

Via video conferencing

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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision:-04.02.2022

+ W.P.(C) 1189/2022& CM APPL.5397/2022

SHARANYA KAJA

..... Petitioner

Through Mr. Anukul Raj, Ms. Nikita Raj and
Mr. Diwaker Goel, Advs.

versus

DIRECTORATE GENERAL OF HEALTH SERVICES (DGHS)
AND ORS

..... Respondent

Through Mr. Sanjeev Sabharwal, Adv. for R-1
& 2.

Ms. Seema Dolo, Adv. for R-3 & 4.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The present writ petition has been preferred under Article 226 of the Constitution of India seeking issuance of a direction to the respondents to permit the petitioner to change her category from 'General' to 'Other Backward Caste (hereinafter referred to as OBC)' during the counselling for admission to an undergraduate medical college based on the NEET-UG exam.
2. The petitioner is a young student having obtained 92% in her Class XII examinations. The respondent no.1/Directorate General of Health Services (hereinafter referred to as DGHS), Ministry of Health and Family Welfare, Government of India, is a repository of technical knowledge

concerning Public Health, Medical Education and Health Care. The respondent no.2/Medical Counselling Committee (hereinafter referred to as MCC), is an organization under the DGHS and responsible for conducting the Counselling of 15% All India Quota seats as also the 85% Delhi University (hereinafter referred to as DU) in medical colleges across the Country. The respondent no.3/Director General, National Testing Agency (hereinafter referred to as NTA) is responsible for conducting the entrance examination for admission in medical colleges across the Country. The respondent no.4/Director Senior, NTA is the head of operations for the medical entrance examinations across the country.

3. On 19.07.2021, the petitioner filled out her form for appearing in the NEET-UG, which form she filled out for as a general category candidate and, on 12.09.2021 she appeared in the NEET-UG examination conducted by the respondent no.3. Upon the result thereof being declared on 01.11.2021, the petitioner learnt that she had obtained an All India Rank of 18,917. It is at this stage that the petitioner probably realised that she had a much better chance of getting admission, if she had applied in the OBC category and as a consequence, her father applied for issuance of an OBC certificate from his native State of Andhra Pradesh sometime in November, 2021, which certificate was issued to the petitioner's father on 22.12.2021. Armed with this OBC certificate, the petitioner approached the Govt. of NCT of Delhi for issuance of a caste certificate in her favour, which certificate was duly issued on 04.01.2022. The petitioner then approached the respondent no.3 on 05.01.2022, seeking permission to change her category from General to OBC, which request was not acceded to by the respondents.

4. On 15.01.2022, the respondent no.1 issued a public notice permitting candidates, who had applied under the SC/ST/OBC/EWS/PwD seats for changing their category to General category, in case, they had inadvertently applied under the incorrect category. It is at this stage, that the petitioner has approached this Court seeking a direction to the respondents to permit her to change her category from General category to OBC.

5. Learned counsel for the petitioner has, while not denying the fact that the petitioner had applied for issuance of OBC certificate much after she had filled up the form for appearing in the NEET-UG examination, and, in fact, even after the result of the said examination had been declared, submits that once the respondents are permitting the candidates from SC/ST/OBC/EWS/PwD to change their category, there is no reason as to why the petitioner, who undisputedly belongs to the OBC category, be also not permitted to avail the same benefit.

6. The petition is vehemently opposed by the respondents, who contend that no such change can be permitted at such a belated stage. Ms. Seema Dolo, learned counsel for the respondent no.3 submits, that the entrance examination was conducted for more than 15 lacs students and permitting any change of category at this stage will affect the entire basis of allotment of seats and lead to an utter chaos in the admission process. She further submits that the respondents had granted five opportunities to the candidates before the declaration of the result, as late as on 26.10.2021 to seek any correction in the application form. The petitioner neither availed of the same opportunity nor has she given any justification for not filling up of the form as an OBC candidate on 19.07.2021. Merely because she did not have the necessary certificate on the said date, was no reason to fill

her category incorrectly, and that too when there was a provision in the information bulletin that no Caste certificate was required at the time of filling up of the online application and the same was to be produced only at the time of counselling.

7. Mr. Sabharwal, learned counsel or the respondent no.1, submits that the reliance by the petitioner on the notice dated 15.01.2022 is wholly misplaced and therefore submits that the option to change the category from SC/ST/OBC/PWS/PWD to Unreserved category was necessitated on account of a decision taken by the respondent no.1 after the issuance of the information bulletin, that the benefit of Caste Certificates would be given only to those candidate whose Castes were included in the central government list. Providing this option to the students was found necessary as they had, on the basis of past precedent, applied as unreserved category candidates, even when their castes were included only in the state list and not in the central government list.

8. Having considered the submissions of the learned counsel for the parties, even though I can sympathise with the petitioner who is a young meritorious student, I am unable to persuade myself to accept her claim. The petitioner had consciously filled up the form as a general category candidate on 19.07.2021, and that too despite being aware that there was no requirement for her to submit the OBC certificate at that stage, which as per the information bulletin was required to be produced only at the time of counselling.

9. In my view, since the petitioner was well aware that she was an OBC category candidate since birth, she ought to have been prepared for the said exam with all relevant documents, in order to apply in the category that

would give her the best chance of getting admission. Furthermore, even if we assume that there was a mistake on her part in filling up the form on account of her young age, there is no reason as to why the necessary correction was not sought for, at any time before the result of NEET-UG Examination was declared. In fact, what appears is that it is only when the petitioner learnt about her ranking, that she realised she could significantly improve her chance of gaining admission in a medical college if she applied in the OBC category, to which she originally belonged and that is why there was a delay in her making a request for change of her category.

10. I, also, do not find any merit in the petitioner's plea that once the respondents, had on 20.01.2022, permitted the students from certain Reserved categories to change to the Unreserved category, the petitioner should also be granted the same relief, especially as it has already been noted that the respondents have provided a reasonable justification for the said action. In any event, the effect of the notice dated 20.01.2022 will only be that the students, who had applied in Reserved category will now be treated as General category and, therefore, the said action is likely to open up more seats in the Reserved categories for other meritorious students, who deserve to be granted seats in the said category. I find that the petitioner's claim in the present petition would result in a totally reversed situation which cannot be permitted.

11. I find myself agreeing with the respondents' plea that, in case, such changes from unreserved category to OBC category are permitted at such a belated stage, the same is likely to result in the respondents being inundated by a deluge of requests from other candidates in similar circumstances, thus causing chaos in the entire counselling process, which

would inevitably cause grave hardship and inconvenience to the other students who have taken part in the NEET-UG and therefore, I am, not inclined to grant any relief to the petitioner, as sought for, at this belated stage.

12. The writ petition is accordingly dismissed.

(REKHA PALLI)
JUDGE

FEBRUARY 4, 2022

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