

(2022) 08 CHH CK 0064

In the Chhattisgarh High Court

Case No : Writ Petition (Civil) No. 2252 Of 2022

Sumati Tharani

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 29-08-2022

Acts Referred:

Citation : (2022) 08 CHH CK 0064

Hon'ble Judges : Arup Kumar Goswami, CJ;Deepak Kumar Tiwari, J

Bench : Division Bench

Advocate : Varun Sharma, Akhand Pratap Pandey, Jitendra Pali, Rajni Soren

Final Decision : Dismissed

Judgement

1. Heard Mr. Varun Sharma, learned counsel for the petitioner. Also heard Mr. Akhand Pratap Pandey, learned Central Government Counsel, appearing for respondents No. 1 to 3, Mr. Jitendra Pali, learned Deputy Advocate General, appearing for respondents No. 4 to 6 and Ms. Rajni Soren, learned counsel, appearing for respondent No.7.

2. The petitioner appeared in the National Eligibility cum Entrance Test (UG), 2021, for admission to the course of Bachelor of Medicine and Bachelor of Surgery (MBBS). The petitioner belongs to General Category. After declaration of the result, the petitioner appeared for counselling under open category as All India Quota (AIQ) candidate. The All India Rank of the petitioner is 3,92,846.

3. It will be relevant to state at this juncture that All India Rank of respondent No. 7 is 51,196.

4. In the first round of counselling that was held on 19.01.2022 and in the second round of counselling that was held on 05.02.2022, the petitioner was not selected. A special stray vacancy round was convened by the respondent No. 3 – Assistant Director General of Health Services on 18.04.2022 for 323 vacant seats for which the petitioner again registered.

5. It is contended that the petitioner was not selected in such special stray vacancy round as 03 seats were not shown and the petitioner could learn about this fact only when the Government Medical College, North Baster, conducted on the spot allotment under the State Quota. It was learnt by the petitioner that the Director General of Health Service, by a letter dated 26.04.2022, permitted conversion of AIQ seats to State Quota on an inexplicable reasoning that loss of 03 seats in AIQ shall have to be compensated in the next year and on the basis thereof, counselling under State Quota had taken place on 28.04.2022.

6. The present writ petition is filed primarily contending that conversion of AIQ to State Quota is impermissible in law.

7. Significantly, in the writ petition, no challenge is made to selection/ admission of three candidates, who were given admission under State Quota after alleged conversion of seats from AIQ. However, one of the candidates, who belongs to General Category, is arrayed as respondent No. 7.

8. Mr. Varun Sharma, learned counsel, abiding by the stand taken in the writ petition, has articulated that 03 AIQ seats could not have been allocated to the State Quota and that the respondents No. 1 to 3, despite being aware about the 03 additional seats having come to the pool of AIQ on account of 25% increase in total seats to accommodate EWS category candidates, did not take any steps for filling up the same. He has further submitted that a seat allocated to one Mr. Pranjay Shah under AIQ is remaining vacant from 23.04.2022, as Pranjay Shah did not take admission and in that circumstance, the aforesaid seat can very well be allotted to the petitioner. It is contended by Mr. Sharma that 31.08.2022 is the last date for taking admission in terms of the judgment of Hon'ble Supreme Court in the case of Ashish Ranjan and Others v. Union of India and Others, reported in (2016) 11 SCC 225.

9. Mr. Akhand Pratap Pandey, learned Central Government Counsel, by placing reliance on the affidavit filed on behalf of respondents No. 1 to 3, submits that the participating colleges were advised to contribute 15% of their seats in AIQ before commencement of second round of counselling. But the respondent College had not contributed any seat before 14.02.2022 in terms of the notice dated 11.02.2022 and it was only on a much later date, i.e., on 08.03.2022, a request was made by the Government Medical College to include 03 seats in AIQ. It is in that circumstance, letter dated 26.04.2022 was issued. He has further submitted that the contention of Mr. Sharma that the last date of admission is 31.08.2022, is wrong as the academic session in question is 2021, for which the last date otherwise was 31.08.2021, but because of extraordinary circumstances due to Covid-19 intervention, last date was fixed by the Hon'ble Supreme Court as 28.04.2022. Accordingly, he submits no case is made out by the petitioner either for getting a seat in AIQ or admission on the seat vacated by Pranjay Shah.

10. Mr. Jitendra Pali, learned Deputy Advocate General submits that even other candidates who have been accommodated in 03 seats along with respondent No.

7 had secured higher position than the petitioner. It is stated that while Tikesh Sahu secured rank 51,828, Manish Maravi secured rank 2,66,439.

11. Ms. Rajni Soren, learned counsel submits that respondent No. 7 is far more meritorious than the writ petitioner and that respondent No. 7 is eligible to be selected both under the AIQ as well as State Quota and even if seats are converted to AIQ, respondent No. 7 would be entitled to a seat in question because of her merit position.

12. After hearing the learned counsel for the parties and having perused the materials on record, so far as the case sought to be made out by Mr. Sharma that the petitioner may be accommodated in the seat falling vacant due to Mr. Pranjay Shah not taking admission, we are of the opinion that such a contention must fail. The petitioner has harboured a wrong impression that the last date fixed for admission is 31.08.2022.

13. In view of the judgment of Hon'ble Supreme Court in the case of Ashish Ranjan (*supra*), 31.08.2022 is relatable to the academic session 2022 and not for the year 2021. 28.04.2022 was the last date for the year 2021.

14. So far as the assailment with regard to conversion of AIQ to the State Quota is concerned, even if it is assumed that such conversion is not correct, it will not be permissible to hold so as the petitioner had not arrayed the other two candidates apart from respondent No. 7, who have secured admission under State Quota, as any such declaration would inevitably result in cancellation of their admission, in their absence. When the case of the petitioner is considered vis-a-vis respondent No. 7, it is evident that while the merit position of respondent No. 7 is 51,196, the merit position of the writ petitioner is 3,92,846 and as such the petitioner would not stand a chance.

15. For the above reasons, in the attending facts and circumstances of the case, we are of opinion that there is no merit in this petition and accordingly, the same is dismissed.