



(Proceedings through Video Conferencing)

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WPS No. 7183 of 2021

1. Abhay Kumar Kispotta S/o Shri J.S. Kispotta Aged About 35 Years R/o - Ward No. 11 Kasra, Post And Tahsil Baikunthpur, District Koriya Chhattisgarh.
2. Dr. Ajay Tripathi S/o Shri Surendra Tripathi Aged About 30 Years R/o - Civil Line, Pandingh Nagar, C.M. House, Raipur, District- Raipur Chhattisgarh.
3. Alyus Xaxlo S/o Shri Johan Xaxlo Aged About 29 Years R/o- Village Jamargi (Bag Bahra), Jamargi (Bag Bahra), Jashpur, District Jashpur Chhattisgarh.

---- Petitioners

Versus

1. State of Chhattisgarh Through Its Secretary Department of Medical Education, Manytralaya, Mahanadi Bhawan Atal Nagar, Nava Raipur, District Raipur Chhattisgarh.
2. Director Directorate of Midical Education, Old Nurses Hostel, DKS Bhawan Parisar, Raipur, District Raipur Chhattisgarh.
3. Chhattisgarh Public Service Commission Through Its Secretary, Shankar Nagar Road, Raipur District Raipur Chhattisgarh.

---- Respondents

WPS No. 7184 of 2021

Aditya Singh S/o Shri Atul Ranjan Singh Aged About 31 Years R/o - H.No. 195/1 Gondpara, Ward No.11, Upar Para Ajirma, Raghavpuri, District Surajpur Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh Through Its Secretary Department of Medical Education, Mantralaya, Mahanadi Bhawan Atal Nagar, Nava Raipur District Raipur Chhattisgarh.
2. Director Directorate of Medical Education, Old Nurses Hostel, DKS Bhawan Parisar, Raipur, District Raipur Chhattisgarh.
3. Chhattisgarh Public Service Commission Through Its Secretary, Shankar Nagar Road, Rapur, District Raipur Chhattisgarh.

---- Respondents

(Cause-title taken from Case Information System)



13.01.2022	Heard Mr. Ghanshyam Kashyap, learned counsel for the petitioners. Also heard Mr. Gagan Tiwari, learned Deputy Government Advocate appearing for respondents No.1 & 2 and Mr. Anand Mohan Tiwari, learned counsel appearing for respondent No.3. The petitioners contended in the writ petitions that they are having requisite educational qualification prescribed in the advertisement dated 08.12.2021 issued by the Chhattisgarh Public Service Commission ('CGPSC'), amongst others, for the post of Assistant Professor (Nursing) and Demonstrator (Nursing) as they had completed B.Sc. (Nursing). It is also stated that they had three years experience and are registered with the Chhattisgarh State Nursing Council. However, they are unable to take part in the recruitment process in view of Clause 5 of the advertisement which provides that only female candidates are eligible to apply. The petitioners have accordingly challenged Clause 5 of the advertisement dated 08.12.2021 and Note-2 of Schedule-II to the Chhattisgarh Medical Education (Gazetted) Service Recruitment Rules, 2013, for short, the Rules. However, it is not actually Schedule-II but Schedule-III of Note-2, which provides that only female candidates will be eligible for direct recruitment to the service for the post of Assistant Professor (Nursing) and Demonstrator (Nursing). Mr. Ghanshyam Kashyap, learned counsel for the petitioners submits that such 100% reservation is impermissible in law.



Mr. Gagan Tiwari, learned State counsel appearing for respondents No.1 and 2, however, submits that such reservation is permissible in law as the Assistant Professor (Nursing) and Demonstrator (Nursing) to be appointed will teach in the Female Government Medical Colleges of the State of Chhattisgarh.

Mr. Anand Mohan Tiwari, learned counsel appearing for respondent No.3 submits that respondent No.3 had issued the advertisement in terms of the Rules in question and there is no illegality in the advertisement.

The respondents No.1 and 2 has filed reply-affidavit on 09.01.2022.

It appears that 33 posts of Assistant Professor (Nursing) and 58 posts of Demonstrator (Nursing) are notified in the said advertisement.

The last date for submission of application form is 14.01.2022.

Till now, no formal notice is issued.

Issue notice, returnable on 24.02.2022.

No formal steps are called for with regard to the respondents, as they are duly represented.

The petitioners may file rejoinder-affidavit to the reply filed by respondents No.1 and 2, in the meantime.

After hearing learned counsel for the parties and on perusal of the material on record, we are of the view that an interim order is called for.



Till the next date fixed, while the applications may be submitted by the candidates eligible under the advertisement, it is directed that no further process shall be undertaken with regard to the advertisement dated 08.12.2021.

It is observed that an attempt may be made for disposal of the writ petitions at the admission stage itself.

Sd/-

(Arup Kumar Goswami)
Chief Justice

Sd/-

(N. K. Chandravanshi)
Judge

