



THE HIGH COURT OF ORISSA AT CUTTACK

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

(An application under Articles 226 and 227 of the Constitution of India)

Deepansu Sekhar Nanda ***Petitioner***

-Versus-

State of Odisha and Another ***Opp. Parties***

For the Petitioner : Mr. Ashok Kumar Swain-1, Advocate

For the Opp. Parties : Mr. J.K. Bal, AGA for O.P. No.1
Mr. Amitabh Mishra, Advocate for O.P.
No.2

CORAM:

THE HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

AND

THE HON'BLE MR. JUSTICE SIBO SANKAR MISHRA

Date of Hearing: 25.02.2026 :: Date of Judgment: 27.05.2026

S.S. Mishra, J. The present writ petition has been filed under Article 226 and 227 of the Constitution of India, challenging the action of the Odisha Joint Entrance Examination Committee (OJEE) in not allotting the petitioner a seat in the MBBS/BDS course during the Spot/Stray Round of counselling held on 13.11.2025 for the academic session 2025-26 against seats reserved under the State Government Schools (SGS) quota.



2. Succinctly and devoid of unnecessary details, the facts of the case are as follows:

- i. The petitioner passed the High School Certificate Examination, 2012 conducted by the Board of Secondary Education, Odisha, securing 480 marks out of 600. Thereafter, he appeared in the Annual Higher Secondary Examination, 2014 conducted by the Council of Higher Secondary Education, Odisha from Christ College, Cuttack and secured 285 marks out of 600. In the subjects of Physics, Chemistry and Biology, he secured 44, 47 and 58 marks respectively.
- ii. Subsequently, to improve his marks in Chemistry, the petitioner appeared in the Senior Secondary School Examination conducted by the National Institute of Open Schooling (NIOS) in October 2022 and secured 64 marks in Chemistry.
- iii. The petitioner thereafter appeared in the National Eligibility-cum-Entrance Test (NEET-UG) 2025 conducted by the National Testing Agency for admission to undergraduate medical and dental courses. He secured 264 marks out of 720 and obtained an All-India Rank of 552732.



iv. The petitioner registered himself for OJEE counselling for admission to MBBS/BDS courses under the State quota for the academic session 2025–26. After document verification, the OJEE authorities issued a document verification certificate and published the final merit list prepared based on the NEET All India Rank. In the said list, the petitioner was assigned State Rank 4880 and SGS Rank 425.

v. During the counselling process, the petitioner filled and locked choices for Round-1, Round-2 and Round-3 of counselling but was not allotted any seat. Subsequently, his name appeared in the list of candidates eligible for the Spot/Stray Round of counselling published on 12.11.2025.

vi. The Spot/Stray Round of counselling was conducted on 13.11.2025 for filling up vacant State quota seats. According to the vacancy position published by OJEE, certain seats reserved under the UR-SGS category were available. The petitioner attended the said counselling, and his documents were verified by the officials present.

vii. The petitioner was not allotted a seat during the Spot/Stray Round of counselling. According to the petitioner, the officials



informed him that he was not being considered under the SGS quota on the ground that he had improved his Chemistry marks through the National Institute of Open Schooling.

viii. It is the petitioner's case that despite requesting for a written communication regarding the said decision, no formal order or written communication was issued to him. The petitioner has also referred to the admission list published after the Spot/Stray Round of counselling indicating that certain candidates with lower NEET ranks were allotted seats under the UR-SGS category.

ix. Aggrieved by the non-consideration of his candidature under the SGS quota during the Spot/Stray Round of counselling, the petitioner has approached this Court by filing the present writ petition.

3. Heard Mr. Ashok Kumar Swain-1, learned Counsel for the Petitioner, Mr. J.K. Bal, AGA for O.P. No.1 and Mr. Amitabh Mishra, Advocate for O.P. No.2.

4. Learned counsel for the petitioner contended that the action of the Opposite Party No.2–OJEE Committee in not allotting an MBBS



seat to the petitioner during the Spot/Stray Round of counselling is wholly arbitrary, illegal and unsustainable in law.

It is submitted that the petitioner fulfilled all eligibility criteria prescribed for admission to the MBBS course. Placing reliance on the regulations framed by the National Medical Commission, it is contended that a candidate belonging to the unreserved category is required to secure a minimum of 50% aggregate marks in Physics, Chemistry and Biology (PCB), which the petitioner satisfies upon improvement of his Chemistry marks.

5. Learned counsel further submitted that the National Medical Commission, by Public Notice dated 22.11.2023, has clarified that candidates who undertake requisite subjects as additional subjects through recognized open schooling institutions, including the National Institute of Open Schooling (NIOS), after passing Class 12th, are eligible to appear in NEET-UG and consequently for admission to medical courses. It is thus contended that improvement of marks through NIOS cannot be a ground to deny consideration.

6. It is further argued that the petitioner had disclosed all relevant documents, including the NIOS mark sheet, at every stage of the



admission process. The same were duly verified and accepted by the OJEE authorities, who issued a Document Verification Certificate taking into account the improved Chemistry marks obtained from NIOS and declared the petitioner eligible for counselling.

7. Learned counsel emphasized that the petitioner was assigned a State Rank as well as an SGS Rank and was permitted to participate in all rounds of counselling, including the Spot/Stray Round. Therefore, the subsequent refusal to consider him under the SGS category on the ground of improvement of marks through NIOS amounts to a complete departure from the earlier stand of the authorities.

8. It is contended that such action is hit by the doctrine of estoppel, as the authorities, having once accepted the petitioner's eligibility and acted upon it, cannot subsequently take a contrary position in the absence of any allegation of suppression, misrepresentation or fraud on the part of the petitioner. Reliance is placed on the settled principle that approbation and reprobation is impermissible in law.



Learned counsel further submitted that the petitioner satisfies the requirements of the State Government notification and OJEE guidelines governing admission under the State Government School (SGS) quota, inasmuch as he has passed his 10th examination from a Government High School under the Board of Secondary Education, Odisha and his 12th examination from an institution recognized under the Council of Higher Secondary Education, Odisha.

9. It is also contended that the action of the Opposite Party No.2 is discriminatory and violative of Article 14 of the Constitution of India, as candidates having lower NEET ranks than the petitioner were allotted seats under the UR–SGS category in the same Spot/Stray Round of counselling.

To substantiate his argument, learned counsel for the petitioner has also relied upon the judgment dated 26.02.2026 passed by the Coordinate Bench in the matter of **Smt. Sabita Parida vs. State of Orissa & others** in **W.P.(C) No.9875 of 2016**. Although the facts of the case cited by the learned counsel are completely distinguishable from the present case, still learned counsel for the petitioner is trying to derive the benefit of the judgment on the ground that, if it is not the



case of the opposite party that the petitioner has suppressed or not disclosed or manipulated his marks, the opposite parties are estopped under law to approbate or reprobate at the same time and deny the reservation.

10. On the aforesaid grounds, learned counsel for the petitioner submitted that the impugned action is arbitrary and unsustainable, and in view of the fact that the admission process for the current academic session has concluded, the petitioner is entitled to appropriate relief by way of direction for admission in the ensuing academic session.

11. Mr. J.K. Bal, learned Additional Government Advocate, appearing for the opposite party-State vehemently submitted his rival contention. He submitted that the OJEE Committee has been carrying out the counseling process strictly as per the Orissa Professional Educational Institutions (Regulation of Admission and Fixation of Fee) Act, 2007 (hereinafter called as “The Act, 2007”). The petitioner has not complained against the opposite parties for having violated any instruction, order or regulation, rather the petitioner is claiming reservation under the State Government Schools (SGS) quota, although he has not qualified for the same. Mr. Bal, learned State



counsel further submitted that it is obligatory on the part of every candidate to carefully read and understand the instruction regarding the counselling process as provided in the guidelines and instruction for counselling and admission to the MBBS/BDS Courses 2025-2026. According to him, it appears that the petitioner has not carefully gone through the instructions, although he has given a self-declaration that he has gone through the instructions and understood the same. Despite such self-declaration, he has furnished a wrong information on the basis of which he is claiming SGS quota. An aspiring candidate can be given reservation under the SGS quota, if he/she has passed out both 10th and 12th Examination from the State Government Schools affiliated to the Board of Secondary Education, Odisha and from the Council of Higher Secondary Education, Odisha respectively. Furthermore, the candidate has to qualify in Physics, Chemistry, Biology/Biotechnology and English individually and must have secured minimum 50% of marks taken together in Physics, Chemistry and Biology/Biotechnology at +2 level for general candidate. But in the case of the petitioner, it is admitted that he has not secured the qualifying mark of 50%. However, in the year 2022, he appeared in the examination conducted by the National Institute of



Open Schooling (NIOS), an Autonomous Institution under the Ministry of Education, Government of India and improved his score in Chemistry by obtaining 64 marks. It is pertinent to mention that he obtained 49.66% in CHSE Examination in the year 2014 and improvised his Chemistry scoring in the year 2022 by appearing in the examination conducted by the NIOS. Therefore, Mr. Bal, learned State counsel vehemently opposed the prayer made by learned counsel for the petitioner seeking SGS quota.

12. We have carefully gone through the pleadings, regulation occupying the field and related notification and have also taken into consideration the submissions made by learned counsels appearing for the respective parties.

At the time of issuance of notice, the petitioner prayed for interim direction. This Court vide order dated 03.12.2025, declined to grant any interim relief. The observations made by the Court at that stage, being relevant for determination of the issue in lis, are reproduced for convenience reading :-

“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 extensor 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 subjects that the notification providing reservation dated 26th March, 2021 read with notification (Annexure-3) B.3. marks 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.”



13. This Court has also noted in the order referred to above that the stray vacancy ground for counselling by OJEE has already been over on 11.11.2025 and 13.11.2025. Therefore, no interim relief was granted at that stage. That precisely the reason the petitioner is pressing the present writ petition so as to get reservation for admission in the forthcoming academic session.

14. It is noteworthy to mention here that the State Government constituted a High Power Committee under the Chairmanship of the Hon'ble Dr. Justice A.K. Mishra, a retired Judge of the High Court to make necessary recommendation regarding the reservation of seats for the students of Government High Schools in the Engineering and Medical courses of the State so as to remove the inequalities and to facilitate the entry of students of Government Schools in Engineering and Medical courses of the State. On the basis of the recommendation made by the Committee and by exercising the power conferred on the State by sub-section (1) of Section-9 of the Act, 2007, 15% of seats in Medical and Engineering Colleges of the State was provisioned to be reserved for the students, who have passed the 10th Board Examination under the Board of Secondary Education, Odisha from any Government High Schools and also have passed 12th Board



Examination under the Council of Higher Secondary Education, Odisha from any Government Higher Secondary Schools/Government Junior Colleges and the reservations was provisioned to be given horizontally covering all vertical reservations as well as Unreserved category. After such reservation policy was made, the candidates who have passed their 10th and 12th Board Examination from the State Government Schools affiliated through Board of Secondary Education, Odisha and from the Council of Higher Secondary Education, Odisha respectively started availing the reservation those who have secured the qualifying marks of 50% as prescribed. It is also necessitated under the scheme of law that the counselling process shall be completed in a time bound manner. In the instant case, the notification dated 10.11.2025 published by the OJEE states the date of stray vacancy for MBBS/BDS which have already been over since 14.11.2025. Having unsuccessful, the petitioner has approached this Court only on 25.11.2025. Besides that, it is admitted on record that the petitioner passed out his Higher Secondary Education in the year 2014 and at that point of time, he had not secured 50% of marks together in Physics, Chemistry and Biology/Biotechnology. Therefore, he has not fulfilled the minimum eligibility criteria



required for admission to the MBBS/BDS Courses as a general candidate. Subsequently, he had improvised his Chemistry scoring by appearing in NIOS Examination in 2022. The marks sheet issued by the NIOS on 06.11.2023 was submitted by the petitioner to satisfy the minimum eligibility criteria of 50% marks. The moot question remains is whether the petitioner could be treated as having passed out from the Council of High Secondary Education once in one of the subjects he has improvised his scoring by appearing in NIOS Examination. In that regard, this Court while declining the interim relief sought by the petitioner has discussed in detail which has already been reproduced in the preceeding paragraphs.

Mr. Bal, learned State counsel by taking us to the notification dated 26.03.2021 has pointed out that the petitioner will not be eligible for reservation under the State Government Schools quota seats.

15. Under the aforementioned circumstances, the petitioner's improvised score in Chemistry from NIOS even if is taken into consideration for his minimum eligibility to apply for the medical education by giving benefit of the marks criteria from two different Boards, but the reservation cannot be given, because one cannot avail



two privileges at the same time. SGS reservation can only be given, if the petitioner would have produced only one certificate from the State Board for 12th Examination having minimum qualifying marks. Therefore, on any count, if the case of the petitioner is considered, it is difficult to concede to the position of law as discussed above on the basis of which the SGS reservation could be made available to the petitioner. Therefore, we are constrained to disallow the prayer made by the petitioner in the writ petition.

16. Accordingly, the writ petition is dismissed being devoid of merit.

(Sibo Sankar Mishra)
Judge

M.R. Pathak, J. *I agree.*

(Manash Ranjan Pathak)
Judge

The High Court of Orissa, Cuttack.
Dated the 27th of May, 2026/Subhasis Mohanty