**IN THE SUPREME COURT OF INDIA**

**CIVIL ORIGINAL JURISDICTION**

**WRIT PETITION (C) NO. OF 2019**

**IN THE MATTER OF**

Justice V. Eswaraiah (Retd.),

S/o. Late V. Anjaiah,

Aged about 68 years,

President, All India Backward Classes Federation, Registered Office at H.No.253,

Poothkhurd, Delhi-110039 Petitioner

**Versus**

1. Union of India

Rep. by its Secretary,

Ministry of Health and Family Welfare,

Nirman Bhavan, New Delhi-110011.

2. Union of India

Rep. by its Secretary,

Ministry of Human Resources Development and Higher Education, Shastri Bhawan,

New Delhi-110001

3. Directorate General of Health Services,

Nirman Bhavan,  Maulana Azad Road,

New Delhi-110011.

4. Union of India

Rep. by its Secretary,

Ministry of Social Justice and Empowerment,

Shastri Bhawan, Dr. Rajendra Prasad Road,

New Delhi-110011

5. State of Andhra Pradesh,

Rep. by its Special Chief Secretary,

Department of Health, Medical and Family Welfare, Velagapudi, Amaravathi, Andhra Pradesh - 522503.

6. State of Telangana,

Rep. by its Principal Secretary,

Department of Medical, Health and Family Welfare, Secretariat Buildings,

Hyderabad, Telangana - 500022.

Respondents

TO,

THE HON’BLE CHIEF JUSTICE

AND OTHER COMPANION JUSTICES OF

THE HON’BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE

PETITIONER ABOVE NAMED

**WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA**

**MOST RESPECTFULLY SHEWETH:**

1. That the Petitioner is a citizen of India, entitled to invoke the Writ jurisdiction of this Hon’ble Court under Article 32 of the Constitution of India seeking for issuance of the Writ of Mandamus or any other appropriate Writ, Order or direction inasmuch as fundamental rights of citizen guaranteed under Article 14, 15, 19(1)(g) and 21 of the Constitution of India stands violated on account of the inaction of the Respondent authorities.

**1A.** The 1st Petitioner is a former Judge of the erstwhile High Court of Andhra Pradesh and also served as the Acting Chief Justice during his tenure. Subsequently, he was appointed as the Chairman of the National Backward Classes Commission and served from 2013 to 2016. Petitioner is presently the President of the All India Backward Classes Federation registered under the Societies Registration Act, 1860 with registration No.ROS/NORTH/SDM/NARELA/215/2018 dated 31.12.2018 by the Registrar of Societies, District North (Narela), Government of NCT, New Delhi. The annual income of Petitioner is about Rs.18,50,000/-; holding Aadhar Card No.430875003296; and Pan No.ABVPV2623E with e-mail Id: vej@rediffmail.com; phone No.944026111. The H.U.F. annual income of the Petitioner is about Rs.21,00,000/-.

1. That this Writ Petition is being filed for issuance of appropriate Writ, Direction or Order as the respondents are denying reservations to the Socially and Educationally Backward Classes (OBCs) (Non-Creamy Layer) into the Undergraduate (MBBS/BDS) and Post Graduate (MD/MS) and PG Diploma Medical Courses pursuant to the Constitution (Ninety –Third Amendment) Act, 2005 (S.2) inserting Clause 5 to Article 15 of the Constitution of India which came into effect from 20.01.2006 and the Central Educational Institutions (Reservation in Admission) Act, 2006 (Hereinafter referred as ‘Act 5 of 2007’ or the ‘Act’) to provide reservations in admissions of students belonging to SCs, STs and OBCs to Central Educational Institutions.
2. That the instant Writ Petition is being filed purely in public interest, espousing the cause of poor, impoverished, needy backward Classes of citizens whose fundamental and Constitutional rights are being violated by the actions of the Respondents. The Petitioner has no other motive other than the public interest in filing the writ petition; and the petition is not guided by any personal agenda; nor any benefit to, or any ill-will against any person/ group/ body or institution. No Civil or Criminal or Revenue litigation involving the Petitioner which has any legal Nexus with the issues involved in the Public Interest Litigation being filed herein. It is submitted that Petitioner has not approached any authority seeking for redressal of the grievance raised in the present Petition, however, one J. Laxmi Narsimha, being founder and National President of BC, SC, ST & Minority Students Federation had submitted representation (Annexure P-20) but in vain.
3. **FACTS OF THE CASE**
4. That this Hon’ble Court in the case of Pradeep Jain (Dr.) Vs. Union of India reported in (1984) 3 SCC 654, directed that out of Post Graduate seats to be filled by the various colleges in India, 50% of seats shall be admitted on the basis of the All India Entrance Examination.
5. It is submitted that as per Section 2 (c) of the Central Educational Institutions (Reservation in Admission) Act, 2006, the “Appropriate Authority” means the University Grants Commission, the Bar Council of India, the Medical Council of India, the All India Council for Technical Education or any other authority or body established by or under a Central Act for the determination, coordination or maintenance of the standards of high education in any Central Educational Institution.

Under Section 2 (d), “Central Educational Institution” means-

1. a university established or incorporated by or under a Central Act;
2. an institution of national importance set up by an Act of Parliament;
3. an institution, declared as a deemed University under section 3 of the University Grants Commission Act, 1956, and maintained by or receiving aid from the Central Government;
4. an institution maintained by or receiving aid from the Central Government, whether directly or indirectly, and affiliated to an institution referred to in clause (i) or clause (ii), a constituent unit of an institution referred to in clause (iii);
5. an educational institution set up by the Central Government under the Societies Registration Act,1860

Under Section 2 (g) “Other Backward Classes” means the class or classes of citizens who are socially and educationally backward, and are so determined by the Central Government.

Under Section 2 (j) “teaching or instruction in any branch of study” means teaching or instruction in a branch of study leading to three principal levels of qualifications at bachelor (undergraduate) masters (postgraduate) and doctoral levels.

Under Section 3, the reservation of seats in admission in the Central Educational Institutions, 15% of seats shall be reserved for the SCs, 7.5% seats shall be reserved for the STs and 27% to the Other Backward Classes out of the annual permitted strength in each branch of study or faculty.

A true copy of the Central Educational Institutions (Reservation in Admission) Act, 2006 as published in Gazette of India dated 04.01.2007 is annexed hereto and marked as **ANNEXURE P-1 (Pages 32-35)**

1. That the Letter No. F.No. 36-2/2013 (CU) dated 08.01.2007 were issued by the Universities Grants Commission to the Registrar of various Central Universities enclosing therewith the Central Educational Institutions (Reservation in Admission) Act, 2006 for their implementation. A true copy of the Letter No. F.No. 36-2/2013 (CU) dated 08.01.2007 issued by the University Grants Commission to various Central Universities is annexed hereto and marked as **ANNEXURE P-2 (Page 36)**
2. That the Scheduled Castes and Scheduled Tribes candidates approached this Hon’ble Court by filing W.P.(C) No.138 of 2006, W.P.(C).No.18 of 2005 and batch seeking to provide reservations in favour of SC and ST students out of the 50% of the seats to be filled by the All India Entrance Examinations. This Hon’ble Court disposed of the I.A.No.7 of 2007 in W.P.(C) No.18 of 2005 vide order dated 31.01.2007 directing thereby to provide reservations for SCs and STs out of 50% seats to be filled by the All India Entrance Examination. A true copy of the Order dated 31.01.2007 passed by this Hon’ble Court in I.A.No.7 of 2007 in W.P.(C) No.18 of 2005 is annexed hereto and marked as **ANNEXURE P-3 (Pages 37-40)**
3. That the Government of India, Ministry of Human Resources and Development, Department of Higher Education issued O.M. No.1-1/2005-U.1.A/847 dated 20.04.2008 to provide reservations under Article 15 (5) of the Constitution of India and Act No.5 of 2007 in favour of the OBCs (27%), SCs (15%) and STs (7.5%) in the Central Educational Institutions. A true copy of the Office Memorandum No.1-1/2005-U.1.A/847 dated 20.04.2008 issued by the Government of India, Ministry of Human Resources Development, Department of Higher Education is annexed hereto and marked as **ANNEXURE P-4 (Pages 41-49)**
4. That the Writ Petition (c) No. 18 of 2005 and connected cases were came to be disposed of vide order dated 11.08.2008 in terms of the interim order dated 31.01.2007 passed by this Hon’ble Court. A true copy of the order dated 11.08.2008 passed by this Hon’ble Court in Writ petition (C) No. 18 of 2005 and connected case is annexed hereto and marked as **ANNEXURE P-5 (Page 50)**
5. The Constitutional Validity of the Constitution (Ninety Third Amendment) Act, 2005 inserting Clause 5 to Article 15 and the Central Educational Institutions (Reservation in Admission) Act, 2006 - No.5 of 2007 relating to the reservations of 27% in favour of the Other Backward Classes was questioned in this Hon’ble Court in W.P.No.265 of 2006 and batch and the Five Judges Bench of this Hon’ble Court in Ashoka Kumar Thakur Vs. Union of India decided on 10.04.2008 upholding the Constitutional Validity of the Constitution (Ninety Third Amendment) Act, 2005 and also the Act No.5 of 2007 holding that the reservations of 27% of seats to other Backward Classes in the educational institutions shall be provided excluding the creamy layer.
6. That the Government issued the modalities for implementation of OBC and PH reservation in 15 per cent All India Quota (MBBS/BDS Seats in admission for academic year 2009. A true copy of the Mode of Implementation of OBC and PH reservation in 15 per cent All India Quota (MBBS/BDS) Seats dated Nil is annexed hereto and marked as **ANNEXURE P-6 (Pages 51-56)**
7. That as the admissions were over, the said Writ Petitions were dismissed by this Hon’ble Court as having become infructuous vide order dated 16.07.2010. A true copy of the Order dated 16.07.2010 passed by this Hon’ble Court in Writ Petition (C) No.138 of 2006 is annexed hereto and marked as **ANNEXURE P-7 (Page 57)**
8. That this Hon’ble Court vide judgment dated 23.03.2012 in Anand S Biji Vs. State of Kerala reported in (2012) 13 SCC 713 approved the provisions of conducting online counselling for UG & PG Medical and Dental Courses. A true copy of the Judgment dated 23.03.2012 passed by this Hon’ble Court in I.A. No.16 of 2012 in Civil Appeal No. 1944 of 1993 titled Anand S Biji Vs. State of Kerala reported in (2012) 13 SCC 713 is annexed hereto and marked as **ANNEXURE P-8 (Pages 58-60)**
9. That the Government of India also issued O.M. No.17-1/2011-U1 issuing certain clarifications not to adjust the meritorious candidates who qualified in the General merit list against the reserved seats. A true copy of the Office Memorandum No.17-1/2011-U1. dated 25.05.2012 issued by the Government of India, Ministry of Human Resource Development, Department of Higher Education is annexed hereto and marked as **ANNEXURE P-9 (Pages 61-67)**
10. That Central Educational Institutions (Reservation in Admission) Act, 2006 (Act No.5 of 2007) was amended and Central Educational Institutions (Reservation in Admission) Amendment Act, 2012 was published in the Gazette of India. A true copy of the Central Educational Institutions (Reservation in Admission) Act, 2012 as published in Gazette of India dated 20.06.2012 is annexed hereto and marked as **ANNEXURE P-10 (Pages 68-69)**
11. That Letter bearing No.F. No.35-19/2008 (CU) dated 28.09.2012 issued by the Universities Grants Commission to the Registrar of various Central Universities enclosing the Central Educational Institutions (Reservation in Admission) Amendment Act, 2012. A true copy of the Letter bearing No.F. No.35-19/2008 (CU) dated 28.09.2012 issued by the Universities Grants Commission to the Registrar of various Central Universities is annexed hereto and marked as **ANNEXURE P-11 (Page 70)**
12. That the Central Government provided for method of distribution of seats available under 50 per cent PG seats i.e. preparation of seat matrix while doing online counseling qua the PG seats earmarked for unreserved (Open), SC, ST, OBC and PH categories. A true copy of the method of distribution of seats available under 50 per cent PG seats i.e. preparation of seat matrix while doing online counseling qua the PG seats earmarked for unreserved (Open), SC, ST, OBC and PH categories to be implemented during academic year 2013-14 dated Nil is annexed hereto and marked as **ANNEXURE P-12 (Pages 71-75)**
13. The Government of India also issued O.M. No.17-1/2011-U1 dated 25.05.2012 issuing certain clarifications not to adjust the meritorious candidates who qualified in the General merit list against the reserved seats. The merit does not carry any caste, community, religion or race. The merit list can contain all castes and communities. Therefore, the candidates who qualify in the general merit cannot be shown against the reserved seat. In so far as the decision of Government of India pursuant to the recommendations of the National Commission for Minorities Act, 1992 to provide reservations of 4.5% out of 27% reservations for OBCs, it is submitted that the said decision of the Government of India was set aside by the Division Bench of the Hon’ble High Court of A.P. in P.I.L. No.1, 22 and 56 of 2012 dated 28.05.2012 reported in 2012 SCC OnLine AP 113against which an Appeal was filed before this Hon’ble Court by the Government of India vide S.L.P.(c) No.18379 of 2012 wherein by order dated 13.06.2012, this Hon’ble Court declined to grant stay of the Order of the Hon’ble High Court and the main case is pending before this Hon’ble Court.
14. That a writ petition (C) No. 596 of 2015 dated 23.07.1995 came to be filed before this Hon’ble Court seeking for identical relief and the same is pending adjudication before this Hon’ble Court. A true copy of the Case Status in Writ petition (C) No.596 of 2015 pending before this Hon’ble Court dated Nil is annexed hereto and marked as **ANNEXURE P-13 (Pages 76-77)**
15. That Letter being F.No.21-2/2015 (CU) dated 23.03.2016 was issued by the University Grants Commission to the Registrar of various Central Universities for Revised Budget Estimates for 2015-2016 under Non-Plan of Central Universities. A true copy of the Letter being F.No.21-2/2015 (CU) dated 23.03.2016 issued by the University Grants Commission to the Registrar of various Central Universities is annexed hereto and marked as **ANNEXURE P-14 (Pages 78-79)**
16. That Letter No.F. No.59-6/2012 (CU) dated 03.06.2016 came to be issued by the University Grants Commission to the Registrar of various Central Universities for the implementation of reservation policy in admission and appointment. A true copy of the letter No.F. No.59-6/2012 (CU) dated 03.06.2016 issued by the University Grants Commission to the Registrar of various Central Universities is annexed hereto and marked as **ANNEXURE P-15 (Pages 80-81)**
17. It is submitted that by Orders dated 23.03.2012 in I.A.No.16 of 2012 in Civil Appeal No.1944 of 1993 in the case of Anand S. Biji Vs. State of Kerala and order dated 09.05.2017 in W.P. (C) No.267 of 2017, a scheme has been approved by this Hon’ble Court, according to which, the Directorate General of Health Services, in Ministry of Health and Family Welfare, the Government of India has been entrusted with the responsibility to conduct Online Counselling for allotment of Undergraduate (MBBS/BDS) seats in participating Central Educational Institutions and State Government Medical colleges of the country. As per the Online counselling 27% reservations are provided to the OBCs, 15% reservations to the SCs and 7.5% reservations to the STs in Central Institutions. The reservations in 15% All India Quota for the undergraduate seats means the seats which are included in National pool by the participating State Government Institutions. Out of this 15% All India quota (MBBS/BDS) seats, 15% seats are reserved for the SCs, 7.5% seats are reserved to the STs but 27% reservations are not provided to OBC candidates in the Institutions other than the central institutions. A true copy of the Order dated 09.05.2017 passed by this Hon’ble Court in Writ petition (C) No. 267 of 2017 is annexed hereto and marked as **ANNEXUREP-16 (Pages 82-87)**
18. Thatit is submitted that a similar case by way of Public Interest Litigation vide PIL No.87 of 2018 was filed on the file of the High Court of Judicature at Bombay, Bench at Nagpur which is pending for providing 27% reservation of OBCs in 15% All India Quota for admissions in the under graduate (MBBS/BDS) medical colleges of Maharashtra. The Ministry of Health and Family Welfare filed Counter Affidavit dated July, 2018 in PIL No. 87 of 2018 pending before the Hon’ble High Court of Bombay, Nagpur Bench. A true copy of the Counter Affidavit dated Nil.07.2018 filed by the Ministry of Health and Family Welfare before the Hon’ble High Court of Judicature at Bombay, Nagpur Bench, Nagpur in PIL No.87 of 2018 is annexed hereto and marked as **ANNEXURE P-17 (Pages 88-92)**
19. That this Hon’ble Court vide final judgment and order dated 24.08.2018 in Civil Appeal No. 8529 of 2018 and connected cases was pleased to set aside the judgment passed by the Hon’ble High Court. A true copy of the order dated 24.08.2018 passed by this Hon’ble Court in Civil Appeal No. 8529 of 2018 and connected cases is annexed hereto and marked as **ANNEXURE P-18 (Pages 93-112)**
20. Similarly, the Directorate General of Health Services, Ministry of Health and Family Welfare has been entrusted with the responsibility for the distribution of seats available under 50% Post Graduate (MD/MS) and PG Diploma Courses seats in participating Central Educational Institutions and State Government Medical colleges of the country by way of an entrance test namely National Eligibility cum Entrance Test (NEET) conducted by the National Board of Examinations. As per the onlinecounselling, 27% reservations are provided to the OBCs, 15% reservations to the SCs and 7.5% reservations to the STs in Central Government Medical/Dental Colleges.The distribution of seats available under 50% All India Quota for the Post Graduate seats means the seats which are included in National pool by the participating State Government Institutions. But the distribution of seats available under 50% of the Post Graduate (MD/MS/PG Diploma courses) seats in respect of the Medical/Dental colleges/Institutions other than the Central Government are concerned, 15% seats are reserved for the SCs, 7.5% seats are reserved to the STs, but 27% reservations are not provided to OBC candidates. A true copy of the Information Bulletin for National Eligibility cum Entrance Test (Post Graduate) for admission to MD/MS/PG Diploma courses 2019 Admission Session dated 02.11.2018 is annexed hereto and marked as **ANNEXURE P-19 (Pages 113-177)**
21. It is submitted that in so far as the reservations in 15% All India quota MBBS/BDS Undergraduate seats are concerned, the SCs are provided 15% and STs are provided 7.5% reservations in the entire quota in all Central and State Institutions, but in so far as the 27% reservations to OBCs are concerned, the reservations are provided in the Central Educational Institutions but not in the State Government Institutions other than the Central Educational Institutions.
22. The Directorate General of Health Services entrusted the job of conducting National Eligibility cum Entrance Test (NEET-PG) to the National Board of Examinations for making admissions as per the aforesaid scheme.
23. Hitherto, the Central Government used to fill up all the seats of Undergraduate and P.G. seats by conducting a Common Entrance Test following the rule of reservations of 27% in favour of OBCs, 15% in favour of SCs and 7.5% in favour of STs in all the Central Government Institutions. Similarly, the State of A.P. and Telangana used to fill up all the seats of the State by conducting a Common Entrance Test by providing 29% in favour of OBCs, 15% in favour of SCs and 7.5% in favour of STs in all the State Government Institutions as well as private medical colleges.
24. The Central Government is continuing its policy of implementing reservations in favour of OBCs, SCs and STs in respect of the admissions of all the UG and PG colleges of the Central Government Institutions.
25. Pursuant to the directions of this Hon’ble Court to have a common Entrance Test, the participating State Governments have agreed to have the common National Eligibility cum Entrance Test (NEET) and to fill up the 50% of their Post Graduate (MD/MS) and PG Diploma courses by the Directorate General of Health Services and the remaining 50% of seats filled by the concerned State Government/Designated Counseling Authority. However, 50% seats to be distributed by the Directorate of Health Services and the remaining 50% of seats by the concerned State Government/Designated Counselling Authority through NEET only. The 50% seats of the National pool of the State Government PG (MD/MS) and P.G. Diploma courses belonging to the concerned States were enjoying the reservations as per the respective rule of reservations of the States. The participating States never gave up their right to implement the Rule of Reservations in favour of OBCs. Even now the 50% of the PG (MD/Ms) and P.G. Diploma courses to be filled by the concerned State Government/Designated Counselling Authority, the Rule of Reservation of the concerned State is being continued. But the remaining 50% of seats available under 50% quota to be filled by the Directorate General of Health Services, the 27% reservations are not being provided.
26. Similarly, the 15% of National Pool for admissions in Undergraduate medical colleges, the OBCs were enjoying the Rule of Reservations as per the respective Rules of the States. On mere participating by the States for the Common Eligibility Entrance Test, the Directorate General of Health Services is denying to provide the 27% of reservations to the OBCs out of 15% of the Common Pool. The State Governments are implementing the rule of reservations in favour of OBCs for the remaining 85% of the seats filled up by the concerned State Government/Designated Counselling Authority.
27. The Petitioner submits that the action of the Respondents in denying the 27% reservations for the OBCs in the 15% All India Quota for Undergraduate seats in the State Government Institutions other than the Central Educational Institutionsand 50% of All India quota PG (MD/Ms) and P.G. Diploma courses seats in the State Government Institutions other than the Central Educational Institutionsis illegal, arbitrary, against Article 14 of the Constitution of India, discriminatory and unconstitutional. The right of OBCs to have reservations in the seats belonging to the State Government situated within the respective States has not taken away by any Act or enactment or by any judgments of this Hon’ble Court. Equality before law prohibits discrimination. The concept of “equal protection of laws” requires the States to give special treatment to persons in different situations in order to establish equality among all. Therefore, equals could be treated equally while un-equals would have to be treated equally. Treating un-equals as equals is to perpetuate inequality.
28. This Hon’ble Court in the case of Anand S. Biji Vs. State of Kerala reported in (2012) 13 SCC 713 have approved certain guidelines about method and manner of distribution of the seats available under 15% All India quota of Undergraduate seats and 50% of the All India P.G seats but never dealt with the 27% reservations in favour of OBCs, 15% reservations in favour of SCs and 7.5% reservations in favour of STs. The right of OBCs to get reservations in respect of State Government UG & PG Medical seats has not been taken away. In fact in para 6 of the said judgement it is stated as follows: “*6.Since the modifications were sought with regard to an order passed by this Court on 22-4-1993 [Anand S. Biji v. State of Kerala, (1993) 3 SCC 80], we considered the matter at length and perused the record. We also found that no notices are required to be sent to any of the parties or the State Governments as the proposed modifications in the said order are only beneficial to the candidates appearing in the said examination. These candidates would not only be saving considerable time if online counselling is permitted but would be able to save money as well. It would also have a greater transparency in the whole process.”*
29. The State of A.P & Telangana participated in the National pool for the distribution of 15% of undergraduate seats in the medical colleges of the State Government from the year 2017-18 and for 50% of the PG seats in the medical colleges of the State Government from the year 2018-19. There are about 4064 UG seats in the National pool of 15% and 7942 PG seats under 50% National pool of all the participating States. In the Central institutions of the medical colleges for the undergraduate and PG seats 27% reservations are provided in favour of OBCs, 15% seats in favour of SCs and 7.5% seats in favour of STs by virtue of Central Educational Institutions (Reservation in admission) Act, 2006 and the OM issued by the Ministry of Human Resources Development vide OM No.1-1/2005-U.IA/847 dated 20.04.2008.
30. The Respondents in utter violation of Constitutional Rights guaranteed in favour of OBCs to enjoy 27% reservations in the Central and State Government Institutions are denying the said 27% reservations for the OBCs while providing 15% reservations for SCs and 7.5% reservations for STs.It is pertinent to note that the States of A.P. and Telangana prior to the merger used to provide 29% reservations to the OBCs.
31. The Petitioner are seeking to implement the rule of 27% reservations in favour of OBCs for the academic year 2019-20 and onwards in the UG and PG coursesalso in the State Government Institutions other than the Central Educational Institutions. All over India, the OBCs are entitled for 27% reservations in the undergraduate medical courses and they are entitled to be allotted 1097 seats. But whereas the reservations are implemented in the Central Educational Institutions only by allotting 69 seats which constitutes 1.69% and OBCs have lost 1028 seats during the admission process for the Academic Year 2018-19 and if 27% reservations are not provided in favour of OBCs again the same loss will be incurred by the OBCS. Similarly, the OBCs are entitled 27% reservations i.e., 2144 seats in PG colleges out of the National pool of 7942 seats. As the Government is only implementing 27% reservation in respect of PG seats in the Central Institutions and they are going to get 233 seats only i.e., 2.9% and they are going to lose 1911 seats. The similar loss was incurred during the Academic Year 2018-19. The details of the Academic Year 2018-19 of the allotment of seats and the loss of seats caused to the OBCs are as follows:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Academic Year | Course | Total Seats in National Pool | No. of Seats should be allotted for OBCs as per 27% reservation | Actual No. of seats allotted for OBCs | No. of seats lost by the OBCs |
| 2018-19 | MBBS UG | 4064 | 1097 | 69 (1.69%) | 1028 |
| 2018-19 | PG | 7942 | 2144 | 233 (2.9%) | 1911 |

1. Therefore, the Petitioner are constrained to file this Writ Petition under the extraordinary jurisdiction of this Hon’ble Court under Article 32 of the Constitution of India as their fundamental rights guaranteed under Part III have been infringed.
2. It is submitted that the some of the candidates belonging to OBC made a representation through J.LakshmiNarasimha, Founder National President of BC SC/ST Minority Students Federation to the Hon’ble Chief Minister on 08.01.2019 but no action has been taken by the State of A.P. A true copy of the representation dated 08.01.2019 submitted to the Hon’ble Chief Minister of Andhra Pradesh Government on 08.01.2019 by J.Lakshmi Narasimha, Founder National President of BC SC/ST Minority Students Federation is annexed as **ANNEXURE P-20 (Pages 178-180)**
3. It is submitted that on 05.03.2019, the Respondents have issued the Schedule for conducting the counselling for the Admissions into PG (MD/MS) and PG Diploma Courses for the Academic Year 2019-20 which is commencing from 12.03.2019. A true copy of the Schedule for counseling for admission into PG (MD/MS) and PG Diploma courses notified on 05.03.2019 for academic year 2019-20 is annexed hereto and marked as **ANNEXURE P-21 (Pages 181-182)**
4. For the aforesaid reasons, we submit that the following pivotal questions of law arises: -
5. Whether the action of Respondents in denying the 27% reservations in favour of OBCs in 15% All India Quota of Undergraduate seats and 50% PG seats of the respective Medical Colleges of the State Governments violates the fundamental rights guaranteed under Article 15(5) of the Constitution of India, respective rules of the State Governments providing reservation in favour of OBCs and the Act 5 of 2007 amended by Act 31 of 2012?
6. Whether the action of the Respondents denying 27% reservations in favour of OBCs in 15% All India Quota of Undergraduate seats and 50% PG seats of the respective Medical Colleges of the State Governments is in violation of the Judgment of this Hon’ble Court in the case of Ashoka Kumar Thakur Vs. Union of India & Others reported in (2008) 6 SCC 1?

**GROUNDS**

1. Because the non-implementation of 27% of reservations in favour of OBCs in All India Pool of 15% undergraduate (MBBS/BDS) Medical seats and 50% of PG (MD/MS/Post Graduate Diploma Courses)in the State Government Institutions other than the Central Educational Institutions violates Article 14 and Article 15 (5) of the Constitution of India.
2. The action of the Respondents in denying 27% of the OBCs under the Central Pool of 15% UG seats and 50% of PG seats in the State Government Institutions other than the Central Educational Institutions violates the Central Educational Institutions (Reservation in admission) Act, 2006 (No.5 of 2007) and the Central Educational Institutions (Reservation in Admission) Amendment Act, 2012 (No.31 of 2012).
3. Because the action of the Respondents in violating 27% reservations of the Central Pool of State Government UG and PG Medical seats is in violation of the Judgment of this Hon’ble Court in the case of Ashoka Kumar Thakur Vs. Union of India reported in (2008) 6 SCC 1.
4. The action of the Respondents in erroneously relying on the order in I.A.7 of 2007 in WP(C) No.18 of 2005 in the case of Buddhi Prakash Sharma Vs. Union of India is ultimately disposed of by order dated 11.08.2008 on the line of interim order passed on 31.01.2007 in the said case which is nothing to do with the implementation of 27% reservation in favour of OBCs.
5. Because the action of the Respondents in not providing 27% reservations in the 15% of the All India Pool of UG seats and 50% of All India Pool of PG seats allotted by the Directorate General of Health Services, Minister of Health and Family Welfare and the Medical Counseling Committee in the institutions other than the Central Government Institutions amounts to taking away the existing rights of availing reservations as per the State rules.
6. That the petitioner has not filed any other Writ Petition seeking the same or similar relief.

**PRAYER**

It is therefore most respectfully prayed that this Hon’ble Court may graciously be pleased to:

1. Issue a Writ, order or direction particularly writ in the nature of Mandamus declaring the action of the Respondents particularly the Directorate General of Health Services, Ministry of Health and Family Welfare in not providing 27% reservations in favour of OBCs in 50% All India Quota Post Graduate (MD/MS) and PG Diploma courses in the State Government Medical Institutions other than Medical Educational institutions of the Central Government as illegal, unconstitutional, discriminatory and violative of Article 14, 15, 19(1)(g) and 21 of the Constitution of India; and
2. Issue Writ of Mandamus declaring the action of the Respondents particularly the Directorate General of Health Services, Ministry of Health and Family Welfare in not providing 27% reservations in 15% All India Quota (MBBS/BDS) Undergraduate seats of the State Government Medical Institutions other than Medical Educational institutions of the Central Government as illegal, unconstitutional, discriminatory and violative of Article 14 of the Constitution of India; and
3. Direct the Respondents particularly the Directorate General of Health Services, Ministry of Health and Family Welfare to provide 27% reservations for OBCs in 50% All India Quota Post Graduate (MD/MS) and PG Diploma courses in the State Government Medical Institutions in addition to Medical Educational institutions of the Central Government and 27% reservations for OBCs in 15% All India Quota (MBBS/BDS) Undergraduate seats of the State Government Medical Institutions in addition to the Central Government Medical Educational institutions similar to the reservations provided to SCs & STs; and
4. Pass such other and further orders as this Hon’ble Court may think fit and proper in the interest of justice and equity.

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

**FILED BY:**

Krishna Kumar Singh

Advocate for Petitioner

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