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

+ **W.P.(C) 56/2021**

RITVIK SINGH

..... Petitioner

Through: Mr. Sajjan Singh Nahar, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondent

Through: Mr. Kirtiman Singh, CGSC with Mr. Waize Ali Noor, Ms. Shreya V. Mehra, Mr. Madhav Bajaj, Mr. Yash Upadhyay and Ms. Durgeshnandini, Advocates for Respondent Nos. 1 & 4.

Mr. Harsh Pathak, Mr. Shaveta Mahajan and Mr. Mohit Choubey, Advocates for Respondent No.5/ AIIMS.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

11.05.2023

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1. The Petitioner before this Court has filed this present Petition stating that he had appeared in the NEET (UG) – 2020 Examination and obtained 631 marks out of total 720 marks.
2. In the Writ Petition it has been stated that the Petitioner was not granted admission in All India Institute of Medical Sciences (AIIMS) even though he belongs to Scheduled Caste-Persons with Disability (SC-PwD) category.
3. A detailed and exhaustive reply has been filed in the matter and the reply reveals that reservation was certainly provided for Persons with

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Disability (PwD) keeping in view the Right of Persons with Disabilities Act, 2016 (hereinafter to be referred as 'Act of 2016').

4. Dr. Harsh Pathak, appearing on behalf of the Respondent No.5/ AIIMS, has pointed out that seats were reserved keeping in view Section 32 of the Act of 2016 which provides that not less than 5% seats shall be reserved for persons with benchmark disability.

5. When the matter was taken on 29.04.2021 by the Learned Single Judge, the Writ Petitioner by that point of time had already been granted admission in Vardhman Mahavir Medical College, which is a college under the Guru Gobind Singh Indraprastha University. The Petitioner has already completed 3 years out of the 5 years of studies by now, and at this juncture, the question of directing the Respondent No.5 AIIMS to consider the case of the petitioner to grant him admission in AIIMS does not arise, especially in light of the statement made by the Petitioner on 29.04.2021. The order dated 29.04.2021 reads as under:

“The proceedings in the matter have been conducted through video conferencing.

1. The petitioner has filed the present writ petition seeking the following reliefs:-

“(a) Issue order or direction thereby directing the Respondents to re-allocate the PwD reservation legitimately on a category basis including SC-PwD and ST-PwD candidates on pro rata basis by quashing the illegitimate apportionment in favour of UR (2 seats); UR-EWS (1seat); and OBC (NCL) (3 seats) categories only, in fulfillment of the statutory obligation of PwD reservation which should have not been less than five percent in allegiance to statutory obligation warranted under sub-section (1) of Section 32 of the Rights of Persons with Disabilities Act,

2016 in order to protect the fundamental right to equality, and personal liberty guaranteed under the Articles 14 and 21 of the Constitution of India. Thus, the Petitioner who stands 1st in All India SC-PwD category rank and 3rd in All India PwD category rank may be considered for allocation of a seat in admission to MBBS courses in AIIMS-D, the premier institute.

(b) Issue a writ of Mandamus or any other appropriate writ, order or direction thereby directing the Respondents to comply with the statutory obligation of fair apportionment of PwD reservation on pro rata basis in category basis including SC-PwD and ST-PwD candidates and PwD reservation shall not be less than five percent as warranted under sub-section (1) of Section 32 of the Rights of Persons with Disabilities Act, 2016 in order to protect the fundamental right to equality and personal liberty guaranteed under the Articles 14 and 21 of the Constitution of India, in ensuring the compliance while allocating PwD reservation in admission to MBBS/BDS courses in all other institutions.

(c) Issue any other writ, order or direction as this Hon'ble Court may deem fit, just and proper in the facts and circumstances of the present case to give complete relief to the petitioner. 2. Mr. Colin Gonsalves, learned Senior Counsel for the petitioner, submits that the relief sought in respect of the petitioner's admission to the respondent no.5 institution (All India Institute of Medical Sciences, New Delhi) is not pressed due to the lapse of time. However, Mr. Gonsalves submits that the manner in which the respondent no.5 institution has provided reservations for Persons with Disabilities ["PwD"] is entirely contrary to law and the

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petitioner wishes to prosecute the present petition as a Public Interest Litigation [“PIL”].

3. Dr. Harsh Pathak, learned counsel for the respondent no.5, disputes the maintainability of the petition as a PIL.

4. As the roster of this Court provides that PILs would be heard by Division Bench-I, it would be appropriate for these submissions to be considered by the Division Bench.

5. Subject to orders of Hon’ble the Chief Justice, list this petition before the Division Bench on 06.05.2021.”

6. The Learned Single Judge has referred the matter to Division Bench so that it can be heard as a Public Interest Litigation especially in light of the fact that it deals with PwD.

7. A note has been circulated by the Government of India in terms of order dated 15.11.2022 passed by this Court, and it has been brought to the notice of this Court that as per the guidelines of the Department of Personnel and Training (DoPT), a 3200 pointer roster is prepared/ maintained, and in order to maintain 05% PwD roster every 20th sequence seat is reserved for a PwD candidate as per their mother category. Meaning thereby, out of 100 candidates, 5 candidates will be from PwD category (from their mother category). It has been stated that 5% Horizontal PwD reservation is being provided in NEET-UG & PG counselling since 2016 keeping in view the Section 32 of the Act of 2016 in All India quota counselling.

8. Dr. Harsh, who appears on behalf of Respondent No.5 AIIMS has also stated categorically that the statutory provisions as contained under the Act of 2016, specially in the matter of reservation as contained under Section 32 of the Act of 2016 are being followed, and shall be followed in future also.

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9. It has been brought to notice of this Court, at this juncture, that at present the Medical Counselling Committee (MCC) is the authority in the matter of reservation, and consequential grant of admission by conducting the counselling. Therefore, it shall be the duty of the MCC to ensure that the provisions of the Act of 2016 are followed for admissions in future also.

10. In light of the categorical undertaking given by the Learned Counsel for the Union of India as well as Learned Counsel for Respondent No.5 AIIMS, that the statutory provision as contained under the Act of 2016 shall be followed, no further orders are required to be passed in the present Writ Petition.

11. With the aforesaid, the present Writ Petition/ PIL stands disposed of.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

MAY 11, 2023

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