

In the matter of:

Ms. Bushra Sabir, D/o Mr. Sabir Ali, Village – Mewajut, Tehseel Dhampur, District –  
Bijnor – 246745 .... Complainant

Versus

Delhi University, [Though: The Registrar], Faculty of Ayurveda & Unani Medicine,  
Delhi-110007 .... Respondent

**Date of hearing: 18.06.2019**

Present:

1. Shri Sabir Ali, father of complainant, for complainant
2. None for respondent

### **O R D E R**

The above named complainant, a person with 50% locomotor disability, filed a complaint dated 06.11.2018 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act', regarding denial of admission to MD/MS-UNANI (MAHIR-E-TIB/JAHARAT)-2018 under disability quota by the Faculty of Ayurveda & Unani Medicine of the respondent.

2. The complainant [Roll No.180013696] submitted that she appeared in AIAPGET 2018 under PwD-OBC category for admission to MD/MS-Unani (MAHIR-E-TIB/JARAHAT). As per provisional merit list she got – Score 24 and Score percentage 24.75. At the time of first counseling held on 23.10.2018, the respondent did not permit her to attend the counseling saying that she was not eligible as per the criteria, however, the respondent did not disclose the minimum eligibility criteria for the admission of the students with Benchmark Disabilities. As per Provisional Merit List on the basis of AIAPGET-2018, she secured 2935 Marks out of 4200 i.e. 69.88%. On 26.10.2018 Ministry of AYUSH issued a Notification F.No.R-11011/02/2018-EP(IM-1)Part-1 dated 26.10.2018 to all State Authorities on the subject 'Admission in Post Graduate degree in ASU&H College-reg.' and clarified as under:

“In continuation to this Ministry’s letter of even number dated 21.09.2018, it is further clarified that the Ministry has received various representations stating that seats are lying vacant due to less number of qualified students in the APIGET-2018.

2. In this regard, the matter has been examined by the Ministry and decided that the minimum eligibility marks of the entrance test for admission in the case of general candidates shall be Fiftieth (50<sup>th</sup>) percentile; in the case of candidates belonging to the Schedule Castes, the Scheduled Tribes and regular Central or State Government service candidate shall be Fortieth (40<sup>th</sup>) percentile and in the case of candidates belonging to the Other Backward classes shall be Forty fifth (45<sup>th</sup>) percentile in the AIPGET-2018.

3. The last date/cut-off date of admission in ASU&H Post Graduate Courses will be 15<sup>th</sup> November 2018.”

4. This clarification is applicable only for Academic year 2018-19.”

Along with the aforesaid Notification dated 26.10.2018, the respondent published a revised merit list of the candidates who appeared in the AIAPGET-2018 and as per that revised list, the percentile of the complainant was increased to 57.39<sup>th</sup> which was much more than the required eligibility criteria i.e. 45<sup>th</sup> percentile. Immediately thereafter, the complainant approached the respondent for seeking admission, but she was told that the seat was converted into General Category in the first counseling itself and admission was already

taken on that seat by the administration. On 01.11.2018, the complainant also approached the Director, Ministry of AYUSH who assured that needful would be done in her case and advised the complainant to attend the counseling on 03.11.2018. On 03.11.2018, the complainant reached to attend the counseling centre but she was not permitted to attend the counseling. The respondent thereby discriminated the legitimate right of the complainant for admission to MD/MS-Unani under PwD category. The respondent has not followed the instruction issued by Government of India whereas the seats are still lying vacant.

3. The matter was taken up with the respondent on 06.12.2018 and was advised to submit their comments in the matter along with the following information/documents to this Office along with the following information/documents:

- (i) number of the total seats for admission to MD (Unani);
- (ii) total marks for written and interview, qualifying marks for Gen./OBC/SC/ST/PwDs and relaxation, if any, given to candidates with disabilities;
- (iii) list of the total number of candidates with disabilities appeared for admission in MD (Unani) and marks secured by them;
- (iv) list of the selected candidates with disabilities with marks secured by them.

4. The respondent sent their reply dated 04.01.2019 but did not submit the complete facts as advised in the letter dated 06.12.2018 issued by this Court and concealed the material fact. The contents of the reply filed by the respondent are as under:-

- (1) There were a total of 10 seats including all categories i.e. SC/ST/OBC/PwD and UR in MD/MS Unani. The category-wise seat positions contained in the Bulletin of Information 2018-21 in respect of MD/MS Unani is as under:

<b>50% Delhi University Quota</b>						
<b>Sr.</b>	<b>Discipline</b>	<b>No. of seats in A&amp;U</b>				
		<b>Total Seats</b>	<b>Common</b>	<b>OBC</b>	<b>SC</b>	<b>ST</b>
1	Moalajat	1	1 PwD	--	--	--
2	Munafeul Aza	1	--	1	--	--
3	Qawalat wa Amraze Niswan	1	1	--	--	--
4	Illmul Saidla	2	1	--	1	--
	<b>Total</b>	<b>5</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>0</b>
<b>50% All India Quota</b>						
<b>Sr.</b>	<b>Discipline</b>	<b>No. of seats in A&amp;U</b>				
		<b>Total Seats</b>	<b>Common</b>	<b>OBC</b>	<b>SC</b>	<b>ST</b>
1	Moalajat	2	1 PwD	1	--	--
2	Munafeul Aza	1	1	--	--	--
3	Qawalat wa Amraze Niswan	1	1	--	--	--
4	Illmul Saidla	1	--	1	--	--
	<b>Total</b>	<b>5</b>	<b>3</b>	<b>2</b>	<b>0</b>	<b>0</b>

- (2) As per the Bulletin of Information (MD/MS Unani) the following was the eligibility criteria for various categories for admission to MD/MS Unani:-

1. UR – 50% of total marks for AIAPGET
2. OBC – 45% of Total marks for AIAPGET
3. SC/ST – 40% of total marks for AIAPGET
4. Candidates with disability belonging to SC/ST/OBC category – 40% of total marks for AIAPGET and candidates with disability (General category) – 45% of total marks for AIAPGET

However, the said criteria was changed by the Ministry of AYUSH vide its letter dated 26.10.2018 and the revised criteria conveyed was under:-

1. UR – 50<sup>th</sup> percentile

2. OBC – 45<sup>th</sup> percentile
3. SC/ST – 40<sup>th</sup> percentile

The total number of candidates with disabilities applied for MD/MS/Unani under All India Quota (AIQ) was one and the details of the candidate are as under:

Candidate Name	Roll No.	Quota	Category	Score	Score%
Dr. Bushra Sabir	180013696	OBC	PwD	24	24.75

However, no PwD candidate applied under Delhi University Quota.

- (3) Only one candidate applied under PwD category under AIQ and at the time of counseling held on 23.10.2018, the candidate was not eligible as per the eligibility criteria contained in Bulletin of Information 2018-2021.
- (4) No seat was allotted to PwD candidate due to non availability of eligible PwD candidate during the counseling held on 23.10.2018.”
5. This Court vide letter dated 17.01.2019 forwarded the reply filed by respondent to the complainant for submission of her rejoinder. The complainant in her rejoinder dated 01.02.2019 reiterated her submission made in the complaint.
6. Upon considering the reply of the respondent and rejoinder filed by the complaint, the case was listed for hearing on 18.06.2019 and Notice of Hearing dated 13.05.2019 was issued to the parties with copy of rejoinder dated 01.02.2019 to the respondent for submission of their comments.
7. During the hearing neither did any one appear for the respondent, nor was any information received from the respondent regarding their non-appearance.
8. The complainant’s father appeared before the Court and submitted a copy of the Notice issued to the candidates by the National Institute of Unani Medicine, Bangalore for attending the counseling for admission at their institute as per the clarification issued by the Ministry of AYUSH vide Notification dated 26.10.2018. In the said Notice three candidates – two from SC category and one from PwD category have been called for admission on the basis of their percentile of marks.
9. From the perusal of the documents available on record, it is observed that the complainant, the only candidate under PwD category, has secured 69.88 percent of the total marks [2935 out of 4200] i.e. 57.46<sup>th</sup> percentile which is more than the required percentage and/or percentile for OBC-PwD i.e. 45<sup>th</sup> percentile and she appears to be eligible for admission to MD/MS/Unani under All India Quota against the reserved one seat for person with disability. It is not understood why the respondent denied her admission and converted the seat into General category. The respondent has, thereby, violated the provisions under Section 32 of the Act, the instructions issued by the Government in this regard and has discriminated the legitimate right of complainant for admission to MD/MS/Unani. Keeping in view the above, the admission of the complainant is recommended. Therefore, the respondent is advised to give admission to the complainant to MD/MS/Unani (MAHIR-E-TIB/JAHARAT)-2018-2021 against the seat reserved for OBC-PwD category.
10. The case is accordingly disposed of.

(SHAKUNTALA DOLEY GAMLIN)  
Chief Commissioner

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