



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 34073 of 2025

Deepansu Sekhar Nanda

....

Petitioner

Represented by Adv.–
Mr. A.K. Swain-1, Advocate

-Versus-

State of Odisha & Another

....

Opposite Parties

Represented by Adv._
Mr. Debraj Mohanty, AGA
(for opposite party No.1)

CORAM:

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

AND

HON'BLE MR. JUSTICE MRUGANKA SEKHAR SAHOO

ORDER

03.12.2025

(Hybrid mode)

Order No.

I.A. No.21238 of 2025 & W.P.(C) No.34073 of 2025

02.

1. The writ petition has been filed on 25.11.2025 with the following prayer:-

“Under the aforesaid facts and circumstances, it is therefore humbly prayed that, this Hon'ble Court may graciously be pleased to admit this writ petition, issue RULE NISI by calling upon the Opposite Parties to show cause as to why they shall not be directed to admit the petitioner into MBBS course-2025-26 under State Government Schools (SOS) quota and upon failing to show cause or insufficient cause, make the said Rule absolute, allow the writ petition, issue a writ of mandamus commanding the Opposite Parties, particularly Opposite Party No. 2 to admit the petitioner into MBBS course - 2025-26 as against the seat reserved for SGS quota;

And or pass any other direction/directions, order/orders as this Hon'ble Court may deem just and proper for the interest of justice.

And for this act of kindness, the petitioner as in duty bound shall ever pray.”



In the I.A., the following prayer has been sought for:-

“Under the aforesaid facts and circumstances, it is therefore prayed that, this Hon'ble Court may graciously be pleased to direct the opp. party No. 2 to keep one MBBS seat reserve till disposal of the writ petition;

And / or pass any other appropriate interim order for the interest of justice;

And for this act of kindness, the petitioner as in duty bound shall ever pray.”

2. When the matter was taken up on 2nd December, 2025, the learned counsel for the petitioner was requested to produce the notification regarding Stray Vacancy Round of Counselling as he prays for a direction for consideration of the petitioner in the Stray Vacancy Round of Counselling.

It was fairly stated by the learned counsel for the petitioner that the said document was not annexed to the Writ Petition nor stated in any paragraph of the Writ Petition. The matter was adjourned.

Today along with memo dated 03.12.2025, the notification dated 10.11.2025 issued by the OJEE-opposite party No.2 “NOTICE REGARDING NEW REGISTRATION FOR STRAY VACANCY ROUND OF COUNSELLING FOR STATE QUOTA SEATS UNDER MBBS/BDS COURSES.”

The said document is taken on record. Copy of the said document is served on the learned Additional Government Advocate as well as learned instructing counsel Mr. Mishra, who usually appears for OJEE-opposite party No.2.

3. At this stage, learned counsel Mr. Mishra submits that he has instruction to appear along with Mr. Subir Palit, Senior Advocate for opposite party No.2. He states that he shall file



Vakalatnama and appearance memo of the Senior Advocate during course of the day, the same shall be taken on record.

Name of Mr. Palit, learned Senior Advocate along with Mr. Mishra, Advocate be indicated in the cause list as well as the case brief appearing for the opposite party No.2.

4. Since the matter involves counselling and admission for a student who seeks admission to MBBS/ BDS courses under the State quota, the matter is heard in extenso in the context of grant of any interim order.

5. After the learned counsel for the petitioner had made his submissions, the following issues were sought for by the Court to be answered; what is the basic qualification for seeking reservation as notified by notification dated 26th March, 2021 (Annexure-2) *“Reservation for the students of Government High School in Medical/Engineering courses of the State”*.

The learned counsel relies on the guidelines annexed to the Writ Petition marked as Annexure-3 which has the following caption “GUIDELINES / INSTRUCTIONS FOR REGISTRATION PROCESS FOR PREPARATION OF STATE MERIT LIST BASED ON NEET UG 2025 ALL INDIA RANK WHICH WILL BE USED FOR SUBSEQUENT COUNSELLING & ADMISSION IN STATE QUOTA SEATS OF STATE MBBS/ BDS COURSES, 2025-26.”

The last paragraph of the said guidelines at page-31 shows the details of counselling of admission indicates www.ojee.nic.in / www.odishajee.com.

Therefore, it may be reasonably concluded that though the notification does not contain any indication about OJEE, the website referred to indicates, it was published by OJEE.



6. Drawing attention to the conditions of the eligibility as prescribed in the said notification, paragraph-B sub-paragraph-3 & 4 (at page-26 of the Writ Petition) are relied upon, which are reproduced herein:-

*“3. The candidate must have passed +2 Sc. And in the subjects of **Physics, Chemistry, Biology/Biotechnology and English** individually and must have secured minimum of 50% marks taken together in **Physics, Chemistry & Biology / Biotechnology** at +2 Sc. Level for General Candidate (GE), 40% for SC/ST candidates and 40% for benchmark disability candidates (PC-GE). The required mark for physically challenged candidate of SC/ST category is 40%.*

4. The minimum qualifying mark for different category of candidates are as follows: (subject to relevant notification/modification by Govt. of India/NMC)”.

7. The said notification provides thus:-

“Now, therefore, in exercise of the power conferred by sub-section (1) of Section-9 of the Odisha Professional Educational Institutions (Regulation of Admission and Fixation of Fee) Act,2007 (Odisha Act 4 of 2007) and having regard to the recommendation of the High-power Committee, the State Government do hereby direct that 15% of seats in Medical and Engineering Colleges of the State shall be reserved for the students who have passed the 10th Board Examination under the Board of Secondary Education, Odisha from Government High Schools and also have passed the 12th Board Examination under the Council of Higher Secondary Education, Odisha from any Government Higher Secondary School/Government Junior College and such reservations shall be horizontal covering all vertical reservations as well as Unreserved Group.

8. It is submitted by the learned counsel for the petitioner, referring to Eligibility B.3. that the petitioner has passed in the subjects of Physics, Chemistry, Biology and English individually,



has secured 49.66% marks in the subjects Physics, Chemistry and Biology taken together at +2 Science level passed from Christ College, Cuttack (as then it was) in the year, 2014, the examination being conducted by Council of Higher Secondary Education, Odisha, Bhubaneswar.

Thereafter, the petitioner-student preferred to study further under the National Institute of Open Schooling (NIOS), an Autonomous Institution under Ministry of Education, Government of India, Enrolment No.931522350022 and passed the subject Chemistry in October, 2022 in Grade-D, the mark being 64 out of total mark 100.

It is submitted that though the petitioner has secured 49.66% in the CHSE examination in 2014, however, in 2022 after he passed Chemistry and secured 64% in NIOS; by adding the mark secured in Chemistry, the total marks secured taken together in Physics and Biology from CHSE and Chemistry from National Institute of Open Schooling would come to above 50%.

It is contended, after 2022, the petitioner qualifies having secured 50% in subjects taken together; Physics and Biology from CHSE and Chemistry from National Institute of Open Schooling.

9. At this stage, Mr. Mishra, learned counsel for the OJEE submits that the notification providing reservation dated 26th March, 2021 read with notification (Annexure-3) B.3. makes it abundantly clear that a candidate-student has to pass the “12th Board Examination under the Council of Higher Secondary Education, Odisha from any Government Higher Secondary School/ Government Junior College”. The Explanation-I to the said notification makes it further clear:-



“Explanation-I.- For the purpose of this Notification, the expression ‘the Government High School’, includes the aided High Schools, Higher Secondary Schools, Junior colleges of the State as defined in the Odisha Education Act, 1969. (Odisha Act 15 of 1969).”

10. Prima facie, we are of the view that National Institute of Open Schooling, Government of India is not a High School, Higher Secondary School, Junior College of the State as defined in the Odisha Education Act, 1969. (Odisha Act 15 of 1969).

11. For convenience of reference, we reproduce the definition in Section-3 (i) & (j) in the Odisha Education Act, 1969 provide thus:-

*“(i) **High School** means an educational institution imparting instructions in Standards or Classes VII to X leading to the High School Certificate Examination and may have the standards or classes of Upper Primary School attached to it;*

*(j) **Higher Secondary School** means an educational institution imparting instructions in Higher Secondary courses as defined in the Odisha Higher Secondary Education Act, 19 of 1982 and may have Standards or Classes VII, IX and X attached;*

*[(j-1) **Junior College** means an educational institution imparting instructions in Higher Secondary courses as defined in the Odisha Higher Secondary Act, 1982].”*

12. In such view of the matter, we are not inclined to pass any interim direction regarding the petitioner to be considered for counselling in the spot selection as far as the prayer for participation and also cannot pass any further order to keep any seat vacant.

In response to the interim prayer, based on instruction learned counsel, Mr. Mishra for the OJEE submits that as per the



notification dated 10.11.2025, the Stray Vacancy Round of Counselling by OJEE has been over.

13. We reproduce the notification dated 10.11.2025, the relevant paragraph indicating the date and time of Stray Vacancy Round of OJEE Counselling: -

“The process of registration for the Stray Vacancy Round of OJEE Counselling will start from 10-11-2025, 11.00 AM and will end on 11.11.2025, 11.59 PM. The Stray Vacancy counselling will be done during 13-11-2025 and 11-11-2025.”

14. Issue notice.

The learned Additional Government Advocate upon advance copy served appears and waives notice on behalf of opposite party No.1. Mr. Mishra, learned counsel undertakes to appear for opposite party No.2 along with Mr. Palit, learned Senior Advocate.

15. As the notices have been sufficient, list ‘For Admission’ on 29th January, 2026.

The opposite parties shall have the liberty to file their response and counter within four weeks, which shall be accepted upon service of copy on the learned counsel for petitioner.

(Manash Ranjan Pathak)
Judge

(Mruganka Sekhar Sahoo)
Judge