



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

**CWP-30307-2025 (O&M)
Date of Decision:29.01.2026**

HARSH YADAV

....PETITIONER(S)

VERSUS

STATE OF HARYANA AND OTHERS

....RESPONDENT(S)

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

Present: Mr. S. S. Khokher, Advocate
for the petitioner.

Mr. Raman B. Garg, Advocate with
Mr. Mayank Garg, Advocate
Mr. Navdeep Singh, Advocate
Ms. Komal Parveen Singh, Advocate
for respondent No.6.

Mr. Nilesh Bhardwaj, Advocate and
Ms. Vanshika Daaria, Advocate
for respondent No.7-University.

ASHWANI KUMAR MISHRA, J. (Oral)

1. This petition has been filed challenging the instructions dated 15.07.2014, contained in Annexure P-4, issued by the Government of Haryana providing for subdivision of 3% reservation for the Ex-servicemen/Freedom Fighters category. The policy provides for splitting the said 3% reservation by allocating 1% to the General Category, 1% to Scheduled Castes, and 1% to the Backward Classes.

2. The petitioner contends that such categorization of 3% horizontal reservation seats violates the principles laid down by the Hon'ble Supreme Court in *Indra Sawhney vs. Union of India, 1992*

Supp. (3) SCC 217, as well as the judgment in *Rakesh Kumar Daria vs. Rajasthan Public Service Commission, (2007) 8 SCC 785*.

3. The factual foundation laid in the petition specifies that there are about 765 seats for admission to the MBBS course in the State of Haryana and, as per the petitioner, 23 seats would fall to the share of the Ex-servicemen/Freedom Fighters category. According to the petitioner, only seven persons have been admitted under the said category and the petitioner has been arbitrarily denied the benefit of such reservation.

4. The respondents have filed their reply stating that the reservation for the Ex-servicemen/Freedom Fighters category is in the nature of horizontal reservation and is to be treated distinctly from vertical reservation. It is further stated that there were 744 seats available for the Academic Session 2025-2026 as per the seat matrix, and that persons far in excess of the available seats have actually been admitted. In paragraph No. 9 of the reply filed on behalf of respondent No.7-University, a chart has been reproduced, as per which admissions have been granted in the respective categories:-

MBBS/BDS ACADEMIC SESSION 2025-26 (ADMITTED) AS ON 14.11.2025

	<i>Open -CAT-ESM-FF</i>	<i>SC-ESM-FF</i>	<i>SC-Deprived-ESM-FF</i>	<i>BCA-ESM-FF</i>	<i>BCB-ESM-FF</i>	<i>EWS-ESM-FF</i>
<i>Total</i>	22	2	5	5	3	5

5. It is, therefore, the case of the respondents that the grievance of the petitioner regarding denial of horizontal reservation is factually incorrect. The respondents have opposed the claim of the petitioner on the ground that, due to the petitioner’s low merit, he would not be able to

secure admission as there are 68 candidates higher in merit than him. The respondents further submit that the admission process has been carried out pursuant to the directions of the Hon'ble Supreme Court and that the cut-off date for admission, fixed as 30.11.2025, has already expired. It is, therefore, prayed that the writ petition be dismissed.

6. Learned counsel for the petitioner, in rejoinder, submits that the respondents are following a flawed policy as a result of which reservation in the respective category is being denied year after year. It is contended that the principles governing horizontal reservation are distinct from those governing vertical reservation.

7. The distinction between the vertical and horizontal reservation has been explained by the Hon'ble Supreme Court in **Rakesh Kumar Daria (supra)**. After referring to the judgments in **Indra Sawhney (supra)** as well as **Anil Kumar Gupta vs. State of U.P., (1995) 5 SCC 173**, the Court has clearly delineated the distinct features of the two categories in following words:-

“8. We may also refer to two related aspects before considering the facts of this case. The first is about the description of horizontal reservation. For example, if there are 200 vacancies and 15% is the vertical reservation for SC and 30% is the horizontal reservation for women, the proper description of the number of posts reserved for SC, should be: “For SC: 30 posts, of which 9 posts are for women.” We find that many a time this is wrongly described thus: “For SC: 21 posts for men and 9 posts for women, in all 30 posts.” Obviously, there is, and there can be, no reservation category of “male” or “men”.

9. The second relates to the difference between the nature of vertical reservation and horizontal reservation. Social reservations in favour of SC, ST and OBC under Article 16(4) are “vertical reservations”. Special reservations in favour of physically handicapped, women, etc., under Articles 16(1) or 15(3) are “horizontal reservations”. Where a vertical reservation is made in favour of a Backward Class under Article 16(4), the candidates belonging to such Backward Class, may compete for non-reserved posts and if they are appointed to the non-reserved posts on their own merit, their number will not be counted against the quota reserved for respective Backward Class. Therefore, if the number of SC candidates, who by their own merit, get selected to open competition vacancies, equals or even exceeds the percentage of posts reserved for SC candidates, it cannot be said that the reservation quota for SCs has been filled. The entire reservation quota will be intact and available in addition to those selected under open competition category. But the aforesaid principle applicable to vertical (social) reservations will not apply to horizontal (special) reservations. Where a special reservation for women is provided within the social reservation for Scheduled Castes, the proper procedure is first to fill up the quota for Scheduled Castes in order of merit and then find out the number of candidates among them who belong to the special reservation group of “Scheduled Caste women”. If the number of women in such list is equal to or more than the number of special reservation quota, then there is no need for further selection towards the special reservation quota. Only if there is any shortfall, the requisite number of Scheduled Caste women shall have to be taken by deleting the corresponding number of candidates from the bottom of

the list relating to Scheduled Castes. To this extent, horizontal (special) reservation differs from vertical (social) reservation. Thus women selected on merit within the vertical reservation quota will be counted against the horizontal reservation for women. Let us illustrate by an example:

If 19 posts are reserved for SCs (of which the quota for women is four), 19 SC candidates shall have to be first listed in accordance with merit, from out of the successful eligible candidates. If such list of 19 candidates contains four SC woman candidates, then there is no need to disturb the list by including any further SC woman candidate. On the other hand, if the list of 19 SC candidates contains only two woman candidates, then the next two SC woman candidates in accordance with merit, will have to be included in the list and corresponding number of candidates from the bottom of such list shall have to be deleted, so as to ensure that the final 19 selected SC candidates contain four woman SC candidates. (But if the list of 19 SC candidates contains more than four woman candidates, selected on own merit, all of them will continue in the list and there is no question of deleting the excess woman candidates on the ground that “SC women” have been selected in excess of the prescribed internal quota of four.)”

8. It is undisputed that the total seats available for horizontal reservation in the Ex-servicemen/Freedom Fighters category were seven, against which 42 persons have already been admitted.

9. Though it has been contended that the above assertion is factually incorrect but no material has been placed on record to demonstrate any fallacy in the said statement. We are otherwise not inclined to doubt the statement made by the nodal University on this

factual aspect, especially when the averments have been sworn on affidavit. Paragraph No. 10 of the reply filed on behalf of the respondent No.7-University, containing the said statement of fact, is reproduced hereinafter:-

“10. That the above stated details clearly show that total 42 seats out of 744 seats (765 including NRI) have been allotted to the candidates of ESM/FF Category.”

10. Once it is shown that persons in excess of the required number in the respective category of horizontal reservation have already been admitted, we do not find any substance in the petitioner’s contention that the action of the respondents, in granting the benefit of reservation, is flawed.

11. In view of the above, the instant writ petition is dismissed.

12. All pending miscellaneous applications, if any, stand disposed of.

**[ASHWANI KUMAR MISHRA]
JUDGE**

**[ROHIT KAPOOR]
JUDGE**

JANUARY 29, 2026
Rahul Joshi

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