


HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 14694/2024

Kailash Choudhary Son Of Shri Teja Ram Choudhary, Aged About 20 Years, Resident Of Lesuwa Bhachbhar, Ramsar, Barmer, At Present R/o Care Of Prahlad Kumar (H.c.), Quarter No. 26 Rajasthan Police Academy, Panipech, Jaipur, 302016.

----Petitioner

Versus

1. Chairman, Neet (U.g.), Medical And Dental Admission/couselling Board 2024 For Rajasthan, S.m.s. Medical College, J.I.n. Marg, Jaipur, 302004
2. Director, National Testing Agency For Neet (U.g.) 2024, First Floor, Nsic-Mdbp Building, Okhla Industrial Estate, New Delhi, 110020.
3. Union Of India, Through Its Secretary, Ministry Of Home Affairs, Room No. 124, North Block, New Delhi-110001
4. Joint Director (Adm. And Coord.), Kendriya Sainik Board, 2Nd Floor, 7Th Wing, West Block-Iv, Rk Puram, New Delhi-110066.
5. Director, Sainik Kalyan Department, Room No. 7225, Khadya-Bhawan, 2Nd Floor, Government Secretariat, Jaipur 302005
6. National Medical Council, Through Its Secretary, Pocket-14, Sector-8, Dwarka Phase-1, New Delhi-110077.

----Respondents

For Petitioner(s)	:	Mr. Rajendra Soni
For Respondent(s)	:	Mr. Vigyan Shah, AAG with Mr. Yash Joshi Mr. Angad Mirdha Mr. Anand Sharma Mr. Viswas Saini for Mr. M. S. Raghav

HON'BLE MR. JUSTICE SAMEER JAIN

Order

21/11/2024

1. The instant petition is filed with the following prayers:-

"i) By issuing an appropriate writ, order or direction, the impugned order No. 6052 dated 28.08.2024 (annex. 12) and 13.10.2022 (Annex. 5) and condition No. 5(e) of the information booklet of NEET-UG 2024 insofar as it relates to not giving preference to wards of Gallantry Awardee Para Military Personnel by quashed and set aside and the petitioner be given preference in MBBS Admission of NEET-UG 2024 as ordered vide order dated 22.08.2024 (Annex.10) and order No. 5531/2024 dated 28.08.2024 (Annex.13) by Sainik Kalyan Board Rajasthan between preference No. 2 and 3 over and above other wards of Para-Military Personnel with all consequential benefits.

ii) That by another appropriate writ, order or direction, the petitioner be permitted in second round of counseling by giving preference to him as ward of Gallantry Awardee personnel as per order dated 28.08.2024 (Annex.13) and be given admission in MBBS course as per his merit in NEET-UG 2024 against OBC (NCL) and WPP Gallantry Awardee quota with all consequential benefits.

iii) any other order or relief which this Hon'ble Court in the facts and circumstances of the case deems just and proper be passed in favour of humble petitioner.

iv) Cost of the writ petition be quantified in favour of petitioner."

2. Learned counsel for the petitioner has submitted the following facts for assertion:-

(i) That the petitioners' father received a Gallantry Award (Veerta Padak) on 11.05.2024.

(ii) That as per column 5(e) of the information bulletin for NEET U.G-2021, preference in admissions to MBBS/BDS courses were given to the wards of Gallantry awardee Military Personnel as well as Para-Military Personnel against 1% quota for wards of ex-servicemen.

3. Further, it is submitted that taking a contrary approach from the past practices (as per the admissions under NEET-UG-2024), a

discrimination is caused qua the wards of Para-Military Personnel, wherein Ministry of Home Affairs has maintained 9 categories of priority crafted specifically qua wards of Gallantry awardee Military personnel putting them on a higher pedestal, perhaps qua wards of Gallantry awardee Para-military Personnel, only three categories of priority are made out, howsoever under the latter Category, no priority qua wards of Gallantry awardee is maintained.

4. It is further submitted that a clarification order dated 22.08.2024 (Annexure-10) was issued by the Director of Sainik Kalyan Board, Rajasthan whereby directions were given for considering the petitioners' candidature under category 2 and 3 of the said priority list pertaining to wards of Para-Military personnel, reflecting an apparent and clear intention of the competent Authority vide which the petitioner should be granted benefit qua his claim.

5. Furthermore, it is submitted that undue hardship and grave discrimination is caused to the petitioner by not granting him reservation qua being ward of Gallantry awardee Para-military personnel akin to the information booklet containing priority list [specified as Column 5(e)] for NEET UG 2021.

6. Additionally, it is contended that a discriminatory approach has been adopted by treating reservations qua wards of Military and Para-military categories in a differential manner.

7. In support of contentions made insofar reliance is placed upon the dictum encapsulated in the judgments passed by the Hon'ble Apex Court in **AIR 2008 SC 3148** titled as **Satyawati Sharma Vs. Union of India & Anr.**; **AIR 1983 SC 130** titled as

D. S. Nakara & Ors. versus Union of India and AIR 1989 SC 903, titled as **Dipak Sibal versus Punjab University and Another**.

8. *Per contra*, learned counsel on behalf of the respondents- Shri Angad Mirdha, Shri Anand Sharma and Shri Vigyan Shah have submitted that the information booklet qua NEET UG 2024 was issued based on the directions, vide letter dated 06.06.2024 (Annexure-AA/2) whereby, Ministry of Home Affairs, New Delhi and Director General, Central Industrial Security Forces have categorically specified three categories namely Priority-I, Priority-II and Priority-III and none other than the same.

9. It is further submitted that on account of the present dispute, a clarification was issued vide letter dated 01.10.2024 (Annexure-AA/3), whereby it is clarified that none other than Priorities- I to III, no other priority or Category of reservation is tenable.

10. Moreover, it is submitted that after due consideration said classification of priorities and categories are made out, wherein the candidature under reserved Category of wards of Military personnel is a prerogative under Ministry of Defence, whereas candidature under reserved Category for wards of Para-military personnel is a prerogative under Ministry of Home Affairs and thereto, creation of any policy is at their respective ends. Additionally, it is submitted that the said preference is strictly laid out after due consideration and unless any malafide, arbitrariness or illegality is reflected, the same should not be distributed.

11. It is further submitted that in conformity with the merit, 1% of reservation qua wards of Para-Military personnel and Military personnel is duly granted and no contradiction to the same under professional courses is carried out for which a reliance is placed upon the dictum enunciated in the judgment of Hon'ble Apex Court in **Civil Appeal No. 5055 of 2012 [Arising out of SLP (Civil) No. 7440 of 2012] titled as Asha Vs. Pt. B.D. Sharma University of Health Sciences & Ors.**

12. Lastly, it is submitted that the counseling process qua admissions to the said professional courses is over and seats are already distributed to the eligible candidates, therefore, no intervention should be made out specially when the judgments cited on behalf of the petitioner are on distinguishable factual matrix and does not apply to the given set of disputed facts and circumstances.

13. Heard.

14. Upon considering the arguments advanced by the learned counsel for the parties, an assiduous scanning of records and judgments cited at Bar, this Court is of the following stance:

14.1 That the instant matter pertains to considering the petitioners' candidature under 1% quota assigned to wards of Gallantry awardee Military and Para-Military personnel for admissions under NEET UG-2024 examination.

14.2 That the petitioner is a ward of Gallantry awardee Para Military personnel.

14.3 That for NEET UG-2021, an information booklet was issued, whereby nine categories of reservation in *pari materia*

form qua wards of Military and Para Military personnel were spelled out qua 1% reservation (Annexure-3).

14.4 Qua information bulletin pertaining to NEET UG-2024 following priority order for Defence personnel of Military and Paramilitary forces were spelled out, which is reproduced as under:-

*"As per letter no. 6(1)/2017/D (Res. II), dated 19.05.2017 and its subsequent amendments in Nov. 2017 and 21.05.2018 issued by Dept. of Ex-serviceman welfare, of Govt. of India and SOP letter No. 370/Adm./MBBS/BDS/c, dated 01.07.2020 of Kendriya Sainik Kalyan Board, Ministry of Defense, Govt. of India, priority order (**certificate proforma 1**) for Defence personnel of Rajasthan origin, will be as follows:*

- 1. Widows/Wards of Defence Personnel killed in action.*
- 2. Wards of those Disabled in action and boarded out from service.*
- 3. Widows/Wards of those Defence personnel who died while in service with death attributable to military service.*
- 4. Wards of those Disabled in service and boarded out with disability attributable to military service.*
- 5. Wards of ex-service men and serving personnel who are in receipt of Gallantry Award.*
- 6. Wards of ex-service men.*
- 7. Wives of (i) defence personnel killed in action and boarded out from services (ii) defence personnel disabled in service and boarded out with disability attributable to military services (iii) ex-servicemen and serving personnel who are in receipt of Gallantry Award*
- 8. Wards of serving personnel*
- 9. Wives of serving personnel*

As per the letter no. F25/SKV/2022/13423-30 dated 13.10.2022 of Sainik Kalyan Vibhag, Govt. of Rajasthan, the para-military seat is admissible for only one member of the family once in life time. According to the MHA (Ministry of Home Affairs), only wards of Para-military personnel from serial 1 to 3 below are eligible for the scheme.

*Priority order (**certificate proforma 2**) for Para-military personnel of Rajasthan origin, will be as follows:*

- 1. Wards/Widows/Wives of those paramilitary personnel killed in action.*
- 2. Wards/Widows/Wives of those Para-military personnel permanently disabled in action and boarded out from service.*
- 3. Wards of All serving and retired personnel."*

14.5 That the State Counseling Board have to act upon the directions of competent authority under CISF/CAPF or Para-Military forces and as per advisory letter dated 06.06.2024 (Annexure- AA/2), wherein only three categories of priority as per given sequence were directed to be contained in the information booklet qua wards of Para-Military personnel, which is reproduced as below:-

- "(i) Priority-I : Wards/Widows of those Killed in Action (i.e. Those who are eligible for LPA- Liberalized Pensionary Awards)*
- (ii) Priority- II : Wards/Widows/wives of personnel permanently disabled in action and boarded out from service.*
- (iii) Priority-III: Wards of all serving and retired personnel."*

14.6 That the aforesaid categories are not supposed to be distributed but directed to be maintained in its letter and spirit vide letter dated 01.10.2024 (Annexure AA/3), whereby the Office

of Deputy Inspector General has specified that the candidature of the present petitioner cannot be considered above and other than the priorities enlisted under category I-III.

14.7 That it is contended by the learned counsel on behalf of the respondents that they are acting as per the prescribed policy and the appropriate sequence of priority, specifying concerned wards of Military and Para-Military personnel, wherein no prejudice has been caused to the petitioner. Additionally, it is contended that they have no wisdom or discretion to interfere in the same.

14.8 Moreover, learned counsel on behalf of the respondent no.3 has made a categorical contention, wherein the relevant portion is reproduced as under:-

"(vi) That it is also respectfully submitted that all recipients of gallantry medals including those from Para-military/Police Forces are eligible to get the benefit of reservation under intended category equally without any discrimination on the basis of wards of Military personnel and Para-military personnel."

15. Upon a holistic reading and consideration of the aforementioned observations, it is noted that qua wards of Para-military personnel three categories of priority are formulated, wherein qua the wards of Gallantry awardee Para-Military personnel, no separate category is spelled out. Furthermore, upon perusal of the available records, it is deduced that no *prima facie* malafide is caused to the petitioner, other than the argument that qua wards of Military personnel, 9 clauses of priority list are maintained inclusive of the specific clause regarding wards of Gallantry awardee Military personnel.

16. Howsoever, upon considering the fact that Military and Para-military forces are on different footing and policy makers have

maintained their view and application of mind in its letter and spirit, this Court under the scope of judicial review cannot interfere and specifically spell out non-consideration of wards of Gallantry awardee of Para-Military personnel as a special clause of reservation over and above Priority list I-III and for the aforestated reasons, no merit is made out in favour of the petitioner as per the present petition. Further, while placing reliance upon the dictum enunciated in the case of **Asha (Supra)**, it can be opined that the merit should be the sole criteria in the professional courses like medical and the same should not be disturbed.

17. Accordingly, the present petition being devoid of merits, stand dismissed. Pending applications, if any, shall stand disposed of.

(SAMEER JAIN),J