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IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P. No. 2950 /2003

PETITIONER

T. Aparna

Aged about 16 years

Through Father & natural

Guardian Shri T.V. Rao

Aged about 47 years

S/O T. Ramlingueshwar

Rao, R/O 21, Guruvihar

Colony, Raipur (Chhattisgarh)

P. R. No. 2627/03  
Presented by Shri. Ramlingueshwar  
dated 12.09.03

VERSUS

RESPONDENTS

1. State of Chhattisgarh  
Through the Secretary  
Department of Health  
Family Welfare and Medical  
Education
2. Director  
Physio-Therapy Course  
Pt. JNM, Medical College  
Raipur (Chhattisgarh)
3. Charli Verma  
D/O Not known  
C/O Director  
Physio-Therapy Course  
Pt. JNM, Medical College  
Raipur (Chhattisgarh)



RECEIVED COPY.  
17/9/03  
CLERK TO A.C. BILASPUR

PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR  
ISSUANCE OF WRIT OF CERTIORARI AND MANDAMUS AND FOR  
SUITABLE WRITS AND DIRECTIONS :

आदेश पत्रक

W.P. NO. 2950/2003

मामला क्रमांक

सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p><u>19/12/2003</u></p> <p>Shri Anand Kumar Tiwari counsel for the petitioner.</p> <p>Shri Sanjay K. Agarwal, Dy. Advocate General for the respondents no. 1 and 2/State.</p> <p>Shri Y.C. Sharma, counsel for the respondent no.3.</p> <p>By this writ petition under Article 226 of the Constitution of India, petitioner has challenged the decision of the respondent no.2 in not admitting the petitioner in the first year Physiotherapy Course 2003-2004 in Pandit Jawarharlal Nehru Memorial Medical College, Raipur.</p> <p>The case of the petitioner is that the petitioner is resident of Bilaspur. She passed her 12<sup>th</sup> examination in the year 2002-2003 with 72% marks in Physics, Chemistry and Biology which are recognized for the purpose of admission of first year Physiotherapy Course. The copy of the mark-sheet is annexed as Annexure/P-1.</p> <p>The respondents vide newspaper item (Annexure P.2) invited</p>	

## आदेश पत्रक

मामला क्रमांक ..... सन् 200

विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>applications of the desirous candidates seeking admission to the aforesaid Physiotherapy Course for the year 2003-2004. Accordingly, petitioner applied, for the admission to the said course within time. Petitioner was called for counseling on 11/08/2003 and petitioner appeared in the said counseling. However, petitioner was not selected and thereafter the second counseling was conducted on 28/08/2003 and notice of the same was sent to the petitioner, but that was received by the petitioner on 05/09/2003 by which date the counseling was already over. However, in that counseling no body was selected and respondents decided to conduct the subsequent counseling on 01/09/2003 for which respondents invited three students telegraphically and among, those, respondent no.3 was one of the candidates. Unfortunately, the petitioner was not informed. When the petitioner came to know about that the petitioner made a representation dated 15/09/2003 (Annexure P/7). Her representation was not decided and neither the petitioner was given</p>	

## आदेश पत्रक

मामला क्रमांक ..... सन् 200

विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>admission. Even though the respondent no.3 is having less marks than the petitioner, she was admitted in the Course. This has happened on account of faulty procedure adopted by the respondents in sending communication to the candidates. It has been prayed that writ of certiorari be issued for quashing the decision whatever taken by the respondents admitting the respondent no.3 in place of the petitioner for the seat available to the petitioner on the basis of comparative academic merit and respondent no.3 be directed immediately to admit the petitioner on the basis of academic merit in the first year of Physiotherapy Course. Return has been filed on behalf of the respondents no. 1 and 2 in which it has been mentioned that the refusal to admit the petitioner in Physiotherapy Course for the year 2003-2003 is absolutely in accordance with law and as such there is no illegality and irregularity warranting interference by this Court under Article 226 of the Constitution of India. The petitioner was duly noticed on</p>	

## आदेश पत्रक

मामला क्रमांक ..... सन् 200

विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 4 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>the second counseling held on 11/08/2003 by Under Certificate of Posting and secondly for the counseling held on 28/08/2003. In the first counseling the petitioner appeared pursuant to the call letter issued by the College. Copy of the U.P.C. dated 07/08/2003 sent to the proposed candidates for second counseling is filed as Annexure R.1. In the third counseling also call letter was issued to the petitioner by UPC on 21<sup>st</sup> August, 2003. In the second counseling the petitioner was not selected being not qualified for the same and in third counseling the petitioner had not turned up. The allegations made in para 5.3 are denied. Ultimately, it has been prayed that the writ petition be dismissed.</p> <p>I have heard learned counsel for the parties.</p> <p>Learned counsel for the petitioner submits that the petitioner could not appear in the counseling held on 28/08/2003 as she had not received the call letter and the same was received on 05/09/2003. Thereafter, the respondents fixed the next</p>	

## आदेश पत्रक

मामला क्रमांक ..... सन् 200

विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 5 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>counseling on 01/09/2003 in which only other three candidates including the respondent no.3 were invited for counseling communicating them through telegram whereas the petitioner was not communicated. By adopting this procedure less meritorious student than the petitioner, has been admitted and petitioner has been denied for no fault of the petitioner.</p> <p>On the other hand, Shri Sanjay K. Agrawal, Dy. Advocate General submitted that since the petitioner had not appeared in the counseling dated 28/08/2003, therefore, she was not informed to appear in the counseling dated 01/09/2003. Only those candidates, who were not earlier invited, were informed by telegram. Therefore, no fault lies with the respondents.</p> <p>Shri Y.C. Sharma, counsel for the respondent no.3 while arguing the matter submitted that as per his client's information still two seats are lying vacant, therefore, if at all the petitioner is directed to be considered for the said course then the two seats are</p>	

## - आदेश पत्रक

मामला क्रमांक ..... सन् 200

विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 6 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>already available and petitioner's case can be considered against those posts. On this, Dy. Advocate General was asked to confirm and learned Dy. Advocate General after inquiring from Dr. S.K. Mukherjee, Director of Physiotherapy Course, submits that two seats are lying vacant because two students have withdrawn from their admission and out of these two seats, one seat is against reserved category and another is against general category.</p> <p>Having heard the learned counsel for the parties and having regard to the facts and circumstances of the case, it is an admitted position that for the counseling dated 28/08/2003 the petitioner had not received the call letter which was received by the petitioner on only on 05/09/2003 and thereafter the petitioner was not invited for the counseling dated 01/09/2003 and the other three less meritorious candidates were invited by communicating them through a telegram, as informed that the two seats are still lying vacant, I am of the opinion, in the circumstances, since two seats are lying</p>	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

## आदेश पत्रक

मामला क्रमांक ..... सन् 200

विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 7 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>vacant and less meritorious student than the petitioner has already been admitted to the Course, In the circumstances, I deem it appropriate to direct the respondent no.2 to consider the case of the petitioner against the seats lying vacant as petitioner has been denied consideration for admission on account of no fault on her part.</p> <p>In the result, the petition is allowed and it is directed that the respondent no.2 to consider the case of the petitioner for admission to the Physiotherapy Course for the year 2003-2003, as early as possible.</p> <p>Certified copy as per rules.</p>	
		<p>Sd/- L.C. Bhadoo Judge</p>

[पीछे देखिये]

Ry  
2/12/2011