhi. It was



submitted that the third round of counselling commenced on 03.10.2024 and that the conversion algorithm for the CW Category had been duly rectified prior to 03.10.2024.

23. Learned counsel for Respondent No. 5 further submitted that this Court, under Article 226, may not direct the respondents to follow the aforementioned conversion algorithm for CW Category because doing so would amount to reviving another illegality.
24. Learned counsel further submitted that proposition as laid down in *S.Krishna Sradha v. Andhra Pradesh State and Others.*¹⁰ can be attracted in a case where all following four requirements are met: (i) the candidate has no fault; (ii) the candidate has pursued her rights and legal remedies promptly and without delay; (ii) there is authority fault and an apparent violation of rules and regulations; and (iv) the candidate is deemed more meritorious than the previous candidate admitted. It was submitted that in the present case, notice was issued only on 21.10.2024, whereas the third round of counselling, during which the CW conversion algorithm was to be implemented, had already commenced from 03.10.2024 and concluded on 11.10.2024 (covering registration and choice filling). Given that the Petitioners approached this Court only after the completion of the third round of counselling, it cannot be contended that they had pursued their legal rights and remedies in an expeditious manner and without delay. It has also been submitted that no fault can be attributed to the authorities as no candidate below in rank, then the petitioners has been given admission. Learned counsel submitted that, therefore, the Petitioners

¹⁰ (2020) 17 SCC 465



failed to meet the threshold required for the application of the principles laid down in *S. Krishna Sradha* (Supra).

25. Learned counsel further submitted that the present case is also distinguishable from *Yashika Malik* (supra) as the factual circumstances were different. Learned counsel submitted that the Court's decision in *Yashika Malik* (supra) was based on specific procedural irregularities that do not exist in the present case. Learned counsel for Respondent no. 1 further asserted that granting relief to the Petitioners solely based on this case would set an incorrect precedent and disrupt the established counselling process.
26. Sh. Mohinder J.S. Rupal, learned counsel appearing for the University of Delhi/Respondent No.6, submitted that the present writ petition suffers from delay and laches as the petition was filed after the admission process had been virtually over, rendering the legal challenge both belated and ineffective.
27. Learned counsel submitted that the CW category reservation, which provides a 5% horizontal reservation for Children/Widows of Armed Forces Personnel, is implemented in accordance with the prescribed rules and policies, and no deviation has been made in the seat allocation process. It was further submitted that Clause 6 of the Information Bulletin, stipulates that any reserved seats for persons with disabilities that remain unoccupied due to a lack of eligible candidates shall be reintegrated into the annual sanctioned seats for the corresponding category.
28. Learned counsel for Respondent No.6 submitted that reservations for Persons with Benchmark Disabilities (PwD) are horizontal



reservations, similar to the reservations for CW candidates. Consequently, the University of Delhi/Respondent No.6 applies an identical approach in handling unfilled seats in both PwD and CW categories and from the initial stages of registration for the MBBS Course, candidates were fully informed about this procedural mechanism. It was also submitted that this consistent approach is substantiated by the University of Delhi's letter dated 28.08.2024 to the Directorate General of Health Services (DGHS). Learned counsel submitted that, therefore, there exists no discrepancy or divergent methodology between the Information Bulletins issued by the Respondent No. 1/ MCC and Respondent No. 6/University of Delhi.

29. Learned counsel further submitted that it is a well-established law that horizontal reservations are derived from vertical reservations. Consequently, any unfilled seats under horizontal reservations within specific vertical categories like SC/ST/OBC must revert exclusively to their respective original vertical reservation without being transferred to alternative vertical categories. Learned counsel submitted that 5% of seats from each category (UR, SC, ST, EWS, and OBC) are specifically allocated to the CW category for the undergraduate MBBS Course in the academic year 2024-25, in accordance with university regulations.
30. Learned counsel furthermore submitted that if 1 SC (CW Category) seat remains unfilled out of 3 total seats, and the same is transferred to ST (CW Category) in which the 3 seats have been filled up, then ST (CW) category will have 4 seats surpassing the 5% reservation under CW category. It was submitted that such a transfer would result in the



ST (CW Category) exceeding its 5% reservation limit, expanding to four seats. It was submitted that this would critically undermine the seat allocation system, effectively depriving SC category candidates of their rightful seat, which should have been reinstated to the SC Category rather than transferred to the ST (CW Category).

31. The constitutional framework of reservation in India represents a sophisticated legal mechanism designed to address systemic social inequities through targeted constitutional provisions. Article 16(4) of the Constitution of India provides the fundamental legal basis for reservations, empowering the State to make special provisions for backward classes of citizens who are demonstrably underrepresented in public service and educational institutions. The current reservation policy delineates precise percentage allocations: Scheduled Castes (SC) are allocated 15%, Scheduled Tribes (ST) receive 7.5%, and Other Backward Classes (OBC) are granted 27% of total available positions. These carefully calculated percentages collectively constitute 49.5% of seats, strategically leaving 50.5% for the General Category, a proportion that reflects a systematic constitutional balancing mechanism.
32. The seminal judicial interpretation of this provision emerged in the landmark case of **Indra Sawhney** (supra), where a nine-judge Constitution Bench of the Apex Court articulated two pivotal principles. First, the Court established an inviolable ceiling of 50% on total reservations, thereby preventing potential administrative inefficiency and maintaining the fundamental principle of merit-based selection. Second, the Court explicitly affirmed the irreducibility of existing reservation percentages for SC, ST, and OBC categories. Further,



Articles 141 and 144 of the Constitution of India provide critical mechanisms for implementing these judicial directives. In **Indra Sawhney's** case, it was, *inter alia*, held as under:-

"... 809. From the above discussion, the irresistible conclusion that follows is that the reservations contemplated in clause (4) of Article 16 should not exceed 50%.

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812. We are also of the opinion that this rule of 50% applies only to reservations in favour of backward classes made under Article 16(4). A little clarification is in order at this juncture: all reservations are not of the same nature. There are two types of reservations, which may, for the sake of convenience, be referred to as 'vertical reservations' and 'horizontal reservations'. The reservations in favour of Scheduled Castes, Scheduled Tribes and other backward classes [under Article 16(4)] may be called vertical reservations whereas reservations in favour of physically handicapped [under clause (1) of Article 16] can be referred to as horizontal reservations. Horizontal reservations cut across the vertical reservations — what is called interlocking reservations. To be more precise, suppose 3% of the vacancies are reserved in favour of physically handicapped persons; this would be a reservation relatable to clause (1) of Article 16. The persons selected against this quota will be placed in the appropriate category; if he belongs to SC category he will be placed in that quota by making necessary adjustments; similarly, if he belongs to open competition (OC) category, he will be placed in that category by making necessary adjustments. Even after providing for these horizontal reservations, the percentage of reservations in favour of backward class of citizens remains — and should remain — the same. This is how these reservations are worked out in several States and there is no reason not to continue that procedure..."



33. Article 141 mandates that the law declared by the Supreme Court is binding on all courts within Indian territory, effectively transforming judicial interpretation into a quasi-legislative instrument. Article 144 further reinforces this by requiring all civil and judicial authorities to act in support of the Supreme Court's decisions, ensuring comprehensive and uniform implementation of reservation policies. In Anil Kumar Gupta v. State of U.P.,¹¹ it was *inter alia*, held that if the quota fixed for horizontal reservations is already satisfied- in case it is an overall horizontal reservation, no further question arises. But, if it not so satisfied, the requisite number of special reservation candidates shall have to be taken and adjusted/accommodated against their respective social reservation categories.
34. In K. Krishna Murthy (Dr.) and Others v. Union of India and Another¹², it was *inter alia*, held that the upper ceiling of 50% (quantitative limitation) with respect to vertical reservations in favour of SCs/STs/OBCs should not be breached. It was also held that since the horizontal reservations in favour of women are meant to intersect with the vertical reservations in favour SCs/STs/OBCs, since 1/3rd of the seats received for the latter categories are to be reserved for women belonging to the same.
35. The discourse surrounding reservation continues to explore its complex implications. The 50% cap serves multiple jurisprudential purposes: it prevents potential administrative paralysis, maintains institutional efficiency, and prevents the complete marginalization of the general

¹¹ (1995) 5 SCC 173

¹², (2010) 7 SCC 202



category. This carefully constructed threshold reflects a sophisticated legal balancing act between the constitutional goals of social justice and meritocratic principles.

36. The seat conversion mechanism operates at the intersection of two critical reservation concepts: (i) Vertical Reservation: Traditional category-based reservations for Scheduled Castes (SC), Scheduled Tribes (ST), Other Backward Classes (OBC), and Unreserved (UR) categories, (ii) Horizontal Reservation: Additional reservations for specific groups like women, persons with disabilities, and other horizontally defined categories.
37. In the case where horizontal reserved category seats remain unoccupied after two rounds of counselling, the Constitution and Supreme Court directives mandate a systematic conversion process that ensures no allocated seat goes waste. Specifically, seats reserved for specific subcategories are seamlessly reallocated to their parent categories. Children/Women's reserved seats in Scheduled Tribes (ST-CW) categories revert to the main ST, similarly for Scheduled Castes (SC-CW) to the main SC, Other Backward Classes (OBC-CW) to the main OBC, and Unreserved (UR-CW) to the main UR. The underlying principle is fundamentally democratic and inclusive. By allowing unfilled seats to be redistributed within their broader categorical framework, the system prevents the potential loss of opportunities for marginalized communities.
38. The challenge of the Petitioners in the present case centers on the implementation of a conversion algorithm for the (CW) Category in the counselling process. The Petitioners are seeking judicial intervention to



address a specific irregularity in the seat allocation mechanism, wherein (SC-CW) seats were initially proposed to be converted to Unreserved (UR-CW) seats during the third round of counselling. This proposed conversion algorithm is fundamentally problematic, directly contradicting established constitutional mandates and well-settled law in a catena of judgments delivered by Apex Court on reservation policies. The Respondent no.6/University of Delhi submitted that it received a representation from Ms. Mahi Jeph on 21.08.2024, highlighting the legal error in the proposed conversion mechanism, in response to which immediate corrective steps were taken and through an official communication dated 28.08.2024, the Respondent no.6 requested the Respondent no.1/MCC to rectify the erroneous conversion algorithm for the CW Category.

39. The timeline of events is critically important in the present case. Since the third round of counselling was scheduled to commence on 03.10.2024, and the conversion algorithm for the CW Category had been duly corrected prior to this date, i.e., vide letter dated 28.08.2024. Therefore, the legal infirmity in the CW Conversion Algorithm, which was inconsistent with the Constitution of India and Supreme Court rulings, was rightly rectified in accordance with Article 16(4), Article 141, and Article 144 of the Constitution of India. The Respondent no.1/MCC and the Respondent no.6/University of Delhi corrected this unintentional legal error to align the algorithm with Constitutional reservation principles. This rectification cannot be considered a post facto change in the rules of the game, as it was merely a correction



made before the third round of counselling to ensure compliance with the law.

40. This Court, while exercising its jurisdiction under Article 226 of the Constitution, cannot issue a direction that would require the authorities to continue with an action that is legally flawed. Judicial review exists to correct errors, uphold constitutional principles, and ensure adherence to the rule of law, not to validate an act that is contrary to established legal norms. Issuing a writ that compels authorities to persist with an illegality would set a dangerous precedent and erode the very foundation of fair and just governance. Once an error has been identified and rectified in accordance with the Constitution and binding legal precedents, this Court cannot, in equity or law, order its continuation.
41. In Union of India & Ors. v. M. K. Sarkar¹³, it was *inter-alia* held that if a person is refused a benefit to which he is not entitled, he cannot approach the Court and claim that benefit on the ground that someone else has been illegally extended such benefit. It was further, *inter alia*, held that however, the Petitioner can challenge the benefit illegally granted to others.
42. The proposition in S. Krishna Sradha (supra), is respectfully distinguishable as it establishes stringent four-fold criteria for granting relief in reservation-related cases. These conditions require: (i) No fault attributable to the candidate; (ii) Expeditious pursuit of legal remedies; (iii) Demonstrable fault by authorities with apparent rule violations; and (iv) Proven superior merit compared to admitted candidates. However,

¹³ (2010) 2 SCC 59



in the present case, Petitioners' claim fails to meet these critical judicial standards. Moreover, no substantive fault can be attributed to the Respondents. The initial legal inconsistency in the conversion algorithm was proactively rectified in alignment with Constitutional mandates, specifically Articles 16(4), 141, and 144. The correction of an unintentional legal error prior to the counselling process cannot be construed as a procedural breach or administrative fault. Petitioners have failed to demonstrate the exceptional circumstances required for intervention. The case exemplifies the courts' measured approach to reservation-related disputes, prioritizing procedural integrity and Constitutional principles.

43. Further, the absolute right of authorities to alter, amend, or modify the instructions and guidelines contained in the Information Bulletin is expressly recognized in the NEET-UG 2024 Information Bulletin & Counselling Scheme. Clause 14, under "Information for Candidates", clearly states that MCC/Respondent No. 1 has the discretion to make necessary changes to any provisions in the bulletin whenever required. Additionally, if there is any ambiguity or confusion regarding eligibility criteria, counselling procedures, or candidate registration, the interpretation given by MCC and DGHS shall be final and binding. This clause ensures that the authorities retain the flexibility to clarify or modify rules when necessary, allowing the counselling process to function smoothly and in accordance with established policies.
44. The illegality in the conversion algorithm for the CW Category, where SC (CW) seats were being converted into UR (CW) seats, was previously brought before this Court in **Mahi Jeph** (supra) and in that



case, the Petitioner had sought the reversion of unfilled reserved category seats back to their respective parent categories. The grievance raised was that the existing conversion algorithm for the CW Category was not in consonance with the provisions of the Constitution of India and the judgments of the Supreme Court. The Petitioner specifically urged that the reservation policy should be brought in line with Constitutional mandates to ensure compliance with established legal principles governing horizontal and vertical reservations.

45. The above-said writ petition was disposed of after taking into account a common short affidavit filed on behalf of the Union of India. The court accepted the rectification of the CW Category conversion algorithm, which was corrected before the third round of counselling commencing on 03.10.2024.
46. Lastly, the present case presents a stark contrast to the judgment in the case of *Yashika Malik* (supra). In this case, the Petitioner was initially prevented from participating in counselling due to an erroneous cancellation of her Education Concession Certificate (ECC) related to Assam Rifles. The court ultimately intervened, directing her consideration in subsequent counselling rounds. The Division Bench ultimately ruled in Petitioner's favor, identifying a clear administrative error by the University of Delhi that had unfairly deprived her of seat allocation. Relying on precedent, the Court-mandated the creation of a supernumerary seat to accommodate her. The current Petitioners, however, stand in a fundamentally different position. The Petitioners have failed to demonstrate any administrative mistake or procedural irregularity that prevented their participation in counselling. The



Petitioners have not been barred due to documentation issues. Therefore, the judgment in *Yashika Malik* (supra) case bears no substantial similarity to the current circumstances. The Courts have consistently emphasized that administrative remedies are exceptional and cannot be applied universally without demonstrating specific procedural lapses or administrative errors.

47. The Respondents are basing their case upon the change in the conversion algorithm which was followed in the 3rd round of NEET UG counselling. The changed conversion algorithm is as follows:-

CONVERSION CATEGORY	CATEGORY CONVERTED
ST (CW)	ST
SC (CW)	SC
UR (CW)	UR
OBC (CW)	OBC
ST	SC
SC	UR

48. The perusal of this algorithm would indicate that a candidate belonging to a ST category is converted to SC category and a SC category to UR (unreserved), when all the candidates belonging to that reserved category are exhausted. It has been submitted by the MCC that in fact such a situation has not occurred in the present case and has not occurred even in the last many years. It is also pertinent to mention here that the plea taken by the Petitioners that the rules of the admission process were changed mid-way, cannot be accepted as the changed conversion algorithm was notified vide communication dated 28.08.2024, whereas the 3rd round of counselling was to commence



from 03.10.2024. It is also to be noted that the learned counsel for the MCC has also submitted that there were no seats left under the UR (CW) category in the 3rd round. The categorical submission of the MCC that earlier conversion algorithm could not have been continued as it was against the Constitutional mandate of reservation, cannot be rejected.

49. It is also to be noted that the learned counsel for the MCC has specifically submitted that in the 1st round of NEET UG counselling, the second last candidate who has been selected under UR (CW) category for MBBS was of All India Rank of 4,26,129 and the said candidate belonged to priority III (Widows/Wards of Defence Personnel disabled in service and Boarded put with disability attributable to military services), whereas the Petitioners belonged to Priority V(x) of the Information Bulletin for UG (MBBS/BDS). Thus, the candidate was higher in the merit as well as the order of preference. The last candidate in the 1st round UR (CW) category was of All India Rank of 11,10,111 and the said candidate was selected over the Petitioners as she belongs to Priority III, whereas the petitioners belonged to Priority V(x). Learned counsel for the MCC has also submitted that there was only one UR (CW) category seat left in the second round and the said seat was allocated under BDS, whereas the Petitioners had only opted for MBBS. In the 3rd round, there were no seats left for UR (CW) Category. There were 4 seats for SC (CW) category and 3 seats for ST (CW) category, which were to be converted into SC and ST category seats respectively and could anyways be not allocated to UR (CW) candidates in view of the changed algorithm.



50. It is pertinent to mention here that the case of the respondents that the change in the conversion algorithm was brought into so as to bring the same in sync with the Constitutional mandate cannot be rejected. The Court, under Article 226 of the Constitution of India, cannot pass any writ so as to perpetuate the illegality or any proposition which is not in consonance with the Constitutional principles.
51. In view of the above analysis, this Court finds no merit in the present petition. Petitioners have failed to establish any procedural irregularity, administrative error, or fundamental wrong in the admission process. The Petitioners were not denied admission due to any illegality, but due to their lower merit ranking and the unavailability of CW seats under the revised policy. Therefore, this Court cannot intervene in such a case where the admission process has been conducted in accordance with prescribed rules and regulations and there are no exceptional circumstances.
52. Hence, the present petition is hereby dismissed.

DINESH KUMAR SHARMA, J

MARCH 27, 2025

Dy/ht