

ITEM NO.41

COURT NO.8

SECTION XIV

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

Petition(s) for Special Leave to Appeal (C) No(s). 3293/2023

(Arising out of impugned final judgment and order dated 27-01-2023 in WPC No. 16175/2022 passed by the High Court Of Delhi At New Delhi)

GOPIKA NAIR &amp; ORS.

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.31846/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 31846/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 47071/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 11-04-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI  
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Petitioner(s)

Mr. K.Parameshwar, AOR  
Mr. Navdeep Singh, Adv.  
Mr. Mv Mukunda, Adv.  
Ms. Arti Gupta, Adv.  
Ms. Kanti, Adv.

For Respondent(s)

Mr. K M Nataraj, A.S.G.  
Ms. Rukhmini Bobde, Adv.  
Mr. Vatsal Joshi, Adv.  
Mr. P V Yogeswaran, Adv.  
Mr. Vinayak Sharma, Adv.  
Mr. Arvind Kumar Sharma, AOR

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

1. *Prima facie*, we are of the view that the stand of the respondent is violative of Article 14 of the Constitution of India. Whereas the male candidates who have rank till 2394 are

permitted to participate in the selection process, in so far as the female candidates are concerned, the cut-off rank is 235.

2. It is sought to be argued by Mr. K.M. Nataraj, learned Additional Solicitor General that this is on the ground of various exigencies which are peculiar to the defence services. It is submitted that taking into consideration this aspect in the present selection process, only 10 per cent seats are reserved for female candidates.

3. We find that an anomalous situation has arisen due to such a stand. Whereas a male candidate who is 10 times less meritorious than a female candidate is permitted to appear in the selection process, a female candidate who is 10 times meritorious than a male candidate is deprived from being participating in the selection process.

4. Though, we have expressed readiness to hear the matter finally, learned Additional Solicitor General, appearing for the Union of India submits that taking into consideration wider ramification, the matter will have to be heard at length. He submits that the entire selection process is stalled thereby depriving the service of dental surgeon to which are necessary for the establishment of the defence service.

5. *Prima facie*, we find that depriving the highly

meritorious female candidates from participating in the selection process is putting the clock in reverse direction. Leave aside giving preferential treatment to the female as envisaged under Article 15 of the Constitution of India, the stand of the respondent-Union of India is violative of Article 14 of the Constitution of India, inasmuch as it deprives a meritorious female to compete and permits much less meritorious male to participate in the selection process.

6. In any event, learned Additional Solicitor General, on instructions, has expressed willingness to conduct the interviews of the present petitioners whose ranking in the NEET (MDS) - 2022 is much below 235.

7. It is further stated that interview will be conducted within two weeks.

8. List this matter on 03.05.2023.

9. We request the learned Additional Solicitor General to place before us the result of the petitioners' interview alongwith the results of the interview of the other candidates.

10. Needless to state that after the interview of the petitioners are conducted, the respondent would be free to declare the results.

(DEEPAK SINGH)  
COURT MASTER (SH)

(ANJU KAPOOR)  
COURT MASTER (NSH)