



2025:AH-C-LKO:49768



AFR

## HIGH COURT OF JUDICATURE AT ALLAHABAD LUCKNOW

**WRIT - C No. - 7820 of 2025**

Sabra Ahmad

.... Petitioners

**Versus**

State Of U.P. and others

....Respondents

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**Counsel for Petitioner(s):** Moti Lal Yadav**Counsel for Respondent(s):** C.S.C., Syed Mohammad Haider Rizv

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**HON'BLE PANKAJ BHATIA, J.**

1. Heard learned counsel for the petitioner, Shri Syed Mohd. Haider Rizvi, learned counsel for respondent No.2 and Shri Vinod Kumar Shahi, learned Additional Advocate General assisted by Shri Rahul Shukla, learned Chief Standing Counsel for the State-respondents.

2. The Petition raises a very important issue with regards to permissible extent of reservation for entrance in medical colleges in four Government Medical colleges at Ambedkar Nagar, Kannauj, Jalaun and Saharanpur.

3. The facts in brief are that the petitioner had appeared in the NEET-2025 examination and had secured 523 marks /All India Rank 29061. It is stated that for providing the reservation in the State of Uttar Pradesh for

the admission to the educational institutions, the State Government has framed an Act, which is known as Uttar Pradesh Admission to Educational Institutions Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes Act, 2006 (hereinafter known as the 'Reservation Act of 2006').

4. It is stated that for giving the reservation, a seat matrix has been issued, which is on record as Annexure No.4 to the writ petition, wherein in respect of four Medical Colleges situated at Ambedkar Nagar, Kannauj, Jalaun and Saharanpur, the reservation is prescribed as under:-

**"Summary of Reserved MBBS Seats in Impugned Medical Colleges**

Government Medical College	MBBS Seats in State Quota	No of MBBS Seats in Category			
		Unreserved	SC	ST	OBC
Ambedkar Nagar	85	7	62	5	11
Kannauj	85	7	62	5	11
Jalaun, Orai	85	7	62	5	11
Saharanpur	85	7	62	5	11
Total Seats	340	28	248	20	44

**SEAT MATRIX**

Summary of Category Wise MBBS Seats Matrix in State								
Category	Nos	OP	GL	PH	EX	EF	NC	
UR	1705	1192	341	85	35	35	17	1705
BC	1151	805	230	58	23	23	12	1151
SC	1110	778	222	55	22	22	11	1110
ST	102	75	19	4	2	2	0	102
EW	374	264	75	18	7	8	2	374
Total	4442	3114	887	220	89	90	42	4442

UR: Unreserved. BC: Backward Class (OBC), SC: Scheduled Caste, Scheduled Tribe, EW: Economically Weaker Section (EWS) OP Open GL: Girls PH: Physically Handicapped EX Servicemen, FF: Freedom Fighters & NC: NCC Certificate"

5. In the light of the said seat matrix, the submission of learned counsel for the petitioner is that the reservation for SC/ST and OBC far exceed 50%, which is contrary to the Reservation Act of 2006. It is further argued that 15% seats of the said Medical Colleges equivalent to 60 seats of the impugned Colleges falling under the central quota are being allotted by the Medical Council Committee, a body of the Government of India, which is to prescribe the reservation in terms of the provisions contained in the Central Educational Institutions (Reservation in Admission) Act, 2006, and the rest of seats fall under the state quota to be allotted by the State Government as per the State Act of 2006, whereas, in the seat matrix as extracted above, the reservation is exceeding 79%, which is contrary to the State Act as well as the Central Act and also violative of the well settled principle of 50% reservation. It is stated that although, the petitioner has qualified, however, her merit would get adversely affected because of the illegal reservation prescribed by the respondents. It is stated that the petitioner has also given a representation to that effect. However, no decision was taken as such the Petitioner has approached this court.

6. In light of the said arguments, this Court had called the State Counsel as well as learned counsel for respondent No.2 to take instructions on the manner of providing reservations and the reasons thereof.

7. Learned Standing Counsel has filed detailed instructions sent by the State Government, which are taken on record.

8. Justifying the reservation as has been done in the seat matrix reflected above, it is stated that Government Orders dated 10.11.2006 as well as 29.01.2008 are of relevance which led to establishing the Medical Colleges at Jalaun and Ambedkar Nagar. Similarly, the Medical Colleges at Kannauj and Saharanpur were established on 20.01.2010 and 21.02.2011, the said Government orders stated that grants for setting up

medical colleges were received under the Special Component Plan of the central Government and also contained a prescription for reservation to the following extent, 70% would be reserved for the scheduled castes and scheduled tribes, 15% for the other backward classes and 15% shall be reserved for the general category.

9. To further justify the said Government Orders, it is stated that the said Government Orders were issued in pursuance of the letter dated 05.07.2007 issued by the Central Government while establishing the four Medical Colleges under the 'special component plan'. It is further stated that in pursuance of the said communication dated 05.07.2007, the Government Orders dated 13.07.2011, 19.07.2012, 17.07.2013 as well as 23.06.2015 were issued, wherein directions were given in respect of the reservation to be granted at the State level seats and the Central level seats to the following effect:-

क्र०सं०	श्रेणी	राज्य सरकार द्वारा आवंटित सीटें	भारत सरकार द्वारा आवंटित सीटें	योग
1	अनुसूचित जाति	62	02	64
2	अनुसूचित जनजाति	05	01	06
3	अन्य पिछड़ा वर्ग	11	04	15
4	अनारक्षित	07	08	15
	योग-	85	15	100

10. To further justify the said Act, the following has been pleaded in the instructions as reasoning:-

"5) The Uttar Pradesh Admission to Educational Institutions Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes Act, 2006 के अंतर्गत 50 प्रतिशत आरक्षण सामान्य व्यवस्था के अन्तर्गत है। भारत सरकार द्वारा निर्धारित स्पेशल कम्पोनेन्ट प्लान की गाइड-लाइन्स के अन्तर्गत स्पेशल कम्पोनेन्ट प्लान की धनराशि तभी व्यय की जा सकती है, जबकि इन्फ्रास्ट्रक्चर सेक्टर में प्रस्तावित इन्फ्रास्ट्रक्चर से लाभान्वित होने वाले कुल व्यक्तियों में से 50

प्रतिशत से अधिक व्यक्ति अनुसूचित जाति के हों। अनुसूचित जाति सब प्लान के सम्बन्ध में योजना आयोग, भारत सरकार के उक्त पत्र दिनांक 05.07.2007 के साथ संलग्न दिशा-निर्देश के अनुसार एस०सी०एस०पी० से शैक्षिक संस्थाओं की स्थापना हेतु 70 प्रतिशत छात्र/छात्रायें अनुसूचित जाति/अनुसूचित जनजाति तथा शेष 30 प्रतिशत सामान्य दर के छात्र/छात्राओं को प्रवेश दिये जाने के निर्देश हैं। साथ ही कुल व्यय में 70 प्रतिशत धनराशि एस०सी०एस०पी० तथा अवशेष 30 प्रतिशत धनराशि सामान्य योजना से वहन किये जाने तथा इन कोर्सों को चलाये जाने हेतु व्यय एस०सी०एस०पी० के परिव्यय से वहन के निर्देश हैं। इन दिशा-निर्देशों के अनुरूप मेडिकल कालेज की स्थापना भी अनुसूचित जाति सब प्लान (एस०सी०एस०पी०) से करायी जा सकती है।

विशेष समन्वित योजना (Special Component Plan) अनुसूचित जाति, जनजाति एवं अन्य पिछड़ा वर्ग के अभ्यर्थियों के सामाजिक, आर्थिक विकास को बढ़ावा देने व उनकी स्थिति में सुधार करने के उद्देश्य से केन्द्र सरकार एवं राज्य सरकार की एक सार्थक पहल है ताकि उन्हें शिक्षा, स्वास्थ्य, रोजगार एवं अन्य क्षेत्रों में समान अवसर मिल सके व गरीबी रेखा से ऊपर आ सके।"

11. The State Government has also placed before this Court the guidelines and additional guidelines issued by the Central Government pertaining to Schedule Caste Sub Plan issued to State Government for its effective implementation.. The guidelines were consolidated and communicated by the Planning Commission to the Planning secretary through letter dated October 31st, 2005. It is pleaded by the state that in pursuance of the said guidelines issued **for preparing the schemes/programmes under the special component plan and the tribal sub plan by the State Government,** . The guidelines based upon which the State Government had issued the Government Orders fixing the reservation and relevant for the present case are as under:-

*" 3 An educational complex in the name of educational institute may be set up in each district. The facilities relating to sports, multi-purpose hall, intermediate college with sports education may be provided in this institute on the pattern of Navodaya Vidyalaya and Kendriya Vidyalaya. This educational institute will also have classes from 1 to 12 with hostel facilities for 70% SC/ST boys and girls and 30% boys and girls from general population. 70% expenditure of*

*this institute will be provided from the SCP earmarked funds and 30% will come from the General Plan.*

*4. In every Divisional Headquarters, a polytechnic may be set up. Further, one of two training colleges for nursing and para-medical training courses, for nurses, ANMs, physiotherapists, technicians, radiologists may be provided exclusively for SCs & STs. The nursing colleges exclusively for SC/ST girls may be attached to medical colleges provided. 70% expenditure of this institute will be provided from the SCP earmarked funds and 30% will come from the General Plan. The expenditure for running these courses will be made out of Special Component Plan outlay earmarked in the State.*

*7. The candidates preparing for various competitive exams like admission in engineering colleges and medical colleges and other services may be allowed to take admission in any reputed private training centre and their full fees should be reimbursed by the Government from SCP/ TSP funds.*

*8. Government may also think of providing one time financial support of say Rs 25 to Rs. 40 lakhs to the recognized social institutions for starting intermediate /degree colleges in each Block exclusively for SC/ST boys and girls or admitting 70% SC/ST boys and girls and 30% boys and girls from general population as is being done in U.P."*

**12.** Taking a cue from the guidelines issued referred to above, the State Government issued the Government Order dated 20.01.2010, wherein for the first time, while taking a decision for establishing a Medical College at Kannauj, the following decision was taken:-

*"3- प्रश्नगत मेडिकल कालेज में प्रवेश हेतु निर्धारित कुल सीटों में से 70 प्रतिशत सीटें अनुसूचित जाति/जनजाति, 15 प्रतिशत सीटें पिछड़े वर्ग तथा 15 प्रतिशत सीटें सामान्य वर्ग के लिए आरक्षित रहेंगीं तथा प्रश्नगत संस्थान की स्थापना आदि पर होने वाले कुल व्यय का 70 प्रतिशत एस०सी०एस०पी० से तथा 30 प्रतिशत व्यय सामान्य योजना से वहन किया जायेगा। "*

**13.** Similarly, in respect of establishment of a Medical College at Saharanpur, the following decision was taken:-

“4- स्वीकृत की जा रही धनराशि का व्यय भारत सरकार तथा राज्य सरकार द्वारा निर्धारित एस०सी०एस०पी०/ टी०एस०पी० के मानक/दिशा-निर्देशों के अनुसार किया जाना सुनिश्चित करेंगे ।

5- प्रश्नगत मेडिकल कालेज में प्रवेश हेतु निर्धारित कुल सीटों में से 70 प्रतिशत सीटें अनुसूचित जाति/जनजाति, 15 प्रतिशत सीटें पिछड़े वर्ग तथा 15 प्रतिशत सीटें सामान्य वर्ग के लिए आरक्षित रहेंगीं तथा प्रश्नगत संस्थान की स्थापना आदि पर होने वाले कुल व्यय का 70 प्रतिशत एस०सी०एस०पी० से तथा 30 प्रतिशत व्यय सामान्य योजना से वहन किया जायेगा।”

14. Similarly, vide order dated 13.7.2011 while establishing a Medical College at Ambedkar Nagar, the following decision was taken:-

“उपर्युक्त विषयक आपके पत्र संख्या एमई-3/2011/6617, दिनांक 11.07.2011 के संदर्भ में मुझे यह कहने का निदेश हुआ है कि विशेष समन्वित योजना (एस०सी०पी०) के अन्तर्गत स्थापित राजकीय मेडिकल कालेज, अम्बेडकर नगर में एम०बी०बी०एस० पाठ्यक्रम की 100 सीटों के आवंटन के संबंध में समाज कल्याण विभाग की राय प्राप्त की गयी। समाज कल्याण विभाग द्वारा 100 सीटों में से 64 सीटें अनुसूचित जाति हेतु 06 सीटें अनुसूचित जनजाति हेतु, 15 सीटें अन्य पिछड़ा वर्ग हेतु तथा 15 सीटें अनारक्षित (सामान्य वर्ग) अभ्यर्थियों हेतु आवंटित किये जाने की राय दी गयी है।

उल्लेखनीय है कि भारत सरकार के पत्र संख्या-यू०-11011/05/2011-एम०ई०सी०, दिनांक 06.05.2011 में दिये गये निर्देशानुसार 15 प्रतिशत सीटें अर्थात् 100 में से 15 सीटें भारत सरकार को दिये जाने के फलस्वरूप 15 सीटों में भारत सरकार में लागू आरक्षण नीति के अनुसार श्रेणीवार निम्नांकित सीटें आवंटित की जायेगी:-

क्र०	श्रेणी	सीटें
1	अनुसूचित जाति	02(15%)
2	अनुसूचित जनजाति	01(7.5%)
3	अन्य पिछड़ा वर्ग	04(27%)
4	अनारक्षित (सामान्य)	08
	योग:-	15

3- राज्य सरकार द्वारा आवंटित की जाने वाली अवशेष 85 सीटों में से भारत सरकार द्वारा अनुसूचित जाति को आवंटित की जाने वाली 02 सीटों, अनुसूचित जनजाति को आवंटित की जाने वाली 01 सीट तथा अन्य पिछड़ा वर्ग को दी जाने वाली 04 सीटों को हटाने के उपरान्त तथा समाज कल्याण विभाग द्वारा दी गयी राय के अनुसार अनुसूचित जाति के अभ्यर्थियों को 61 सीटें, अनुसूचित जनजाति के अभ्यर्थियों को 06 सीटें, अन्य पिछड़ा वर्ग के अभ्यर्थियों को 15 सीटें बनाये रखने का तथा अनारक्षित (सामान्य) अभ्यर्थियों को 15 सीटें बनाये रखने को रखते हुए राज्य सरकार द्वारा अवशेष 85 सीटों तथा भारत सरकार द्वारा आवंटित की जाने वाली 15 सीटों का श्रेणीवार विवरण निम्नवत् होगा:-

क्र०	श्रेणी	राज्य सरकार द्वारा आवंटित सीटें	भारत सरकार द्वारा आवंटित सीटें	योग
1	अनुसूचित जाति	62	02	64
2	अनुसूचित जनजाति	05	01	06
3	अन्य पिछड़ा वर्ग	11	04	15
4	अनारक्षित (सामान्य)	07	08	15
	योग	85	15	100

कृपया शासन द्वारा लिये उपर्युक्त निर्णयानुसार यथावश्यक कार्यवाही करने का कष्ट करें।”

15. Similarly, in respect of establishment of a Medical College at Kannauj having 100 seats, a decision was taken with regard to fixing the reservation by the Government order dated 19.07.2022 to the following effect:-

“उपर्युक्त विषयक आपके पत्र संख्या-एमई-3/2012/342, दिनांक 05.07.2012 के संदर्भ में मुझे यह कहने का निदेश हुआ है कि विशेष समन्वित योजना (एस०सी०पी०) के अन्तर्गत स्थापित राजकीय मेडिकल कालेज, कन्नौज में एम०बी०बी०एस० पाठ्यक्रम की 100 सीटों के आवंटन के संबंध में समाज कल्याण विभाग की राय प्राप्त की गयी। समाज कल्याण विभाग



द्वारा 100 सीटों में से 64 सीटें अनुसूचित जाति हेतु 06 सीटें अनुसूचित जनजाति हेतु, 15 सीटें अन्य पिछड़ा वर्ग हेतु तथा 15 सीटें अनारक्षित (सामान्य वर्ग) अभ्यर्थियों हेतु आवंटित किये जाने की राय दी गयी है।

2 – उल्लेखनीय है कि भारत सरकार के पत्र संख्या-यू०-11011/06/2011-एम०ई०सी०, दिनांक 06.05.2011 में दिये गये निर्देशानुसार 15 प्रतिशत सीटें अर्थात् 100 में से 15 सीटें भारत सरकार को दिये जाने के फलस्वरूप 15 सीटों में भारत सरकार में लागू आरक्षण नीति के अनुसार श्रेणीवार निम्नांकित सीटें आवंटित की जायेगी:-

क्र०	श्रेणी	सीटें
1	अनुसूचित जाति	02(15%)
2	अनुसूचित जनजाति	01(7.5%)
3	अन्य पिछड़ा वर्ग	04(27%)
4	अनारक्षित (सामान्य)	08
	योग	15

राज्य सरकार द्वारा आवंटित की जाने वाली अवशेष 85 सीटों में से भारत सरकार द्वारा अनुसूचित जाति को आवंटित की जाने वाली 02 सीटें, अनुसूचित जनजाति को आवंटित की जाने वाली 01 सीट तथा अन्य पिछड़ा वर्ग को दी जाने वाली 04 सीटों को हटाने के उपरान्त तथा समाज कल्याण विभाग द्वारा दी गयी राय के अनुसार अनुसूचित जाति के अभ्यर्थियों को 64 सीटें, अनुसूचित जनजाति के अभ्यर्थियों को 06 सीटें, अन्य पिछड़ा वर्ग के अभ्यर्थियों को 15 सीटें तथा अनारक्षित (सामान्य) अभ्यर्थियों **अपठित 15 सीटें** बनाये रखने को दृष्टिगत रखते हुए राज्य सरकार द्वारा अवशेष 85 सीटों तथा भारत सरकार द्वारा आवंटित की जाने वाली 15 सीटों का श्रेणीवार विवरण निम्नवत् होगा:-

क्र०	श्रेणी	राज्य सरकार द्वारा आवंटित सीटें	भारत सरकार द्वारा आवंटित सीटें	योग
1	अनुसूचित जाति	62	02	64
2	अनुसूचित जनजाति	05	01	06

3	अन्य पिछड़ा वर्ग	11	04	15
4	अनारक्षित (सामान्य)	07	08	15
	योग	85	15	100

कृपया शासन द्वारा लिये उपर्युक्त निर्णयानुसार यथावश्यक कार्यवाही करने का कष्ट करें।”

16. Similarly, in respect of a Medical College at Jalaun, a decision was taken vide Government Order dated 17.07.2013 to the following effect:-

“उपर्युक्त विषयक आपके पत्र संख्या-एमई-3/2013/1901, दिनांक 16.07.2013 के संदर्भ में मुझे यह कहने का निदेश हुआ है कि विशेष समन्वित योजना (एस०सी०पी०) के अन्तर्गत स्थापित राजकीय मेडिकल कालेज, जालौन में एम०बी०बी०एस० पाठ्यक्रम की 100 सीटों के आवंटन के संबंध में समाज कल्याण विभाग की राय प्राप्त की गयी। समाज कल्याण विभाग द्वारा 100 सीटों में से 64 सीटें अनुसूचित जाति हेतु 06 सीटें अनुसूचित जनजाति हेतु, 15 सीटें अन्य पिछड़ा वर्ग हेतु तथा 15 सीटें अनारक्षित (सामान्य वर्ग) अभ्यर्थियों हेतु आवंटित किये जाने की राय दी गयी है।

2 — उल्लेखनीय है कि भारत सरकार के पत्र संख्या-यू०-11011/05/2011-एम०ई०सी०, दिनांक 06.05.2011 में दिये गये निर्देशानुसार 15 प्रतिशत सीटें अर्थात् 100 में से 15 सीटें भारत सरकार को दिये जाने के फलस्वरूप 15 सीटों में भारत सरकार में लागू आरक्षण नीति के अनुसार श्रेणीवार निम्नांकित सीटें आवंटित की जायेगी:-

क्र०	श्रेणी	सीटें
1	अनुसूचित जाति	02(15%)
2	अनुसूचित जनजाति	01(7.5%)
3	अन्य पिछड़ा वर्ग	04(27%)
4	अनारक्षित (सामान्य)	08
	योग	15

3- राज्य सरकार द्वारा आवंटित की जाने वाली अवशेष 85 सीटों में से भारत सरकार द्वारा अनुसूचित जाति को आवंटित की जाने वाली 02

सीटों, अनुसूचित जनजाति को आवंटित की जाने वाली 01 सीट तथा अन्य पिछड़ा वर्ग को दी जाने वाली 04 सीटों को हटाने के उपरान्त तथा समाज कल्याण विभाग द्वारा दी गयी राय के अनुसार अनुसूचित जाति के अभ्यर्थियों को 64 सीटें, अनुसूचित जनजाति के अभ्यर्थियों को 06 सीटें, अन्य पिछड़ा वर्ग के अभ्यर्थियों को 15 सीटें तथा अनारक्षित सीटों तथा भारत सरकार द्वारा आवंटित की जाने वाली 15 सीटों का श्रेणीवार विवरण निम्नवत् होगा:-

क्र०	श्रेणी	राज्य सरकार द्वारा आवंटित सीटें	भारत सरकार द्वारा आवंटित सीटें	योग
1	अनुसूचित जाति	62	02	64
2	अनुसूचित जनजाति	05	01	06
3	अन्य पिछड़ा वर्ग	11	04	15
4	अनारक्षित (सामान्य)	07	08	15
	योग	85	15	100

कृपया शासन द्वारा लिये उपर्युक्त निर्णयानुसार यथावश्यक कार्यवाही करने का कष्ट करें।”

17. Ultimately, vide Government Order dated 23.06.2015, a decision for providing reservation for the Medical College at Saharanpur was taken, which is as under:-

"उपर्युक्त विषयक आपके पत्र संख्या-एम०ई०-3/2015/2109, दिनांक 18.08.2015 के क्रम में मुझे यह कहने का निदेश हुआ है कि श्री राज्यपाल महोदय शेकूल हिन्द मौलाना महमूद हसन मेडिकल कालेज, सहारनपुर को भारत सरकार के पत्र संख्या: यू०-120/12/886/2014-एम०ई० (पी०-II) दिनांक 15.06.2015 के द्वारा शैक्षिक सत्र 2015-16 हेतु एम०बी०बी०एस० पाठ्यक्रम को 100 सीटों पर दी गयी प्रवेश की अनुमति के अन्तर्गत उक्त सीटों पर शैक्षिक सत्र 2015-16 से प्रवेश की अनुमति एतद्वारा प्रदान करते हैं।

2- समाज कल्याण विभाग के पत्र संख्या: 115/28-व०प्र०-2011-जी-136/2007 दिनांक 21.02.2011 तथा भारत सरकार के पत्र संख्या यू-11011/05/2011-एम०ई०सी० दिनांक 06.05.2011 में दिये के प्राविधानों के

अनुसार एम०बी०बी०एस० पाठ्यक्रम को उक्त सीटों का श्रेणीवार विभाजन निम्नवत होगा

क्र०	श्रेणी	राज्य सराकर द्वारा आवंटित सीटें	भारत सरकार द्वारा आवंटित सीटें	योग
1	अनुसूचित जाति	62	02	64
2	अनुसूचित जनजाति	05	01	06
3	अन्य पिछड़ा वर्ग	11	04	15
4	अनारक्षित (सामान्य)	07	08	15
	योग	85	15	100

कृपया तदुसार अग्रेतर कार्यवाही सुनिश्चित करने का कष्ट करें। "

18. From the bare perusal of the above extracted government orders the State Government not only prescribed for the extent of reservations for the State Seats but also for the seats falling under the Central Quota.

19. Thus the entire exercise of providing reservations to the extent mentioned above the reasoning and foundation is that funds were received for establishing these colleges under the Special Component Plan which contained a stipulation the funds received under the said plan had to be used so as to benefit 70% of boys and girls of SC/ST and 30% for general population. In the light of said, the State Government has tried to justify the reservation exceeding 50%.

20. To evaluate the arguments placed by learned counsel for the petitioner as well as learned Standing Counsel and learned counsel for respondent No.2, it is essential to notice that after the judgement of the Hon'ble Supreme Court in the case of **Indra Sawhney etc Vs. Union of India and others AIR 1993 SC 477**, the State Government enacted the Act No.23 of 2006 known as the Reservation Act of 2006. The object of the Act was to provide for reservation and admission in the educational institutions including private educational institutions whether ,aided or

unaided by the State other than the minority educational institutions referred to under Article 30(1) of the Constitution of India in favour of the persons belonging to the Scheduled Castes and Scheduled Tribes and other backward classes and for the matters connected thereto. The said Act came into force from 10.07.2006.

21. Section 2 of the said Act clearly prescribes as under:

*"2. This Act shall apply to all admissions taking place in Educational Institutions, including private Educational Institutions, whether Aided or unaided by the State, other than the Mionrity Educational Institutions referred to in clause (1) of the Article 30 of the Constitution of India."*

22. The vertical reservation prescribed in terms of the said Act is contained in Section 4 of the said Act, which is prescribed for the reservation in the following manner:-

*"4. (1) In admission to educational institutions, including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of Article 30 of the Constitution of India, there shall be reservation at the stage of admission in the following percentage of sanctioned intake to which admission is to be made in favour of person belonging to Scheduled Castes, Scheduled Tribes and other backward classes of citizens, in the academic year-*

<i>(a) in the case of Scheduled Castes</i>	<i>twenty one per cent</i>
<i>(b) in the case of scheduled Tribes</i>	<i>two per cent,</i>
<i>(c) in the case of other backward classes of citizen</i>	<i>twenty seven per cent;</i>

*(2) In respect of any academic year if any vacancy reserved for any category of persons under sub-section (1) remains unfilled, another special admission drive shall be made to fill such vacancy from amongst the person belonging to that category.*

*(3) If in the special admission drive referred to in sub-section (2) suitable candidates belonging to the Scheduled Tribes are not available to fill the vacancy reserved for them, such vacancy shall be filled by persons belongings to the Scheduled Castes.*

*(4) Where, due to non-availability of suitable candidates, any of the seats reserved under sub-section (1) remains unfilled even after special admission drive referred to in sub-section (2), or sub-section (3), then such vacancy shall be filled by any other suitable candidate, on the basis of merit.*

*(5) If a person belonging to any of the categories mentioned in sub-section (1) gets selected on the basis of merit as a general candidate, and if he wants to remain as a general candidate, then he shall not be adjusted against the vacancies reserved for such category under sub-section (1)."*

23. It is also essential to notice that educational institutions are defined in Section 3(e), which is as under:-

*"(e) "educational institution" means-*

*(i) a college or a school or an institution, by whatever name called, imparting education approved or recognized by a competent Statutory Body and affiliated to a State University, including a Private University established or incorporated by an Act of the State Legislature or a constituent unit of a deemed to be University defined. under section 3 of the University Grants Commission Act, 1956, imparting education.*

*(ii) a college or a school or an institution, by whatever name called, imparting professional courses, approved or recognized by the Competent Statutory Body leading to the award of a degree, diploma or a certificate, by whatever name called."*

24. In terms of Section 10 of the said Act, the State Government is empowered to take decision in the event of any difficulty arises in giving effect to the provisions of this Act and the State Government is also empowered by virtue of Section 12 of the said Act to issue notifications and make rules for carrying out the purpose of the said Act. Admittedly, after the enactment of 2006 Act, no decision has been taken in terms of the powers conferred by virtue of Section 10 or otherwise. The Government Orders extracted above, which prescribes for the reservation, are not mandated or prescribed in terms of the Reservation Act of 2006. The communication for issuance of the Government Orders, based upon the policy decision of the Central Government issued for implementation

and execution of the special component plan for scheduled castes tribal sub plan for scheduled tribal is merely a policy decision, providing for the guidelines and the manner in which the decisions are to be taken for establishing facilities relating to sports, multipurpose halls, intermediate college with sports education, extending benefits such as preparing for competitive exams for admission to various colleges ,etc for which the funds would be spent as prescribed.

25. The terms of the said guidelines issued and extracted above, merely prescribes for grant of hostel facilities after the extent of 70% to SC/ST boys and girls and 30% for the general population. It also prescribe manner of expenditure to the extent of 70% from the SCP earmarked funds and 30% from the general plan. Even the said stipulation does not in any way authorize /prescribed/ mandate the fixing of reservation for educational institutions at the admission stage in the said educational institutions as defined in the Act, 2006.

26. Thus, the Government Orders fixing reservation are clearly contrary to the mandate of Section 4 of the Act, 2006 or any other law Otherwise, also are founded on misreading and misinterpretation of the policy guidelines issued by the Central Government. The reservation has clearly violated the reasonably well settled rule of not exceeding 50% that too without any authority of law and as such, the same cannot be justified.

27. All the four Government Orders being Government Order No.41/26-ब०प्र०-2010-जी-87/2006 dated 20.01.2010, Government Order No.115/26-ब०प्र०-2011-जी 136/2007 dated 21.02.2011, Government Order No.1493/71-1-2011-जी-264/2011 dated 13.07.2011, Government Order No. 1764/71-1-2012-जी-284/20 dated 19.07.2012, Government Order No. 1846/71-1-2013-जी-264/201 dated 17.07.2013 and Government Order No.1243/71-1-2015-जी-264/2011 dated 13.06.2015 which mandate fixing of quotas for reservation in excess of the extent of reservation prescribed

in the 2006 Act of the State Government are quashed. The State of U.P. is directed to fill the seats in the said four colleges afresh strictly based upon the reservation as prescribed under the Reservation Act of 2006 along with the reservation for the Central Government seats and the State Government seats.

28. As it is informed that the seats have already been filled, respondent No.2 will have to undergo into the fresh exercise to fill the seats in terms of the prescriptions contained for reservation in the Act, 2006 afresh.

29. Learned Counsel for respondent No.2 lays emphasis and reads the directions contained in the judgement of *Indra Sawhney (supra)* to argue that the bar of 50% reservation is not sacrosanct and can be breached. However, he does not dispute that the same can be breached only in accordance with law. He could not place any Act/prescriptions under law justifying the breach.

30. The petition is **allowed** in the abovesaid terms.

August 25, 2025  
Ashutosh

[Pankaj Bhatia, J.]