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

+ W.P.(C) 10398/2020& CM APPL. 32928/2020

PRATYAKSHA SINGH ..... Petitioner

Through: Mr. Mohan Parasaran, Sr. Advocate  
with Mr. Shubham Kulshreshtha,  
Advocate

versus

DIRECTORATE GENERAL OF HEALTH  
SERVICES UNION OF INDIA & ORS. .... Respondents

Through: Mr.Kirtiman Singh, Standing Counsel  
and Mr.Vikrant N Goyal, Advocate  
for R-1, R-2, and R-8.

Mr.Amit Bansal and Ms.Seema Dolo,  
Advocates for R-3 & R-4/University  
of Delhi.

Mr. T.Singhdev, Advocate with Ms.  
Michelle B. Das, Mr. Tarun Verma,  
Ms. Sumangla Swami, Advocates for  
R-5/National Medical Commission.  
Ms. Tara Narula, Panel Counsel with  
Ms. Aparajita Sinha, Advocate for  
R-6/GNCTD.

Mr. Apoorv Kurup and Ms. Nidhi  
Mittal, Advocates for R-7/UGC.

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**ORDER**

% **14.01.2021**

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

1. The petitioner seeks admission in the MBBS course in one of the colleges of the University of Delhi [hereinafter, "the University"] for the

year 2020-2021. The admission process is ending tomorrow, and this interim order is therefore passed to deal with the contention that she ought to be granted admission in this academic year.

2. I have heard Mr. Mohan Parasaran, learned Senior Counsel, and Mr. Shubham Kulshreshtha, learned counsel for the petitioner, at length. I have also heard Mr. Amit Bansal, Mr. Kirtiman Singh and Mr. T. Singhdev, learned counsel for the respondents.

3. The contention of the petitioner is that she is the daughter of a police gallantry medal awardee, and is therefore entitled to the benefit of seats in the 'CW category', which is for the children and wards of defence, police and paramilitary officers. The reservations in the 'CW category' are divided into various sub-categories by way of priority. The petitioner falls within the priority V(x) titled "Police Medal for Gallantry". The various classes for the purposes of priority are set out in the Bulletin of Information published by the University [at page 40 of the rejoinder filed by the petitioner]. It is evident that the category includes children of defence personnel, paramilitary forces, and police officers.

4. The petitioner's contention is that, when she sought to register for the first round of counselling in the University in the said category, the online portal for registration did not provide for an option for the wards of police personnel to apply. A copy of the format of the portal has been placed on record by the University at Annexure R-3/4 to its counter-affidavit. The said format shows that under the heading 'Category of Service Personnel', two options were provided – 'Defence Personnel' and 'Para Military Personnel'. Mr. Parasaran contends that the aforesaid categorisation *ex facie* did not provide an option for the child of a police officer to apply under the category

to which she was otherwise entitled.

5. In these circumstances, the petitioner raised a query on 22.10.2020 at the e-mail address provided on the portal, a copy whereof is annexed to the writ petition as Annexure A-8. The query raised by the petitioner in the e-mail dated 22.10.2020 was as follows: -

*“The online portal for submission of documents only mentions the defence and paramilitary categories. However, for Priority 5(X), there is a mention of gallantry awards received by police personnel. Is that valid for MBBS CW?”*

6. Mr. Parasaran submits that the petitioner did not receive any reply to the aforesaid query, and was therefore unable to submit her documents until the registration for the first round of counselling ended on 02.11.2020. Thereafter, the petitioner approached officials of the University, and succeeded, with their assistance, in registering for the second round of counselling on 18.11.2020. However, unfortunately, the number of seats remaining in the aforesaid category after the first round of counselling were only two, and she was not successful in the second round. The grievance of the petitioner is that had she been able to register successfully in the first round, she would have indeed succeeded in obtaining admission for the course, as candidates in a lower priority were, in fact, granted admission in the first round of counselling.

7. Although the time for taking admission in the University lapses tomorrow, and three rounds of counselling are already over before the present ongoing round, Mr. Parasaran relies upon the judgment of the Supreme Court in *S. Krishna Sradha vs. The State of Andhra Pradesh &Ors.*, (2019) SCCOnLine 1609: AIR 2020 SC 47 to submit that the petitioner ought to be granted relief in the present case.

8. Mr. Amit Bansal, learned counsel for the University, submits that the seats in the 'CW category' for the present year have already been filled and, during the course of hearing today, he has been instructed that the seats in all categories in the University have, in fact, been filled. The immediate question therefore is whether, in the facts and circumstances of the present case, the University can be directed to create an additional seat to enable the petitioner to take admission in the present academic year.

9. The judgment in *S. Krishna Sradha* (supra), relied upon by Mr. Parasaran, does provide for the possibility of creation of an additional seat in a medical college in an appropriate case. The Supreme Court has held that such a course can be taken when the candidate has been deprived of a seat for no fault of hers, when the authorities are at fault, leading to denial of admission to the candidate, and if the candidate has been diligent in availing of her remedies.

10. Although all the learned counsel for the respondents have argued vehemently that the present case is one in which the petitioner ought to have been able to upload her registration documents in the first round of counselling, I am *prima facie* not satisfied that this is the case. It is clear from the format of the portal, as disclosed by the University itself, that there was indeed no option for police personnel provided in the format.

11. Mr. Bansal submits that seven other candidates in the same category did, in fact, manage to upload their registration in the first round by using the same format. He also submitted that the various fields in the format for documents to be uploaded were not mandatory, but optional, and the petitioner's registration without any information given regarding the 'Category of Service Personnel' would have been duly processed. He

submits that the candidate would have been given an opportunity at a later stage to remedy the defects in the documentation.

12. In my view, *prima facie*, the aforesaid contentions cannot be accepted. There is nothing on record to show that candidates were informed in any way of the fact that they can submit incomplete information and would be required to remedy the defects later. The University has, somewhat surprisingly, taken a stand on affidavit (in paragraph 11 of the counter affidavit) that a candidate could even have submitted her CW category *incorrectly*, and would have been given an opportunity to rectify the defects, upon verification. To my mind, a candidate cannot be assumed to have knowledge of the leniency with which the University would treat an incomplete or incorrect document, particularly in the light of stipulations directly to the contrary in its Bulletin of Information. Just because some candidates managed to overcome the lacuna in the portal of the University with their own resourcefulness does not mean that every candidate ought to have approached the matter in the same way. A candidate who chooses to be risk averse in her approach to the procedure for admission cannot be faulted for this.

13. However, the question of the petitioner's diligence in seeking her remedies comes in the way of grant of relief to the petitioner for the present academic year. It is undisputed that the only query addressed by the petitioner to the University was on 22.10.2020 in the form of the e-mail query quoted above. The registration for the counselling ended only ten days later, on 02.11.2020. The petitioner claims to have made three further representations; however, these were all made after the registration for the first round of counselling had already lapsed. Copies of these representations

dated 11.11.2020, 28.11.2020 and 29.11.2020 are annexed to the writ petition as Annexures A-10, A-12, and A-13. In the writ petition also, there is no whisper of the steps taken by the petitioner during the period between 22.10.2020 (when she realized that she was not being able to register under the category of her choice) and 02.11.2020 (when the registration for the first round of counselling ended). The petitioner ultimately appears to have started making representations only after the result of the first round of counselling was declared on 05.11.2020. Even these representations were not addressed to the University, but to the Minister of Health and Family Welfare of the Government of India (representations dated 11.11.2020 and 29.11.2020) and the Medical Counselling Committee (representation dated 28.11.2020). A final representation dated 07.12.2020, after the petitioner realised that she was not successful in the second round of counselling, was made to all the respondent authorities. The petitioner finally approached this Court by way of the present petition on 14.12.2020.

14. The Court's discretion to direct creation of an additional seat for the current academic year cannot be exercised lightly. Drawing upon the observations of the Supreme court in *S. Krishna Sradha* (supra), I am of the view that such relief can be granted in favour of the petitioner only if she had taken diligent and proactive steps to redress her grievance. What appears from the facts of the present case is that there was a period of 10 days between the time she became aware of the lacuna in the University's portal and the closing of registration for the first round of counselling. The petitioner did not, in fact, do anything during this period. Her successful registration for the second round of counselling occurred only on 18.11.2020, with the intervention of officials of the University. While I do

not intend to suggest that the requirement of diligence translates into a requirement that the candidate rush to the Court without availing of alternative avenues of redressal, in the present case there does not seem to have been any or adequate effort on the part of the petitioner to seek redressal of her grievances, even from the University, during this period.

15. In view of the aforesaid facts, I am unable to grant relief to the petitioner which would enable her to avail of admission in the current academic year.

16. Mr. Parasaran submits that, consistent with the judgment in *S. Krishna Sradha* (supra), the Court should pass an order directing that the petitioner be granted alternative relief of admission in the next academic year, compensation, etc. That issue requires further consideration.

17. List on 18.03.2021.

18. The respondents are at liberty to file detailed counter-affidavits within three weeks from today. Rejoinders thereto, if any, be filed within two weeks thereafter.

**PRATEEK JALAN, J**

**JANUARY 14, 2021**

*j'*