

ITEM NO.11

Court 6 (Video Conferencing)

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No.1416/2020

KUSH KALRA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(I.A. No.87814/2021-Application for Stay)

WITH

W.P.(C) No. 524/2021 (PIL-W)

(I.A. No. 99128/2021- Application for Stay)

I.A.No.100487/2021-Application for appropriate Orders/Directions)

I.A. No.89221/2021-Application for Stay)

Date : 18-08-2021 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s) Petitioner-in-person

Mr. Chinmoy Pradip Sharma, Sr. Adv.

Mr. Mohit Paul, AOR

Ms. Sunaina Phul, Adv.

Mr. Irfan Haseib, Adv.

For Respondent(s) Ms. Aishwarya Bhati, Ld. ASG

Ms. Archana Pathak Dave, Adv.

Ms. Ruchi Kohli, Adv.

Mr. Chinmayee Chandra, Adv.

Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

Writ Petition(C) No.1416/2020

The counter affidavit has been filed on 17.8.2021.

Rejoinder be filed within a week.

List for hearing on 08th September, 2021.

I.A.No.87814/2021

Learned ASG submits that by an interim measure a policy decision should not be interfered. It is her submission that the three modes of recruitment of officers in the Indian Army are through the National Defence Academy (NDA) Indian Military Academy (IMA) and Officers Training Academy (OTA). NDA and IMA are modes of direct entry through UPSC. Whereas through OTA, women are commissioned along with men, both through UPSC and Non-UPSC mode of entry. They are granted Short Service Commission, both men and women, and subsequently are considered for grant of Permanent Commission.

It is submitted that through various developments SCC women officers in ten streams are appointed subject to certain conditions laid down in the judgment of this Court in *Secretary, Ministry of Defence v. Babita Puniya [2020 (7) SCC 469]*. Be that as it may, we put to learned ASG whether in the ten streams is there recruitment of male officers from the NDA route. In this behalf learned counsel submits that she would have to obtain requisite instructions and file a better affidavit.

We would have expected a more considered affidavit on policy decision based on gender equality more specifically keeping in mind the observations of this Court in *Babita Puniya's case (Supra)*.

In view of the impending examination and on hearing learned counsel for parties, we consider it appropriate to issue interim direction permitting the women candidates to take

part in the examination scheduled for 05th September, 2021, subject to further orders from this Court.

Union Public Service Commission (UPSC)- Respondent No.4 has chosen not to appear despite service. UPSC is directed to take out the necessary corrigendum in view of the interim orders we have passed today and give it wide publicity so that the intent of the order is translated into benefit at the ground level.

Copy dasti out today and be forthwith transmitted to the UPSC today itself.

List on 08th September, 2021

W.P.(C) No.524/2021

The counter affidavit filed by the respondent seeks broadly to suggest that insofar as Sainik Schools are concerned, process of admitting girls has already started and it will be further expanded. As far as Rashtriya Indian Military College (RIMC) is concerned, it is stated that it is a 99 years old institution which will complete 100 years next year. The question is whether it completes its 100 years with gender neutrality or not!

Since the aforesaid would have a direct relation with admission in NDA programmes, and that is the matter we have kept for consideration on 08th September, 2021, we consider it appropriate to list this matter also on the same date.

I.A.No.99128/2021

We are not inclined to stay the advertisement because the larger issue is yet to be determined by us as noticed aforesaid.

I.A. No.99128/2021 stands dismissed.

I.A.No.89221/2021

we are not inclined to interfere, I.A.89221 of 2021 stands dismissed accordingly.

I.A.No.100487/2021

List along with the main matter on 08th September, 2021.

[RASHMI DHYANI]
COURT MASTER

[POONAM VAID]
COURT MASTER