

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. OF 2020

<u>IN THE MATTER OF</u>		<u>IN THIS COURT</u>
Dr. Anbumani Ramadoss, S/o Dr.Ramadoss, aged 52, having office at No. 10, Thilak Street, T. Nagar, Chennai, Tamilnadu – 60017.		PETITIONER
	VERSUS	
1. UNION OF INDIA, through the Secretary, Ministry of Health and Family Welfare, Nirmal Bhawan, Near Udyog Bhawan Metro Station, Maulana Azad Rd, New Delhi, Delhi – 110011		RESPONDENT NO.1
2. Secretary, Ministry of Human Resource Development, No. 1, West Block, Rama Krishna Puram, New Delhi, Delhi 110066		RESPONDENT NO.2

3. Medical Council of India, represented by its Secretary, having Office at Pocket- 14, Sector - 8, Dwarka Phase -1, New Delhi - 110077, India		RESPONDENT NO.3
4. Director general health services and others, Ministry of Health and Family welfare, Govt. of India, Nirman Bhawan, New Delhi , District: New Delhi, Delhi		RESPONDENT NO.4
5. Ministry of Social Justice and Empowerment, Shastri Bhawan, New Delhi , District: New Delhi ,		RESPONDENT NO.5
6. National Board Of Examinations, rep.by its Registrar, Ansari Nagar, Mahatma Gandhi marg, (ring road), New Delhi		RESPONDENT NO.6

WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA:

TO

**THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICE OF THE
SUPREME COURT OF INDIA**

THE HUMBLE PETITION OF THE PETITIONER ABOVE NAMED:

MOST RESPECTFULLY SHOWETH:

1. The present Writ Petition is being preferred by a Public Spirited Person, a Member of Parliament, and former Health Minister, on behalf of the People of Other Backward Classes, under Article 32 of the Indian Constitution, seeking to implement the 27% reservation for the Other Backward Classes in Post Graduate Medical Seats of the 50% All India Quota.

2. FACTS OF THE CASE:

- i) The petitioner and his party namely "Pattali Makkal Katchi" (PMK) is working for achieving an egalitarian society as dreamt by the

founders of this nation. The main work of PMK party is in the area of reservation and other affirmative action to help the Scheduled castes, scheduled tribes, backward and most backward classes' citizens. His party and its founder Dr Ramadoss were instrumental in the implementation of 27% reservation for OBCs in Educational Institutions run by the Government of India when the PMK was part of the United Progressive Alliance that was the ruling coalition between 2004 and 2009.

The Petitioner and his party strongly believe that providing professional education for marginalized people will provide an opportunity for talented students belonging to these classes who were not able to secure competitive marks because of their economical and social circumstances. When provided the opportunity to get medical education they will go back to their villages and habitats and serve the poor and marginalized, whereas the meritorious students belonging to upper strata of society are not willing to serve.

The Petitioner, while he was Minister for Health and Family welfare, revolutionized Indian health care system by bringing novel schemes like 108 Ambulance service, National Rural Health Mission and relentlessly worked to decrease the use of harmful substances like Tobacco and alcohol by bringing strong legislations. His measures to achieve Polio free India have finally succeeded. The petitioner, being a person of outstanding knowledge and standing can demonstrate to this Hon'ble Court

that providing reservation and prompting OBCs to get into the field of medical education and making a robust rural health is both front and rear of the same arrow. Further the Petitioner, while he was holding the office of the Minister of Health used his good offices to rectify the anomalies in providing reservation of 22.5% for SC/ST in All India quota medical seats.

- ii) That on 01.01.1979, the Mandal Commission, or the Socially and Educationally Backward Classes Commission (SEBC), was established in India on 1 January 1979, with a mandate to "identify the socially or educationally backward classes" of India.
- iii) Even before Mandal commission, some Indian states already had high reservations for economically low income people, namely OBCs (other backward classes). For example, in 1980, the state of Karnataka had reserved 48% for socially and educationally backward classes (including SC, ST and OBCs), with a further 18% reserved for other weaker sections.
- iv) On 30.12.1980, the Commission had concluded that 52 per cent of the country's population comprised OBCs and recommended 27% reservation quota for OBC resulting in total 49.5% quota in government jobs and public universities.
- v) The Union of India vide Government Order dated 13.08.1990, had declared that it would provide 27 per cent reservations to "socially and educationally backward classes" for jobs in central services and public undertaking.

- vi) Subsequently, the said Government Order dated 13.08.1990, was challenged before this Hon'ble Court, by way of a Writ Petition under Article 32 of the Constitution.
- vii) On 16.11.1992, this Hon'ble Court in the case of "**Indra Sawhney and Others v. Union of India**", reported at **1992 Suppl. (3) Supreme Court Cases 217**, has upheld the constitutionality, validity and enforceability of the Government Order dated 13.08.1990, subject to certain conditionalities and prerequisites.
- viii) On 31.01.2007, this Hon'ble Court in the case of "***Abhay Nath and Others v. University of Delhi and Others.***", reported at **(2009) 17 Supreme Court Cases 705**, has clarified that 50% of seats to be filled by the All India Entrance Examination shall include reservation to be provided for SC/ ST Students.
- ix) Thereafter, this Hon'ble Court in the case of "***Ashoka Kumar Thakur v. Union of India and Others.***", reported at **(2008) 6 Supreme Court Cases 1**, has held that the Quantum of reservation of 27% of seats to Other Backward Classes in the educational institutions provided in the Act is not illegal.
- x) It is stated that, as reported by the **Times of India** on 26 December 2015, only 12 per cent of the employees under central government ministries and statutory bodies are members of the

Other Backward Classes. The data shows that out of 79,483 posts, employees from the OBCs occupied only 9,040 of them.

- xi) It is stated that 27 per cent reservation was not provided to the Other Backward Classes (OBCs) in the All India Quota (AIQ) seats for undergraduate and postgraduate medical courses in the academic years 2017-18, 2018-19 and 2019-20.
- xii) For instance, in the year 2018-19, only 220 OBC candidates were admitted to postgraduate courses while they had claim over 2,152 of the 7,982 seats.
- xiii) Similarly, only 66 OBC students were admitted under AIQ to the undergraduate course (MBBS). There are 4,061 AIQ MBBS seats, of which 27 per cent (1,096) should have been filled with OBC candidates.
- xiv) In the last few years, the OBCs are denied reservations both in PG/UG medical seats under All India Quota. Thus, they are denied 3000 seats every year which are transferred to General Category. During this current admission year 2020-21 also, the OBCs are not given reservation for the seats pooled from the States.
- xv) All India Quota – Total Seats: 9550 for the Academic year 2020-21:

SC	1385
ST	669

BC	371 (3.8%)
GNNO	7125 (74.6%)
WITHIN WHICH EWNO	653 SEATS

- xvi) A perusal of the above mentioned Data, shows that a separate column as EWNO is mentioned and nearly 653 seats have been given to these Economically Weaker sections which are allotted for General Category seats.
- xvii) It is stated that recently, this issue was raised in Parliament by one of the Member of Parliament. However, the concerned Minister had informed that that rules regarding reservations in medical colleges are in place but as the OBC quota differs from state to state, the Centre are unable to decide which one to follow. The minister also said that the Centre's hands were tied as a case pertaining to this issue (Saloni Kumari versus Directorate of Health Services – WP (c) No. 596/2015, is pending before this Hon'ble Court

A true Copy of the extract of Parliamentary question and answer dated 04.08.2017, is annexed herein and marked as **Annexure-P/1.**

- xviii) It is stated that Mr. Anbumani Ramadoss, Member of Parliament, had written to the Union Minister, Ministry of Health and Family

Welfare, regarding the implementation of 27% reservation to the Other Backward Classes.

A Copy of the Letter dated 2019 written by Mr. AnbumaniRamadoss to the Union Minister, Ministry of Health and Family Welfare, is annexed herein and marked as **Annexure-P/2.**

- xix) However, on 16.01.2020, the Union Minister, Ministry of Health and Family Welfare, vide Letter dated 16.01.2020, had responded to the said Letter dated 2019, stating that the issue is pending before this Hon'ble Court.

A Copy of the Letter dated 16.01.2020 written by the Union Minister, Ministry of Health and Family Welfare, is annexed herein and marked as **Annexure-P/3.**

The Tabular column showing as to how the OBCs are denied their due reservation even in year 2020 is annexed herein and marked as **Annexure-P/4.**

- xx) Aggrieved by the inaction of the Centre regarding the issue concerning the welfare of the OBC and the implementation of reservation for OBCs as per acts and rules, the present Petitioner on behalf of all the OBCs, has filed the present Writ Petition before this Hon'ble Court, seeking for the implementation of 27%

reservation to the Other Backward Classes in Post Graduate Medical Colleges.

- xxi) The Petitioners submits that the same is required in order to meet the ends of justice and for impartial and fair trial and the following grounds, each of which is without prejudice to the other.

3. GROUNDS:

- A. The Union of India vide Government Order dated 13.08.1990, had declared that it would provide 27 per cent reservations to "socially and educationally backward classes" for jobs in central services and public undertaking.
- B. Thereafter, on 16.11.1992, this Hon'ble Court in the case of "***Indra Sawhney and Others v. Union of India***", reported at **1992 Suppl. (3) Supreme Court Cases 217**, has upheld the constitutionality, validity and enforceability of the Government Order dated 13.08.1990.
- C. Further, this Hon'ble Court in the case of "***Ashoka Kumar Thakur v. Union of India and Others***," reported at **(2008) 6 Supreme Court Cases 1**, has held that the Quantum of reservation of 27% of seats to Other Backward Classes in the educational institutions provided in the Act is not illegal.

- D. It is stated that 27 per cent reservation was not provided to the Other Backward Classes (OBCs) in the All India Quota (AIQ) seats for undergraduate and postgraduate medical courses in the academic years 2017-18, 2018-19 and 2019-20. For instance, in 2018-19, only 220 OBC candidates were admitted to postgraduate courses while they had a claim over 2,152 of the 7,982 seats. Similarly, only 66 OBC students were admitted under AIQ to the undergraduate course (MBBS). There are 4,061 AIQ MBBS seats, of which 27 per cent (1,096) should have been filled with OBC candidates. It was the responsibility of the central government to ensure that OBCs got the number of seats they were assigned.
- E. On 31.01.2007, this Hon'ble Court in the case of "***Abhay Nath and Others v. University of Delhi and Others.***," reported at **(2009) 17 Supreme Court Cases 705**, has clarified that 50% of seats to be filled by the All India Entrance Examination shall include reservation to be provided for SC/ ST Students.
- F. Following the Judgment dated 31.01.2007 passed by the three-judge bench of this Hon'ble Court, 15 per cent All India Quota seats were reserved for SCs and 7.5 per cent for STs in medical colleges nationwide. This Hon'ble Court, quoting the Order dated 28.02.2005, has held that 50 per cent of the All India Quota seats in medical colleges should be reserved and it should be ensured that the SCs and the STs get 15 per cent and 7.5 per cent reservation, respectively.

- G. It is submitted that the reservation of 22.5% for SC/STs for admissions to UG and PG medical seats under AIQ, has been implemented by the Government of India, pursuant to the direction given by this Hon'ble Court. However, reservation of seats to be filled through All-India Entrance Examination for OBCs by reserving 27% seats, has not been implemented by the Government of India.
- H. It is stated that 27 per cent reservation was not provided to the Other Backward Classes (OBCs) in the All India Quota (AIQ) seats for undergraduate and postgraduate medical courses in the academic years 2017-18, 2018-19 and 2019-20.
- I. For instance, in 2018-19, only 220 OBC candidates were admitted to postgraduate courses while they had a claim over 2,152 of the 7,982 seats.
- J. Similarly, only 66 OBC students were admitted under AIQ to the undergraduate course (MBBS). There are 4,061 AIQ MBBS seats, of which 27 per cent (1,096) should have been filled with OBC candidates.
- K. In the last few years, the OBCs are denied reservations both in PG/UG medical seats under All India Quota. Thus, they are denied 3000 seats every year which are transferred to General Category. During this current admission year 2020-21 also, the OBCs are not given reservation for the seats pooled from the States.

L. **All India Quota – Total Seats: 9550 for the Academic year 2020-21:**

SC	1385
ST	669
BC	371 (3.8%)
GNNO	7125 (74.6%)
WITHIN WHICH EWNO	653 SEATS

A perusal of the above mentioned Data, shows that a separate column as EWNO is mentioned and nearly 653 seats have been given to these Economically Weaker sections which are allotted for General Category seats.

M. It is submitted that out of 9550 seats under All India Quota for this year 2020, nearly 8800 seats are pooled from the Colleges run by the State Governments. On these 8800 seats, the OBCs are not given any reservation (only zero) and the seats are transferred to the General Category, which is unjustified and unconstitutional. Had the seats remained in the States, the OBCs would have been benefitted much. For example, this year, Tamil Nadu is having 1758 seats under PG course. Out of this, 879 seats are pooled by the Medical Counseling Committee (MCC) for All India Quota. On these 879 seats, the OBCs are not getting any reservation i.e. ZERO. Had the

seats remained in the Tamil Nadu, as per their reservation policy, 440 seats would have gone to OBC students. The same applies to all the States. When the policy of reserving 15%, 7.5% and 10% of seats to SC, ST and ESW is implemented in totality, the OBC reservation alone was not implemented as per norms. This is against the Parliamentary Act to provide reservation to OBCs. The States that give their seats to Central pool will be unable to fulfill their social commitments to OBCs. This indifference of the office of the Director General of Medical Services will nullify the endeavors of Parliament to bring social justice and equality through affirmative action.

N. It is pertinent to mention that for the past more than three years, the OBCs are demanding reservations in the All India Quota seats drawn from the States and there is no favourable consideration by the Government.

O. It is stated that the data published by the Ministry of Health and Family Welfare 2018-19 & 2017018, in its Annual Report shows the following,

P.

All India Quota Seats for UG/ PG Courses in Medical Admission:

All India Quota – 2018-19:

	Total Seats	Allotted to OBCs	Had Implemented, OBCs would get 27%
MBBS	4061	66	1096
BDS	329	7	89
MD/ MS	7972	220	2152
MDS	233	6	63
TOTAL	12,595	299	3400

Total Loss to OBC Students 2018 – 19:

$$3400 - 299 = 3101$$

Q. All India Quota – 2017 -18:

	Total Seats	Allotted to OBCs	Had Implemented, OBCs would get 27%
MBBS	3690	65	996
BDS	328	9	88
MD/ MS	5709	179	1541
MDS	239	7	64
TOTAL	9966	260	2689

Total Loss to OBC Students 2017 – 2018: $2689 - 260 = 2429$

- R. For the year 2019-20, the Ministry has not published the official figures in their annual report. The website does not give any clear data about the total number of medical seats and allotment given to different groups. However, assuming that the data will be more or less the same as 2018-19 and the loss of seats to OBC students will be around 3000 (both PG and UG under All India Quota).
- S. It is stated that the present Petitioner, had written to the Union Minister, Ministry of Health and Family Welfare, regarding the implementation of 27% reservation to the Other Backward Classes while the filling the seats for the All-India Examination of Post Graduate Medical Seats. However, on 16.01.2020, the Union Minister, Ministry of Health and Family Welfare, vide Letter dated 16.01.2020, had responded to the said Letter dated 2019, stating that the issue is pending before this Hon'ble Court.
- T. It is submitted that though the Government of India, argues that the reservation quota for OBCs is different in different states, but the quotas reserved for SC/ STs, have been rightly been implemented by the Government of India.
- U. It is submitted that when the reservation in All India Quota seats can be fixed for SCs and STs, why cannot the reservation be made vis-à-vis Other Backward Classes (OBCs). Thus, the provisions for 27

per cent reservation for OBCs in All India Quota seats is not being implemented in admissions to medical colleges through NEET.

- V. That the right to live with human dignity, of the Students of the Other Backward Classes (OBCs), which is guaranteed under Article 21 of the Indian Constitution, has been violated.

 - W. It is submitted that due to the arbitrary moving of seats belonging to the Other Backward Classes (OBC), to the General Category, has violated the fundamental rights guaranteed under Article 15 (4) of the Indian Constitution.

 - X. That the present Petitioner on behalf of the People of Other Backward Classes (OBCs) has approached this Hon'ble Court as fundamental rights of the OBC Students, which is guaranteed under Article 14 (Right to Equality) and 21 (Right to life and personal liberty) of the Indian Constitution, has been violated.

 - Y. For that in view of the facts, ground and circumstances listed out above, the present Petitioner seeks indulgence of this Hon'ble Court to pray for a direction to implement the 27% reservation for the OBCs in the All India Medical Examination conducted through NEET.
4. That the Petitioner craves leave of this Hon'ble Court to urge other and further grounds at the time of hearing of this Petition and to add, alter

or amend any of the aforementioned grounds, if so advised at a later stage.

5. That the Petitioner has no other efficacious remedy available, except by filing this present Writ Petition before this Hon'ble court.
6. This Petition has been filed bona fide and in the interest of justice
7. There is no other Petition seeking relief as prayed for from this Hon'ble Court.

PRAYER:

It is respectfully submitted in the circumstances that this Hon'ble Court may be pleased to:

- A. Issue a writ of Mandamus or any other appropriate Writ or Order or Direction, directing the present Respondents to implement the 27% reservation to the Other Backward Classes (OBCs), in admission to Under Graduate (UG) and Post Graduate (PG) Medical Courses for admissions to educational institutions run by the Government of India and various State Governments and Union Territories within the Union of India, under the All India Quota;
- B. Issue appropriate directions and guidelines to the present Respondents, in order to improve the implementation of 27% reservation to Other

Backward Classes (OBCs) in admission to the Under Graduate (UG) and Post Graduate (PG) Medical Courses;

- C. Pass such further or other orders as this Hon'ble Court may deem fit and proper.

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

Drawn By:

Filed By:

S. THANANJAYAN
ADVOCATE FOR THE PETITIONER

FILED ON: 20.05.2020