

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Reserved on: 20.02.2025

Pronounced on:13.03.2025

WP (C) No. 2379/2024

Ansh Mahajan, age 20 years, S/o Rajesh Mahajan,
R/o Sector-1, Sanjay Nagar, Tehsil & District Jammu.Petitioner(s)

Through: Mr. Pranav Kohli, Sr. Advocate with
Mr. Sachin Dev Singh, Advocate

Vs

1. UT of J & K through its
Commissioner/Secretary, Health and Medical
Education Department, Civil Secretariat, Jammu.
2. Chairman J&K Board of Professional Entrance
Examination (JKBOPEE), South Block, 4th Floor,
Gandhi Nagar, Jammu.
3. Controller of Examination, J&K Board of
Professional Entrance Examination (JKBOPEE),
South Block, 4th Floor, Gandhi Nagar, Jammu,
4. Tehsildar, District & Tehsil Ramban,
5. Mohd. Umar Farooq, S/o Farooq Ahmed Shan,
R/o Ward No.1, Village Ramban, P.O Ramban,
Tehsil & District Ramban.Respondent(s)
6. National Testing Agency (NTA), through its
Chairperson, First Floor, NSIC-MDBP Building,
Okhla Industrial Estate, New Delhi, Delhi. Performa Respondent(s)

Through: Mrs. Monika Kohli, Sr. AAG
Mr. Sumeet Bhatia, GA.
Mr. Aditya Gupta, Advocate.
Mr. Munish Sharma, Advocate.

WP (C) No. 2648/2024

Mohd. Farooq, aged 20 years, S/o Farooq Ahmed Shan,
R/o Ward No.1, Ramban.Petitioner(s)

Through: Mr. Aditya Gupta, Advocate
Mr. Munish Sharma, Advocate

Vs

1. UT of J&K, through Commissioner/Secretary,
Revenue Department, Civil Secretariat, Jammu.
2. UT of J&K through Commissioner, Health and Medical Education
Department, Civil Secretariat, Jammu.

3. Principal Government Medical College, Bakshi Nagar, Jammu
4. Tehsildar Ramban, Tehsil Office, Ramban.
5. Tehsildar Banihal, Tehsil Office, Banihal.
6. Ansh Mahajan, age 20 years, S/o Rajesh Mahajan,
R/o Sector-1, Sanjay Nagar, Tehsil & District Jammu

.....Respondent(s)

Through: Mrs. Monika Kohli, Sr. AAG for R-1,4 &5
Mr. Raman Sharma, AAG for R-2& 3
Mr. Pranav Kohli, Sr. Advocate with
Mr. Sachin Dev Singh, Advocate
Ms. Tania Mahajan, Advocate &
Mr. Vastav Sharma, Advocat

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

JUDGMENT

WP (C) No. 2379/2024

1. Petitioner through the medium of instant petition under Article 226 of the

Constitution of India seeks the following reliefs:-

- a. *allow the instant petition;*
- b. *issue a writ of or any other writ, order or direction in the nature of writ of certiorari for quashing the impugned Provisional Selection list of candidates of UT of J&K /Ladakh for MBBS/BDS Course 2024 issued vide Notification No. 093-BOPEE of 2024 dated: 03.09.2024 by Respondent No. 3 to the extent of illegal selection/admission of Private Respondent No. 5 to MBBS course under Economically Weaker Section (EWS) category;*
- c. *issue a writ of or any other writ, order or direction in the nature of writ of mandamus for Directing Respondent No. 4 to inquire and verify the EWS status/certificate of Private Respondent No. 5 with immediate effect and further revocation of the same, if found fraudulent, illegal, or invalid in the light of Rule 2 clause (ixa) of Jammu and Kashmir Reservation Rules, 2005 read with SRO 518 dated: 02.09.2019 along-with Jammu and Kashmir Reservation Act, 2004;*
- d. *issue a writ of or any other writ, order or direction in the nature of writ of mandamus for Commanding Respondent No. 1 to forthwith conduct thorough verification of EWS status/certificate of Private Respondent No. 5 and to further revoke his admission, if, upon verification, the EWS certificate is found fraudulent, illegal or invalid;*
- e. *issue a writ of or any other writ, order or direction in the nature of writ of mandamus for Commanding Respondent No. 2 to allocate the vacant EWS MBBS seat, if any, to the Petitioner in the subsequent, i.e., 3rd round of NEET-UG 2024 Counselling, as the Petitioner is an*

immediate next meritorious EWS candidate after the last selectee to MBBS at cut-off marks (i.e., at 404 marks);

BRIEF FACTS:

2. The facts leading to filing of the instant petition are that a public notice dated 09.02.2024 has been advertised by Respondent No. 6 inviting thereby online application forms for the National Eligibility-cum-Entrance Test [(NEET (UG)] 2024. The Petitioner being fully eligible offered his candidature for the said examination by way of applying to the same under the Economically Weaker Section (EWS) category. Subsequent thereto, NEET-UG 2024 was conducted on 5th May, 2024 and petitioner appeared in the said OMR-based examination and accordingly, Respondent No. 3 issued result/Provisional Merit list (PML) of NEET-UG 2024 of the candidates belonging to the UT of J&K/Ladakh in terms of Notification No. 084-BOPEE of 2024 dated 25.08.2024, wherein, the name of Petitioner bearing Roll No. 2501300413 is reflected against UT Rank 3280 under Economically Weaker Sections (EWS) category and the name of Private Respondent No. 5 (Mohd. Umar Farooq), bearing Roll No. 2501110407 is reflected against UT Rank 1474 under the Economically Weaker Section (EWS) category.
3. The further case of the petitioner is that in terms of Notification No. 093-BOPEE of 2024 dated 03.09.2024, impugned Provisional Selection list of the candidates of UT of J&K/Ladakh for MBBS/BDS Course 2024 was issued by Respondent No.3, by virtue of which Private Respondent No.5 has been selected for MBBS course under EWS category and accordingly granted admission to the said course at Government Medical College (GMC), Jammu.

4. The specific plea of the petitioner is that in the UT of Jammu and Kashmir, the MBBS cut-off for EWS Male candidates was 404 marks. However, despite scoring the same (404) cut-off marks, he has not been selected for the MBBS course but another candidate named Basit Ahmad Bhat, scoring the same respective marks, i.e., 404, has been selected for the MBBS course, as per the tie-breaking policy of NEET-UG-2024.
5. The specific case of the petitioner is that Private Respondent No. 5 had registered himself under the Resident of Backward Area (RBA) category with the JKBOPEE NEET UG-2023 Counseling in the previous academic year 2023 and his name has been reflected in the Provisional Merit List (PML) of NEET-UG-2023 of the candidates belonging to the UT of J&K/Ladakh issued vide Notification No. 045-BOPEE of 2023 dated 27.07.2023 bearing Roll No.2501210050 under RBA category, which implies that Private Respondent No.5 belongs to RBA category but has secured his admission to MBBS under EWS category by submitting a false EWS certificate, depriving the Petitioner, who ranks next in the order of merit immediately after the candidate selected at the last MBBS cut-off, i.e., at 404 marks under EWS category.
6. The further case of the petitioner is that he through a representation/complaint dated 06.09.2024, addressed the issue of fraudulent EWS certification in the name of Private Respondent No. 5 and requested Respondents No. 1 and 2 to immediately verify the legality and authenticity of the EWS status/certificate and also sought the cancellation of Private Respondent No. 5's admission under the EWS category, if there was any discrepancy found. However, Respondents No. 1 and 2 paid no heed to the said complaint(s), in fact, the

said private respondent has been granted admission to MBBS program at Government Medical College (GMC), Jammu, without proper verification.

7. Further case of the petitioner is that in the impugned Provisional Selection list, it shall be the sole responsibility of the college concerned to ensure proper examination and verification of documents before the candidate(s) is allowed for admission strictly as per NMC (MCI)/DCI guidelines, however, Respondent No.1 has granted admission to the said respondent, even though his verification is still pending. The petitioner again approached Respondents No.1 & 3 for thorough verification of EWS status/certificate of Private Respondent No.5 and to take call upon the matter/complaint filed by the petitioner by revoking his admission, if the same is found wrongful or otherwise, prior, to the initiation of the second round of NEET-UG 2024 Counseling, so that, the Petitioner, who is an immediate next meritorious EWS candidate after the last selectee to MBBS at 404 marks, may not be deprived of his rightful MBBS seat. However, Respondent No. 1 attempted to shift its responsibility onto Respondent No. 3, while Respondent No. 3, in turn, sought to evade accountability, resulting in the objection raised by the Petitioner regarding the unlawful admission of Private Respondent No. 5 to the MBBS course under the EWS category not being considered. Consequently, the Petitioner's grievance remains unaddressed by the Respondents.
8. The further case of the petitioner is that, yet again, in terms of representation/complaint dated 17.09.2024, he raised his concern before Respondent No. 4 *via* speed post complaining against fraudulent EWS certification in the name of Private Respondent No. 5, to verify the legality

and authenticity of EWS status/certificate of the Private Respondent No. 5 with immediate effect and further cancellation of his EWS certificate, if, found fake, fraudulent or illegal. The said complaint was duly served upon Respondent No.4 on 19.9.2024. However, despite service, the said representation/complaint remained unaddressed by Respondent No. 4 and no immediate action has been taken to conduct thorough verification of the EWS status/certificate of Private Respondent No. 5, till date.

9. The further case of the petitioner is that he has been selected to BDS course due to the illegal selection of Private Respondent No. 5 to MBBS course under EWS category. As such, he was left with no other option but to take admission in BDS course only, on account of inaction on the part of Respondents in verifying and rectifying the erroneous and illegal selection/admission of Private Respondent No. 5. As per the petitioner, it was the specific stand of the petitioner at the time of filing of instant petition that the NEET-UG 2024 Counseling process is still going on and the 3rd round of counseling, may be commencing within forthcoming days and accordingly, he approached this Court to get the verification done by the Respondents and reallocate the vacant EWS MBBS seat, if any, to him, prior, to the conclusion of the next round of counseling.

ARGUMENTS ON BEHALF OF THE PETITIONER:-

10. Mr. Pranav Kohli, learned Senior Counsel appearing on behalf of the petitioner, has argued that the illegal selection/admission of Private Respondent No. 5 under the EWS category violates Rule 2, Clause (ixa) of the Jammu and Kashmir Reservation Rules, 2005 (hereinafter referred to as **the**

Reservation Rules), in conjunction with SRO 518 dated 02.09.2019, as well as Section 2, Clause (o) of the Jammu and Kashmir Reservation Act, 2004 (hereinafter referred to as **the Reservation Act**). This is because Private Respondent No. 5 was previously categorized under the RBA (Reserved Backward Area) category. Therefore, an individual already classified under a Socially and Educationally Backward Class, such as RBA, is ineligible to meet the criteria for EWS (Economically Weaker Section) reservation, as prescribed by the Government of Jammu and Kashmir. As a result, Private Respondent No. 5's admission to the MBBS program under the EWS category is erroneous and illegal, unjustly depriving the petitioner, who is the next meritorious EWS candidate after the last selected candidate with 404 marks of his rightful opportunity to secure admission under the EWS quota.

11. It has also been argued that Private Respondent No. 5's inconsistent use of two different reservation categories (RBA in 2023 and EWS in 2024) undermines the integrity of the reservation policy. A candidate, who has previously been reserved under the RBA category, is not permitted to switch to the EWS category simply to avail the benefits of reservation for securing admission to any educational institution or for obtaining any job within the UT of Jammu and Kashmir.
12. Mr. Kohli has vehemently argued that the illegal admission of Private Respondent No. 5 under false pretences is violative, of fundamental rights guaranteed under Articles 14 and 16 of the Constitution of India. It has not only deprived Petitioner, a genuinely eligible and deserving EWS candidate of his right but also goes against the spirit of the Indian Constitution, which ensures equality of opportunity in education and public employment.

Mr.Kohli has further argued that the fraudulent acquisition of an EWS certificate by Private Respondent No. 5 and his illegal admission to MBBS under EWS category infringes the legal rights of the Petitioner, an immediate next meritorious EWS candidate after the last selectee to MBBS, who, actually belongs to Economically Weaker Sections (EWSs) and is entitled to benefit the same, however, is, being deprived of his legal right of selection/admission to MBBS due to the illegal allocation of MBBS seat to Private Respondent No. 5 without proper verification.

13. Mr. Kohli has further argued that the admission of Private Respondent No.5 under EWS category, being in contravention of reservation policy, is illegal and unconstitutional in the eyes of law. Therefore, such illegal admission of the Private Respondent No. 5 should be revoked/quashed forthwith, so that the Petitioner, being rightful EWS candidate, may secure his entitlement to the MBBS seat.
14. Lastly, he argued that inaction on the part of Respondents in conducting proper verification of the EWS certificate/status of Private Respondent No. 5, has jeopardized the future of Petitioner. Hence, immediate verification is required to be done by the Respondents in the instant matter, prior, to the commencement of 3rd round of NEET-UG 2024 Counseling, ensuring thereby that the admission process remains fair and transparent for all the deserving candidates, so that, the truly eligible EWS candidate may not be deprived of his/her rightful claim and any MBBS seat under EWS category may not be vacant later for the academic year 2024, or else, the very purpose of filing the present petition would be defeated.

ARGUMENTS ON BEHALF OF THE OFFICIAL RESPONDENTS:

15. *Per contra*, Mrs. Monika Kohli, learned Sr. AAG has filed response on behalf of the official respondents, wherein the respondents have taken a specific stand that in pursuance to the complaint preferred by Advocate Tania Mahajan on behalf of the petitioner whereby, she sought action regarding the issuance of an Income and Assets Certificate under the EWS Category in favour of the private respondent, an enquiry committee was constituted vide Communication No. TR/R/2024/416 dated 17.09.2024 with a view to conduct the thorough enquiry which recorded its findings in detailed report dated 30.10.2024, wherein it was held as under:

“The inquiry was initiated following verification of online application submitted by the petitioner for an Economically Weaker Section (EWS) certificate, applied by the petitioner on 10.08.2024, was reviewed by this office. The initial investigation involved a verification report by the Patwari

Halqa, Ramban and field staff, confirming that the petitioner's family resides in Ward No. 1, Ramban. The certificate was subsequently issued on 16.08.2024. Moreover, during the course of enquiry the petitioner accompanied by his father appeared before the committee but declined to provide a formal statement, opting instead to provide oral explanations. He claimed his primary residence was in Tehsil Banihal and that he had initiated the process to surrender previous certificates from that area. Subsequently, a report from the Tehsildar Banihal confirmed that his family had migrated to Ramban for educational purposes but remained permanent residents of Tethar, Tehsil Banihal. Additionally, the petitioner

had acquired both Domicile and RBA certificates from Tehsil Banihal, further complicating his eligibility for the EWS certificate.

The inquiry revealed that the petitioner had concealed material facts when

applying for the Domicile certificate in Ramban, claiming he has no other

domicile certificates. However, he already held a valid certificate from Tehsil Banihal, which he had failed to disclose. The petitioners' actions demonstrated an intentional misrepresentation of his residential status, raising concerns about the legitimacy of his EWS certificate.

The father of the petitioner has submitted an affidavit, duly attested by the Judicial Magistrate 1st Class, Ramban, affirming the accuracy and truthfulness of the information provided in support of his son's application.

In the affidavit, he certifies that all the details submitted are true, complete, and free from any material omissions. He further acknowledges

that any false or misleading information, if discovered at any stage, may result in legal action in accordance with the relevant provisions of the law.

Additionally, he understands that any benefits obtained through the application may be revoked and forfeited in such an event. This affidavit serves as a formal declaration of his commitment to the veracity of the information provided.

In response to the discrepancies, the committee concluded that the petitioner has willfully concealed the material facts and violated rules and

regulations by holding multiple domicile certificates, which is prohibited. Consequently, the Domicile certificate issued by this office was cancelled, and the petitioner's claim to the EWS certificate was found to be fraudulent. Further examination revealed that the EWS certificate issued did not meet the required residential criteria, as the petitioner had not established permanent residence in Ramban but only resided there temporarily for educational purposes. The committee's findings indicate deliberate attempts by the petitioner to manipulate the system for personal gain by misrepresenting his residency status and providing false information in his application. As a result, the committee has recommended the cancellation of the EWS certificate issued to the petitioner to prevent the misuse of the certificates reserved for eligible individuals.

It is further submitted that, upon receiving the report from the Enquiry Committee, a thorough review was conducted regarding the EWS (Economically Weaker Section) certificate issued in favor of the petitioner.

Based on the findings and recommendations outlined in the Enquiry Committee's report, it was concluded that the EWS certificate issued to the petitioner was invalid and did not meet the requisite criteria. Consequently, the EWS certificate issued in favor of the petitioner was canceled ab initio, and the said cancellation was formalized through the issuance of this office order No. TR/BCG/2024-25/63-71 dated 31.10.2024."

16. Based upon the aforesaid findings of the enquiry committee, it was concluded that the private respondent No.5 misrepresented his residence certificate status to secure EWS Certificate unlawfully and the committee further recommended that the EWS Certificate issued in favour of the private respondent should be cancelled as the same was procured by deceitful/fraudulent manner. Thus, in light of the recommendation of the committee constituted in this regard, pursuant to the complaint filed by Advocate Tania Mahajan on behalf of the petitioner and in light of the report received from the enquiry committee, the EWS Certificate issued in favour of

the private respondent was cancelled *ab initio* vide order dated 31.10.2024, copy whereof, has also been forwarded to Advocate Tania Mahajan.

ARGUMENTS ON BEHALF OF THE PRIVATE RESPONDENT:

17. Mr. Aditya Gupta learned counsel appearing on behalf of the private respondent at the very outset argued that the right of the petitioner can be adjudicated only in the eventuality, if the petition preferred by the private respondent being WP (C) 2648/2024 is decided against the petitioner. Since the private respondent has a preferential claim having superior merit *vis-à-vis* Ansh Mahajan, accordingly, he prays that the petition preferred by the private respondent being WP (C) 2648/2024 be heard and accorded due consideration. At this point, this Court considers it apposite to discuss the facts of WP (C) 2648/2024

WP (C) 2648/2024

18. The petitioner, through the medium of present petition, has thrown challenge to the Order No. TR/BCG/2024-25/63/71 dated 31/10/2024, whereby the application for issuance of certificate for EWS of the petitioner has been rejected.

19. The specific case of the petitioner is that he is already pursuing MBBS Course at GMC Jammu and is in 1st year bearing Roll no. 82. He is a resident of Ramban and has done his schooling from Ramban itself. His father was engaged as a SPO and due to his service during the peak of the militancy he had to migrate from the native village of Khairkoot Tehsil Banihal to Ramban in the year 2000 and he finally settled at Ramban and has been continuously living at the same place.

20. The specific case of the petitioner is that in the year 2023, the petitioner applied for NEET-UG-2023 examination and secured a rank of 1560 and the cut off for MBBS/BDS for the said year was 1912. Had the petitioner gone for the counseling he would have easily secured a seat in MBBS/BDS but the petitioner chose to pass over the said counseling as he observed that he had been wrongly issued the RBA (Reserved Backward Area) certificate since he was ineligible to obtain the said RBA certificate. The said certificate was issued to the petitioner in the year 2016 when he was only 13 years old by the office of respondent no.5 on the application initiated by his grandfather.
21. The further case of the petitioner is that he opted not to use the said certificate and, in fact, applied to the office of respondent no. 5 for cancellation of the said certificate. The respondent no.5 in spite of submitting of the application, till date, has opted not to proceed in the matter to cancel the incorrect certificate issued under the RBA category. Thereafter, the petitioner applied for the EWS certificate in the office of respondent no.4 on 10/08/2024 and was issued certificate bearing no. JK-REV-EWS-2024/19672 dated 16/08/2024. The petitioner fulfilled the requisite requirements for issuance of EWS certificate and based on the said certificate he was selected and is at present pursuing his MBBS course at GMC Jammu.
22. The specific case of the petitioner is that on 31/10/24 received a phone call from the office of respondent no.4, whereby he was informed about the impugned order and being left with no other option has challenged the said order before this Court through the present petition.
23. Mr. Aditya Gupta, learned counsel appearing for the petitioner submits that the impugned order demonstrates non-application of mind. The impugned

order, being silent about the fact that the petitioner has already been issued the EWS certificate dated 16/08/2024, is a clear example of non-application of mind. It appears that an attempt has been made to single out the petitioner and cause irreparable loss to him by passing a factually and legally incorrect impugned order.

24. It is further argued by learned counsel for the petitioner that the petitioner on filing of the application was issued EWS certificate on 16/08/24 and in case the respondent no.4 had any issue with the said certificate, then as per requirement of the law the petitioner should have been issued a show cause notice and he should have been directed to put forth his side of the story so that the correct decision could have been made. The respondent no.4, based on a cock and bull story, and without ascertaining the correct status has passed the impugned order, which according to him cannot sustain the test of law.
25. It is vehemently argued that the petitioner submitted his documents with the respondent no.4 based on which the EWS certificate was issued, the same documents are enclosed with the writ petition as well and the said documents fulfill the criteria laid down for issuance of the EWS certificate.
26. Mr. Gupta further argued that one of the reasons of passing of the impugned order as reflected is that the petitioner has a valid RBA certificate. Had the petitioner been issued a show-cause notice, he would have put forth his application for surrender of the RBA certificate already issued. The respondent no. 4, by denying the petitioner an opportunity of being heard, has issued the impugned order which is without any factual basis and is in complete violation of the law laid down by the Apex Court. Hence, the order impugned is liable to be quashed.

27. Mr. Gupta has drawn the attention of the Court to relevant statutory provisions of the Reservation Act, which provide a complete mechanism with regard to the issuance of the certificate and also defines the Competent Authority who can issue such certificate and also provides the mechanism of filing an appeal and revision before the appropriate authority, in case the person is aggrieved of an order of the Competent Authority. Reliance has been placed on Section 16 of the Reservation Act which gives the power to the Competent Authority to issue the requisite certificate in the prescribed form, provided the application is preferred and the said Competent Authority within 15 days from the date of the said application and for the reasons to be recorded in writing, either to accept the said application or reject it. From a bare perusal of the aforesaid statutory provisions, it is clear that on acceptance of the aforesaid application, the authority shall immediately issue the certificate to the applicant in the prescribed form.
28. Mr. Gupta, further argued that the certificate was issued by the Competent Authority i.e. Tehsildar Ramban and any person *whosoever* is aggrieved by an order of the Competent Authority issued under Section 16 of the Reservation Act may at any time before the expiry of 90 days from the date of issuance of the said order can prefer an appeal to Deputy Commissioner, if the order appealed against is passed by the officer below the rank of Deputy Commissioner in his capacity as Competent Authority. The Appellate Authority thereafter within 30 days from the date of receipt of the appeal pass such order as it deems fit.
29. Learned counsel for the petitioner has drawn the attention of the Court to the order impugned, although, the same has not been annexed while filing the

instant petition, a perusal whereof, reveals that the order of cancellation of the EWS Certificate issued in favour of the petitioner has been issued by the same authority i.e. Tehsildar Ramban who has issued the same under Section 16 and thus, according to the learned counsel, the order impugned has been passed by the Tehsildar without any authority of law and is without jurisdiction. It is submitted that the same authority who has issued the EWS Certificate has passed the order impugned and that too, on the basis of some enquiry conducted by the Enquiry Committee which is constituted by the same Tehsildar Ramban on 17.09.2024 to investigate the allegations concerning the EWS Certificate issued in favour of the petitioner. It is stated that the said inquiry has been initiated at the behest of the complaint filed by Advocate Tania Mahajan, raising concerns regarding the legitimacy of the EWS Certificate. The concerned Tehsildar, while passing the order impugned, has relied upon some report from Tehsildar Banihal vide communication dated 25.09.2024 followed by communication dated 21.10.2024.

30. It is the specific case of the petitioner that, in case, if any person was aggrieved of an order issued by the Competent Authority i.e. Tehsildar Ramban then it was incumbent on part of the complainant or the aggrieved person to have filed an appeal before the concerned Deputy Commissioner within 90 days from the date of passing of the said order. However, in the instant case, no such appeal was preferred by the person aggrieved and instead the same authority who has issued such certificate by invoking the provisions of Section 16 has cancelled the certificate without any authority of law, in derogation to the mandate and spirit of the scheme provided in the Reservation Act. Thus, the learned counsel has laid much emphasis on the

issue of the order being passed by an incompetent person and that too, without any authority of law and accordingly he prays that the order impugned be quashed.

31. With a view to substantiate his claim, the learned counsel has drawn the attention of the Court to the interim order passed by this Court in the instant petition on the very first day i.e. 06.11.2024, wherein, this Court after being *prima facie* satisfied, has stayed the operation of order dated 31.10.2024 on the ground that the same authority has cancelled the said certificate who has issued the same. The respondent No. 4 has exceeded his jurisdiction while passing the order impugned, which is subject matter of the instant petition.
32. Lastly, the learned counsel for the petitioner has argued that on the strength of the aforesaid certificate, cancellation of which has been stayed by this Court, a right has been accrued to the petitioner, wherein the petitioner has been admitted in MBBS and is pursuing the same for more than three months and the said right cannot be taken away without following due course of law.
33. With a view to clarify *qua* the assertion made by Mr. Kohli to the extent that he has not called in question the order of cancellation assigning cogent reasons, Mr. Aditya Gupta, submits that he has, in fact, called in question the order of cancellation of the said certificate dated 31.10.2024 which is an offshoot of such cancellation. As such, the plea taken by Mr. Kohli is factually incorrect and contrary to record.
34. Mr. Gupta has further drawn the attention of this Court to the application dated 14.06.2024 which has been filed prior to procuring the said EWS certificate, whereby, he had made his intention clear, to surrender the RBA certificate on 14.06.2024. He has also drawn the attention of the Court to the

requisite record that whatever was required on the part of the petitioner has already been done and the decision was required to be taken by the Competent Authority for such cancellation. Since the decision was not taken by the Competent Authority for cancelling the said certificate, the petitioner cannot be held responsible for any inaction on the part of the respondents which otherwise has been attributed to the petitioner that he has obtained EWS Certificate by way of fraud, misrepresentation and concealment which is contrary to record and the very foundation of the fraud, misrepresentation and concealment falls flat in light of the steps being taken by the petitioner which finds mention in the petition filed by the petitioner wherein the petitioner has placed on record the requisite record clarifying the factum of the steps being taken in this regard.

35. He has further drawn the attention of this Court to the order of cancellation issued by the concerned Tehsildar which has been placed on record by Mrs. Monika Kohli, learned Sr. AAG, a perusal whereof, reveals that some report was sought from Tehsildar Banihal who has confirmed that the petitioner is indeed a resident of Village Tethar, Tehsil Banihal and the RBA and domicile certificates issued to him are valid. Therefore, the claim regarding surrender of the RBA and other certificates is malicious and baseless. In the light of this said observation which has been made by the concerned Tehsildar, Mr. Gupta submits that this finding is contrary to record and may not sustain the test of law and therefore, deserves to be quashed.
36. He further submits that in case the respondent No.6, Mr. Ansh Mahajan, was aggrieved of the order of competent authority, then he ought to have filed an appeal in conformity with Section 17 of the Reservation Act which clearly

and explicitly provides that any person aggrieved of the order of the competent authority.

37. He has also drawn the attention of the Court to Section 18 of the Reservation Act which provides that the appellate authority may *suo moto* on an application made to it call the records of the proceedings held or orders made by any competent authority for the purpose of satisfying itself as a legality or propriety of such proceedings and may pass such orders in reference thereto as it deems fit with the proviso that no order shall be made against any person without affording him a reasonable opportunity of being heard.
38. He has also referred to the Reservation Rules with particular reference to Rule 25 of the Reservation Rules, which provides that any person aggrieved by an order of rejection of the competent authority, may under Rule 23, prefer an appeal to the appellate authority under Section 17 of the Act.
39. He has relied upon the judgment passed by the Division Bench of this Court in case titled **“Abhishek Khajuria Vs. State & Ors”**, decided on **16.09.2023**, wherein in Para 32 of the aforesaid judgment has observed as under:-

“32..... Chapter V of the Act of 2004 inter alia includes provision of appeal and revision provided separately under Sections 17 and 18 thereof. There is no dispute with regard to the fact that any person who is aggrieved by an order of Competent Authority passed under Section 16 is entitled to file an appeal within a period of 90 days from the date of the order. However, under Section 18, the Appellate Authority may, either suo moto or on an application made to it, call for the records of the proceedings or orders made, by any Competent Authority for the purposes of satisfying itself to the legality or propriety of such proceedings or orders and pass such orders in reference thereto as it deems fit. There is, however, no period of limitation prescribed for exercising the power of revision either suo moto or on an application made to it by any person.”

40. Lastly, he has argued that since it is a settled proposition of law that once a particular thing is prescribed under the statute, the same is required to be done in the same manner as it has been prescribed and not otherwise. Admittedly,

in the instant case, there is a statutory provision under the Act to file an appeal against the order of acceptance or rejection under Section 16 by filing an appeal under Section 17, then it was incumbent on the part of the person aggrieved to have filed an appeal in conformity with the aforesaid statutory provision.

41. *Per contra*, Mr. Pranav Kohli, learned Senior Counsel appearing on behalf of the private respondent No. 6 has referred to the prayer of the petitioner in the instant petition, a perusal whereof reveals that the petitioner seeks quashment of order dated 31.10.2024, whereby, the EWS Certificate dated 16.08.2024 has been withdrawn by way of rejection order passed by Respondent No. 4. On the other hand, the petitioner has called in question the offshoot of the decision taken pursuant to the enquiry conducted by the committee in this regard and the detailed cancellation order justifying the reasons has not been called in question. In absence of any specific challenge to the enquiry report or the detailed cancellation order, the challenge thrown in the instant writ petition to order dated 31.10.2024 is not maintainable. He has drawn the attention of this Court to the merit obtained by the private respondent who despite scoring the same EWS cut-off merit for MBBS i.e. 404 marks and also as immediate next meritorious EWS Candidate, has not been selected for the MBBS course.

42. The learned counsel for the private respondent denies the ground that the EWS cancellation order has been passed by respondent No.4 without following the principles of natural justice, whereas the fact remains that principles of natural justice have been duly followed by respondent No.4 by affording ample opportunities of fair hearing to petitioner in terms of show-

cause notices No. TR/R/2024/417 dated 24.09.2024 and TR/R/2024/460 dated 24.10.2024, respectively. The photographs of the petitioner while appearing before the inquiry committee are also attached with the inquiry report prepared by the inquiry committee, which implies that the petitioner has misled the Court by suppressing and concealing the afore-stated fact, so as to obtain an interim order of stay on the operation of his EWS cancellation order.

43. Mr. Kohli further submits that the petitioner does not fulfill the criteria/requirements laid down by the Government of J&K for issuance of EWS certificate as acquiring an EWS certificate fraudulently and illegally during the concurrence of a valid RBA certificate is in contravention of the reservation policy. The petitioner being already reserved/covered under the scheme of Residents of Backward Area (RBA) renders himself ineligible to be reserved/covered under the EWS category and to avail the benefit of the same as per the criteria set by the Government of J&K. He further submits that the petitioner is still in possession of an RBA certificate (which is valid up to the year 2026), issued to him from Tehsil Banihal.
44. Mr. Kohli has contended that the petitioner, in order to facilitate his admission to MBBS Course, has managed to acquire a EWS category certificate by fraudulent and illegal means from Tehsildar Ramban despite not being entitled to the same, as he was already in possession of a valid RBA category certificate, Domicile certificate and the Ration Card from Tehsil Banihal, at the time of applying for the EWS Certificate before respondent No.4.
45. Mrs. Monika Kohli, learned Senior AAG, submits that the petitioner Mohd. Farooq has not come to the Court with clean hands and has suppressed material facts while filing a false affidavit before the authority which led to

the issuance of the aforesaid EWS certificate and if true facts and circumstances were projected before the authority, then there was no occasion for the Tehsildar to have issued the said certificate in the light of the SO 518, wherein, a clear embargo has been laid down that the said EWS certificate cannot be issued to a person who is already having reservation under RBA. Consequently, the certificate of EWS can be issued by the authority only in light of undertaking given by the person that he does not have any other reservation under the Act and Mohd. Farooq has filed a false affidavit which ultimately led to the passing of the aforesaid order. As per the stand of the official respondents, the action of the petitioner demonstrated an intentional misrepresentation of his residential status, raising concerns about the legitimacy of his EWS certificate. The enquiry revealed that the Petitioner had concealed material facts when applying for the domicile certificate in Ramban, claiming he has no other domicile certificate. However, he already held a valid RBA certificate from Tehsil Banihal, which he failed to disclose. The petitioner has gone to the extent of filing a wrong affidavit where he deposed otherwise and acknowledges that any false or misleading information, if discovered at any stage, may result in legal action against him. The finding of the committee indicates a deliberate attempt by the petitioner to manipulate the system for personal gain by misrepresenting his residency status and providing false information in his application. As a result, the committee recommended the cancellation of EWS certificate to prevent the misuse of the said certificate reserved for eligible individuals. It is submitted that the petitioner was duly afforded ample opportunities during the enquiry in which the petitioner participated.

46. Mr. Bhatia, learned counsel for the appearing on behalf of BOPEE submits that the next candidate in order of merit is Basit Ahmad Bhat who has superior merit than Ansh Mahajan in the instant petition after Mohd Farooq. He further submits that even if the petition filed by Ansh Mahajan is allowed, the next candidate in the order of merit is Basit Ahmad Bhat. He further submits that both the candidates have the same merit in NEET, scoring 404 marks but in terms of the NTA (National Testing Agency) guidelines, the candidate who has secured more marks in Biology (botany and Zoology) and Chemistry, in such a situation, candidates securing higher marks in the aforementioned subjects shall be offered the vacant seats, who in the instant case happens to be Mr. Basit Ahmad Bhat.
47. Lastly, he submits that the admission which has been granted to a candidate, is subject to the verification and is provisional in nature and in case, if it is found that the admission is procured by fraud, concealment or misrepresentation, the same can be cancelled in conformity with the terms and conditions governing the admission.
48. It has been urged by Mr. Bhatia that the petitioner has not approached this Court with clean hands and has misled the Court by misrepresentation and concealment of certain material facts regarding his permanent residential status of Tehsil Banihal, possession of a valid RBA Certificate, Aadhar Cards, Ration Cards issued from Tehsil Banihal and Ramban in the years 2016, 2018, 2020 and 2024 respectively. Thus, the person who does not approach this Court with clean hands, no equitable relief can be granted to such person and in light of the said principle, the writ petition deserves to be dismissed. He further submits that the petitioner is still in possession of aforesaid documents,

which ostensibly connote that the petitioner is a permanent resident/domicile of Tehsil Banihal, yet has managed to acquire a falsified EWS Category Certificate in his favour from Tehsil Ramban, lately in the year 2024 itself (i.e. two days before the commencement of JKBOPEE NEET-2024 Counseling) for ulterior motives and undue personal gains/benefits.

LEGAL ANALYSIS

49. Since the issues involved in both the writ petitions are common, hence, both the petitions are being decided by virtue of a common order. The genesis of the controversy involved in both the writ petitions pertain to issuance of Economically Weaker Section Certificate (EWS) issued by the competent authority and also the law governing the issuance of the same.

50. With a view to clinch the controversy in question, this Court deems it imperative to thoroughly examine and clarify the core issues that are central to the instant petitions. These fundamental questions are crucial for the proper adjudication and resolution, which will provide the necessary foundation for the further course of action in this case. Thus the questions so formulated are as follows;

- a) **Whether an individual holding an RBA reservation certificate, without surrendering it, is eligible for an EWS certificate under SRO 518, which prohibits issuance of EWS certificates to those benefitting from other reservation categories?**
- b) **Whether the EWS certificate obtained by Mr. Mohd Umar Farooq, was secured through fraudulent means including concealment and misrepresentation of facts?**
- c) **Whether the issuing authority possesses the legal authority to revoke/ withdraw the said certificate so issued?**
- d) **Whether the instant case constitutes an exceptional case in which alternate and efficacious remedy available to the**

parties can be bypassed, considering the circumstances and legal principles involved?

- e) **Whether the Writ petition, bearing no. WP(C) 2648/2024 is maintainable, considering it involves serious and disputed questions of fact?**
- f) **Whether the admission has been procured by the candidate by way of fraudulent means and if that is so then what will be the consequence of cancellation of the said certificate on the basis of which the admission has been secured?**

Question-(a):-

Whether an individual holding an RBA reservation certificate, without surrendering it, is eligible for an EWS certificate under SRO 518, which prohibits issuance of EWS certificates to those benefitting from other reservation categories?

51. Before proceeding further, it would be apt to give a brief background of the origin of the reservation for EWS category at Central and UT level.
52. In pursuance to the Constitution (103rd Amendment), 2019, reservation for EWSs is available in jobs and admissions to educational institutions in Govt. Of India. Similarly in terms of SRO 518 of 2019 dated 02.09.2019, 10% reservation is available to the residents of J&K belonging to EWS category for applying to Govt. Jobs and admission in educational institutions in the UT of J & K. For availing the benefit, the candidates belonging to EWSs Category need to possess income and asset certificate issued by the competent authority. The income and asset certificate for applying to jobs and admission at the Central Level is issued as per Annexure-A to Circular 19-GAD 2019 dated 30.03.2019 while as EWS certificate for the purpose of applying to jobs and admission at the UT level as per Form XIV-A in terms of JK Reservation Rules, 2005 read with amendments carried out vide SRO 518 of 2019. In terms of the aforesaid SRO, which is issued in terms of Rule 2 (ixa), the definition of Economically Weaker Sections means persons:

- i. *who are not covered under the Scheme of Reservation of SCs, STs and Socially and Educationally Backward Classes as defined under clause (m), (n), and Clause (o) of Section 2 of the J&K Reservation Act.(Page 48, Annexure-V in the WPC No. 2379/2024).*

53. The 103rd Constitutional Amendment came to be introduced by 12th January, 2019 notification in terms of which clause (6) was inserted in Articles 15 & 16 of the Constitution in terms of which the Economically Weaker Section was added which states:

“(6). State shall not be prevented from making:

- a. any special provision for the advancement of any economically weaker section of citizens *other than the classes mentioned in clauses (4) and (5)*, and
- b. Any special provision for the advancement of any economically weaker sections of citizens *other than the classes mentioned in clauses (4) and (5)*, relating to their admissions to educational institutions.

For the purposes of Article 15 & 16, The State shall to notify the **“Economically Weaker Sections”** on the basis of family income and other indicative of economic disadvantage.

54. From the bare reading of afore-mentioned language of Article 15, it ostensibly means that the classes/categories who are already covered/reserved under Clauses (4) & (5) of Article of 15 (i.e., SCs, STs and SEBCs, viz., ALCs, RBAs etc) shall not fall under the criteria of EWS and rather excluded from the purview of EWS category, hence, SCs, STs, SEBCs can't claim EWS benefits.

55. Before addressing the aforementioned question, this Court considers it appropriate to reproduce the relevant provisions of SRO-518 for a clearer understanding:-

SRO 518 dated 02.09.2019

In terms of the SRO, which is issued in terms of 23 of the J&K Reservation Act, 2004 more particularly in terms of Rule 2(ixa), wherein Economically Weaker Section, is defined as persons;

1. *who are not covered under the Scheme of Reservation of SC's and ST's and socially and Educationally Backward Classes as defined under clause (m), (n) and clause 2(o) of Section 2 of the J&K Reservation Act 2004.*

Section 2(o) of the Reservation Act 2004

(0) *“socially and educationally backward classes” mean—*

- (i) *persons residing in the backward area;*
- (ii) *the persons residing in the area adjoining Actual Line of Control; and*
- (iii) *weak and under-privileged classes (social castes), declared as such under notification SRO-394 dated 5-9- 1981 read with notification SRO-272 dated 3-7-1982 and notification SRO-271 dated 22-8-1988 as amended from time to time:*

Provided that the Government may, on the recommendations of the State Backward Classes Commission, make inclusions in, and exclusion from, the said category from time to time:

CLARIFICATION/OFFICE MEMORANDUM DATED 05TH JUNE, 2020

- *“Persons who are covered under the existing scheme of reservation at the Central Level namely SCs, STs, and OBCs (Central list as applicable to UT of J&K are not entitled for claiming the benefit under EWS category.*
- *At the level of UT of J&K, reserved categories falling under the category of SCs, STs, and SEBCs, viz., RBA/ALC/IB/OSC/PSP, are not entitled for claiming the benefit under EWS category.*
- *The Income and Asset Certificate in favour of the candidates belonging to EWS category (excluding SCs, STs, SEBCs, viz., RBA/ALC/IB/OSC/PSP) shall be issued in the prescribed format as per Form XIV-A in terms of JK Reservation Rules, 20025 read with amendment carried out vide SRO 518 of 2019.”*

56. Thus, a unified interpretation of Section 2(o) of the Reservation Act along with the amendment effectuated by SRO 518 dated 02.09.2019, and the clarification/ office memorandum dated 5.06.2020, indisputably establishes that an individual seeking to claim reservation in the Economically Weaker Sections (EWS) category must not fall under any of the reserved categories, including Scheduled Tribes (STs), Scheduled Castes (SCs), Reserved Backward Areas (RBA) or any other similar categories.

57. Coming to the case in hand registered as **WP(C) 2648/2024**, the petitioner in the case mentioned (*supra*) has prayed for the quashment of Order no.

TR/BCG/2024-25/63/71 dated 31/10/2024, whereby, the EWS certificate of the petitioner has been withdrawn/ revoked by issuance of rejection certificate passed by the respondent no. 4, the concerned Tehsildar.

58. The record reveals that the petitioner Mohd. Farooq obtained the EWS Certificate by misrepresentation and filing of a false affidavit. Feeling aggrieved of the same, a complaint was preferred by Ansh Mahajan who is the petitioner in WP (C) No. 2379/2024 and private respondent in 2648/2024. Pursuant thereto, the record reveals that a committee was constituted by Tehsildar Ramban on 17.09.2024 to investigate allegations concerning to EWS Certificate and the said enquiry was initiated pursuant to formal complaint from counsel Tania Mahajan raising serious concerns regarding the legitimacy of the said certificate.
59. Subsequently, Mohd. Umar Farooq was summoned before the enquiry committee, wherein he took a stand that he was primarily a resident of Village Tethar Tehsil Banihal and has obtained Domicile and RBA certificates from Banihal and he concealed this vital information at the time of applying for the EWS Certificate from Tehsil Ramban. However, he claimed to have applied for surrender of these certificates. Accordingly, a report was sought on 25.09.2024 which confirmed that Mohd. Farooq is indeed a resident of Village Tethar Tehsil Banihal and the RBA and Domicile certificates issued to him are valid, accordingly, as per the report of the Tehsildar, the claim of Mohd. Farooq regarding the surrender of these certificates was malicious and baseless.
60. The record further reveals that the enquiry committee conducted a thorough examination of the complaint, relevant documents and testimonies which

concluded that Mohd. Umar Farooq failed to disclose critical information about his previous RBA status, thus compromising the guidelines for issuance of a formal EWS Certificate. The enquiry committee further concluded that Mohd. Umar Farooq concealed essential facts regarding his residential status at the time of filing of the application, resulting to the issuance of EWS Certificate based on misrepresentation, which violated the eligibility criteria and also undermined the integrity of the process. The committee also found that Mohd. Umar Farooq was holding multiple certificates thereby violating regulations governing their issuances and he did not formally surrender his primary domicile certificate from *Tehsil Banihal* before applying a fresh for EWS Certificate from *Tehsil Ramban*, where a clear embargo has been created for issuance of said Certificate to a person who is already having other reservation under the Reservation Act and Rules framed there under.

61. Thus, in light of the fact that respondent No.5 did not surrender his RBA certificate prior to applying for EWS from Tehsil Ramban, the committee established that he violated the Reservation Rules concerning the concurrent holding of different category certificates. Therefore, in accordance with provisions of Reservation Act coupled with provisions of SRO 518 of 2019 and other relevant regulations governing the issuance of income and assets certificates for EWS, the said EWS certificate issued to respondent No.5 dated 16.08.2024 was cancelled *ab-initio* by the same authority who issued the same i.e. Tehsildar Ramban. However, the said Tehsildar vide order dated 31.10.2024 cancelled the certificate of respondent No.5 in WP(C) No. 2379/2024 justifying the same by giving cogent reasons for such cancellation.

62. It is evident from the action of the petitioner that, upon failing to secure admission to the MBBS course by availing the benefits of RBA category, he deliberately, concealed material facts to deceive the authorities and has procured the EWS certificate in question. By obtaining the EWS category certificate under false pretences, he was able to gain admission to the MBBS course, thereby unjustly displacing a more meritorious candidate. Hence, it is apparent that the EWS certificate issued to the Mohd Umar Farooq could not have been granted had he not suppressed material facts from the competent authority. The issuance of the certificate is in clear violation of SRO 518, which is in *vogue* and explicitly governs the conditions under which an EWS certificate may be granted. The petitioner was already availing the benefits of the Reserved Backward Area (RBA) category, which remains valid until 2026 and has not been revoked or surrendered by the petitioner. As per the provisions of SRO 518, an individual who is already a beneficiary of any other reservation category is not eligible to apply for or receive an EWS certificate. By continuing to hold an active RBA certificate, the petitioner was legally barred from seeking benefits under the EWS category and the act of suppressing material facts, whether intentional or due to negligence vitiates the entire process of issuance. ***Thus, the grant of the EWS certificate under such circumstances is legally untenable and constitutes a direct violation of the established rules and regulations.***

63. ***Thus Question-(a) is answered accordingly.***

Question-(b):-

Whether the EWS certificate obtained by Mr. Mohd Umar Farooq, was secured through fraudulent means including concealment and misrepresentation of facts?

64. The record reveals that the petitioner is primarily a resident of village Tethar, Tehsil Banihal, which is evident from the Domicile Certificate of the petitioner, the RBA certificate which has its validity till 2026 and also through the *Aadhar* and the ration cards of the petitioner. It is pertinent to note that the record clearly indicates that the petitioner failed to surrender his RBA and domicile certificates from Banihal prior to applying for the EWS (Economically Weaker Sections) category certificate. Instead, the petitioner concealed and misrepresented his true status as a permanent resident and his RBA classification before the Tehsildar of Ramban. Furthermore, the petitioner submitted a false affidavit in support of his application for the EWS certificate, thereby intentionally misrepresenting material facts in order to qualify for the benefits of the EWS category. *The perusal of the record and consideration of the arguments put forth by the counsel for the parties thus, make it abundantly clear that the category certificate was obtained fraudulently by concealment and misrepresenting the material facts.*

65. *Accordingly, Question-(b) is answered.*

Question-(c)-

Whether the issuing authority possesses the legal authority to revoke/withdraw the said certificate so issued?

66. It is evident before this Court that the petitioner was ineligible for the issuance of the EWS certificate under SRO 518, which expressly prohibits individuals already benefiting from any other reservation category from obtaining an

EWS certificate. Despite this clear embargo, the petitioner managed to procure the certificate through fraudulent means.

67. To secure a false EWS category certificate, the petitioner has knowingly misrepresented material facts, concealed relevant information and misled the competent authority responsible for issuing such certificate. Such deliberate misrepresentation constitutes an act of fraud, as it involves an intentional effort to deceive the authority into granting a benefit that the petitioner was not legally entitled to receive.
68. Fraud, in legal parlance, entails an intentional perversion of the truth to induce another to act to their detriment. In the present case, the petitioner's actions amount to a calculated attempt to circumvent the legal framework governing reservation and eligibility for the EWS category. By wrongfully availing the benefit of the EWS category while already holding a reservation under the Reserved Backward Area (RBA) category, the petitioner not only violated the provisions of SRO 518 but also undermined the integrity of the reservation system designed to ensure fair and equitable distribution of benefits to deserving individuals.
69. Therefore, the petitioner's procurement of the EWS certificate was not merely an administrative lapse but a deliberate act of fraud, warranting appropriate legal consequences, including the revocation of the certificate and any other action deemed necessary under the law.
70. The principle that the authority responsible for issuing a category certificate also holds the right to cancel or revoke, it is a well-established legal concept grounded in the authority and responsibility vested in such authority. This principle ensures that category certificates, such as those for Reserved

Backward Areas (RBA), Scheduled Castes (SC), Scheduled Tribes (ST), Other Backward Classes (OBC), Economically Weaker Sections (EWS), and similar classifications, are issued in accordance with the law and based on the eligibility criteria prescribed by relevant statutes or rules. Since the authority is responsible for the initial issuance, it logically follows that this authority must also be empowered to take corrective actions, including ***cancelling or revoking*** the certificate, if it is later found that the certificate was issued based on incorrect, false, or fraudulent information, or if the individual no longer meets the eligibility criteria. There may be several situations which may warrant the cancellation or revocation of a certificate, such as

- ***Misrepresentation of Facts:** If it is discovered that the applicant provided false or misleading information regarding their eligibility for the category (e.g., income, caste, or residence status).*
- ***Change in Eligibility:** If the individual's circumstances change and they no longer meet the eligibility criteria for the category (for example, if an individual initially issued a certificate under the RBA category subsequently becomes ineligible for the same).*
- ***Fraudulent or Forged Documents:** If the certificate was obtained through fraudulent means or using forged documents, it can be revoked.*
- ***Non-compliance with Surrender Clause:** In cases where rules or regulations mandate the surrender of an earlier certificate to obtain a new one (e.g., switching categories between RBA and EWS), failure to comply with this requirement may justify revocation.*

71. Thus, the power vested with the authority to cancel the certificate is crucial for maintaining the integrity of the reservation system, ensuring that certificates are issued based upon accurate and truthful representations.

72. It is an established legal principle that the authority responsible for issuing a certificate also holds the right to cancel or revoke it. In case titled “**Gurusiddayya v. The Tahsildar and ors**”, passed by the High Court of Karnataka in **Writ Petition No. 110995/2024 (GM-CC)**, decided on **03.11.2015**. It was observed in the para 6 of the judgment as follows:

“In the light of the above, the caste certificate has been issued in favour of the petitioner by the Tahsildar. The question is as to whether Tahsildar has the power to cancel his own order? The provision does not specifically confer any power, which includes the tahsildar to cancel his order. Then the next question would be whether the tahsildar can cancel his order on the ground of technical lapse like non- application of mind or some other technical grounds? In the present case, the Tahsildar has issued caste certificate to the petitioner, after issuance of the certificate, he found that there is a mistake, then he can cancel his order. The tahsildar retains the administrative power to cancel the same. A person having power to issue caste certificate can also retain the power to cancel the same by assigning reasons.”

73. In another case titled ***Arshad Jamil v. Uttrakhand and ors bearing Civil Appeal No. 7721 of 2011, decided on 07.09.2017***, the Hon’ble Apex Court has held as follows;

“15. Another order came to be issued on 2.3.2005 whereby the tehsildar Roorkee, who was the competent authority, cancelled the caste certificate issued to the appellant on 29.06.2002 on the ground that after a detailed inquiry it was revealed that the appellant had obtained the caste certificate by showing himself a resident of Roorkee in a mischievous manner, while he was actually a permanent resident of Muzaffarnagar, and thereby he has misused the said caste certificate”

“38. Consequently, we find no infirmity in the judgment and order dated 13.08.2008, in writ petition no. 408 of 2006 passed by the High Court, upholding the order of the Tehsildar canceling the caste certificate of the appellant. The appeal filed by the appellant against the order dated 13.08.2008 of the High Court fails.”

74. Similar issue has been discussed in case titled ***Piyush Kumar Sharma v. State of U.P and ors, in Writ (C) No. 30151 of 2022, decided on 31.01.2023***, of the Allahabad High Court wherein, the Tehsildar had cancelled the EWS category certificate of the petitioner and the High Court has upheld the cancellation order of the Tehsildar. In paras 16 & 17, the Court has held as under:

“16. Where the State seeks to make provision for reservation in appointments or posts in respect of certain class of citizens (in present case the EWS), any scheme that is framed by the Government for identification of EWS and issuance of certificate of EWS, such scheme has to be strictly construed and interpreted. A perusal of the aforesaid EWS scheme leaves no manner of doubt that criteria for income and assets mentioned therein have to be strictly interpreted. As already held above, the term “Family” has been specified in the scheme and the property held by a “Family” in different locations or different places/cities would be clubbed while applying the land or property holding test to determine EWS status.”

17. The EWS Scheme also specifically mentions that the instructions should be strictly followed so that it may not be possible for an unscrupulous person to seek employment on the basis of false claim and if any person gets an appointment on the basis of such false claim, his/her service shall be

terminated invoking conditions contained in the offer of appointment.”

80. Rule 25 of the Reservation Rules, 2005, also provides for an appeal at the instance of an aggrieved person against the order of rejection by the competent authority under Rule 23. By reading of Section 16 and 17 of the Act of 2004, in juxtaposition with Rule 23 and 25 of the Rules of 2005, an anomaly clearly emerges and, therefore, for better appreciation of this anomaly, it is necessary to set out the relevant statutory provisions of the Reservation Act and Rule 23 and 25 of the Rules of 2005. The relevant provisions of the Reservation Act and Rules are reproduced hereinunder: -

Relevant Provisions of Reservation Act

“Section 13. Authority competent to issue certificates.

The Government may, by notification in the Official Gazette, invest any revenue officer, not below the rank of Tehsildar, with powers to issue certificates in favour of the members of the reserved categories:

Provided that in respect of remote and inaccessible areas, the Government may invest any officer of the Revenue Department, not below the rank of Naib Tehsildar, with such powers.

Section 14. Presentation of application.

A person claiming benefit under the Act shall apply in the prescribed manner to the Competent Authority for grant of a certificate.

Section 15. Registration and verification.

The Competent Authority shall, on receipt of the application,

- i. *Immediately record it in a register to be maintained by it and issue to the applicant a receipt to that effect; and*
- ii. *Scrutinize the application and conduct enquiries as may be necessary for verification of the details of the application as also with regard to eligibility of the applicant for the certificate.*

Section 16. Issuance of Certificate.

The Competent Authority shall, within fifteen days from the date of receipt of the application and for the reasons to be recorded in writing either accept the application or reject it. On acceptance of the application, the authority shall immediately issue the requisite certificate to the applicant in the prescribed form.

Section 17. Appeals.

1. *Any person aggrieved by an order of the Competent Authority under Section 16, may, at any time before the expiry of ninety days from the date of the order, prefer an appeal to:*

i. Deputy Commissioner, if the order appealed against is passed by an officer below the rank of deputy Commissioner in his capacity as Competent Authority; or

ii. Divisional Commissioner, if the order appealed against is passed by the Deputy Commissioner in his capacity as Competent Authority.

2. *The Appellate Authority shall, within 30 days from the date of receipt of the appeal, pass such orders on it as it deems fit:*

Provided that no order shall be made against any person without affording him a reasonable opportunity of being heard.

Section 19. Choice.

A candidate belonging to more than one category shall be entitled to claim the benefit of reservation in one category only, as per his choice, for appointment or promotion in Government Service or admission in professional institutions, as the case may be.”

Relevant Provisions of Reservation Rules:

23. Issuance of Certificate

The Competent Authority shall within 15 days from the date of the receipt of the application for reasons to be recorded in writing either accept the application or reject it. On the acceptance of the application, the authority shall immediately issue the requisite certificate to the applicant in Form VIII, IX, X, XI, XII, XIII, XIV, as the case may be.

25. Appeals

(1) Any person aggrieved by an order of rejection of the Competent Authority under rule 23 may, prefer an appeal to the appellate authority under section 17 of the Act.

81. From a careful reading of Section 16 and 17 of the Reservation Act, it clearly transpires that an order of the competent authority under Section 16, whereby the application for grant of reserved category certificate is either accepted or rejected, is appealable before the Appellate Authority at the instance of any person aggrieved. It clearly means that any person, who is aggrieved by the order of competent authority passed under Section 16 of the Act, can avail of the remedy of appeal within a period of 90 days from the date of order. If the application for grant of category certificate is rejected, obviously the person aggrieved would be the applicant but where such an application is accepted and a category certificate is granted, any person aggrieved or affected by the issuance of such certificate may also file an appeal. There is, however, a rider on the exercise of appellate powers by the Appellate Authority that no order against any person shall be made without affording him a reasonable opportunity of being heard.
82. Looking to Rule 23 and 25 of the Rules of 2005, it would transpire that an appeal to the Appellate Authority under Section 17 of the Reservation Act is available only against the order of rejection of the application and it can be at the instance of the applicant for there could be no other person other than the applicant who would be aggrieved of rejection of his application for grant of reserved category certificate. There is, thus, clear anomaly in the two set of provisions noted above but this anomaly may not detain the Court from proceeding further in the matter. Needless to say that the rules framed under the Act are subservient to the Act and must succumb to the extent of any

anomaly or incongruity. Be that as it is, it is equally important to notice that Section 22 of the Act contains a provision for cancellation of category certificate and forfeiture of benefit etc. if it is found that any person has obtained a certificate under the Act by misrepresentation, fraud or concealment of any material fact or impersonation etc. For facility of reference, Section 22 of the Act is also reproduced here-under:

"22. Penalty for contravention of the provisions of the Act.

Any person who obtains a certificate under the Act by misrepresentation, fraud or concealment of any material fact or impersonation shall, in addition to prosecution under the law for the time being in force, be liable to:-

- (a) cancellation of the certificate and forfeiture of benefit*
- (b) removal or dismissal from service and*
- (c) fine of not less than rupees ten thousand.*

83. From a conjoint reading of Sections 16, 17 and 18 of the Act of 2004 and the Rule 25, it clearly transpires that intention of the legislature is to provide remedy of appeal only to a person who is aggrieved by an order of rejection of his application for issuance of relevant category certificate. It is because of this reason and clear intent, Rule 25 clearly lays down that an appeal to the Appellate Authority under Section 17 of the Act of 2004 would lie at the instance of a person aggrieved by an order of rejection of the Competent Authority under Rule 23. The remedy of a person other than a person who is aggrieved by order of rejection of his application for grant of category certificate is to invoke the revisional jurisdiction of the Appellate Authority under Section 18 of the Act of 2004.
84. Thus, according to the above mentioned enunciations of law, it is concluded that the Tehsildar was correct in exercising his power to revoke the category certificate that was issued, when it was discovered that the certificate had been

procured through fraudulent means. The integrity of the certification process is essential to ensure that individuals are classified and treated according to their true eligibility. When a certificate is obtained through deceit, it undermines the fairness and transparency of the system, and such fraudulent actions cannot be allowed to stand. The Tehsildar, acting within his authority, took appropriate steps to rectify the situation and maintain the credibility of the certification process. Revoking the certificate was necessary to uphold justice, ensure compliance with legal norms, and prevent misuse of entitlements based on fraudulent claims. This Court also while deciding similar facts and circumstance in case titled *Suresh Sharma v. Union Territory of J&K & Ors 2021 SLJ 165* has held in paragraph 24,25 as under:

“24.It is the categoric case of the petitioner that the respondent No.3 and 4 have managed RBA category certificates by misrepresentation, fraud and concealment of material facts. If that be the position, the petitioner is well within his rights to approach the authority which has granted the certificate and place before it the material to substantiate his allegations of misrepresentation, fraud and concealment of material facts.”

“25. Needless to say that the power to grant includes the power to withdraw or cancel. Otherwise also, any order or certificate obtained by fraud, misrepresentation or concealment of facts is nullity in the eye of law and, therefore, nothing prevents the authority, which was persuaded to pass such order or grant such certificate by misrepresentation, fraud or concealment of material facts, to make such declaration and cancel/withdraw the certificate so obtained/issued.”

85. *Therefore, any certificate procured by fraud, concealment and misrepresentation of facts can be revoked by the authority who has issued the same and who in the instant case happens to be the Tehsildar.*

86. Accordingly Question-(c) is answered.

Question-(d)

Whether the instant case constitutes an exceptional case in which alternate and efficacious remedy available to the parties can be bypassed, considering the circumstances and legal principles involved?

87. Now, the legal issue that remains to be adjudicated in the present petition is whether the alternate and efficacious remedy, available to the petitioner (Mohd Umar Farooq), can be bypassed, considering the established facts that the petitioner procured the category certificate through fraudulent means and that the certificate was rightfully revoked by the Tehsildar (Respondent No 4).
88. To ensure a clearer understanding of the issue concerning the alternate and efficacious remedy available to the petitioner, it is imperative to interpret the true meaning and scope of Section 17 of the Jammu and Kashmir Reservation Act, 2007.

Section 17(1) -Any person aggrieved by an order of the Competent Authority under section 16, may, at any time before the expiry of ninety days from the date of the order, prefer an appeal to

- i. Deputy Commissioner, if the order appealed against is passed by an officer below the rank of Deputy Commissioner in his capacity as Competent Authority; or*
 - ii. Divisional Commissioner, if the order appealed against is passed by Deputy Commissioner in his capacity as Competent Authority.*
89. In the present case, WP(C) No. 2648/2024, the petitioner has approached this Court seeking a remedy under Article 226 of the Constitution of India, challenging the decision of the competent authority that has cancelled the petitioner's EWS (Economically Weaker Section) certificate. However, it is essential to address the maintainability of the writ petition, particularly in light of the procedural and jurisdictional aspects involved. This Court deems it necessary to adjudicate, whether the remedy sought by the petitioner under Article 226 is appropriate, given the nature of the dispute and the authority's jurisdiction.
90. Given the time-sensitive nature of this case, which directly impacts the careers of students, it is crucial that the matter be addressed without any delay. Thus,

considering the time-sensitive nature of the case in hand, this Court is exercising its discretion to adjudicate the present case, instead of relegating it back to the Deputy Commissioner who is the competent authority for such adjudication to hear appeal against the order passed by the Tehsildar who is officer below the rank of Deputy Commissioner within 90 days from the date of such order.

91. The issue at hand is whether the High Court should exercise its discretionary powers to adjudicate the present case due to its time-sensitive nature rather than remitting it back to the competent authority. The decision to retain jurisdiction depends on several legal principles, including judicial discretion, the doctrine of alternate remedies, the urgency of the matter and the precedents set by the Hon'ble Supreme Court.

Principle of judicial discretion in writ jurisdiction

92. The High Court has wide discretionary powers under article 226 of the constitution of India to entertain and decide matter even when an alternate and efficacious remedy is available. While the general principle is that a party must exhaust all available remedies before approaching the High Court, Article 226 grants the High Court the authority to override this rule in exceptional circumstances.

93. The apex Court in case titled ***Rajasthan SEB v. Union of India, (2008) 5 SCC 632*** has observed as under: -

“3. By now it is a well-settled principle of law that availability of alternative remedy is not an absolute bar for granting relief in exercise of power under Article 226 of the Constitution.”

94. The Court emphasized that where exceptional circumstances exist, the High Court need not insist on relegating the case to the alternative forum. Thus, in

the instant case as well, the time sensitive nature of the issue makes a referral to the Deputy Commissioner impractical or leads to an irreversible consequence. Accordingly, this Court is exercising its discretion in adjudicating the issue.

Doctrine of Alternative Remedies and when it can be bypassed

95. Ordinarily, Courts refrain from exercising jurisdiction when an alternative and efficacious remedy is available. However, there are exceptions. The Supreme Court in case titled *Harbans Sahnia v. Indian Oil Corporation (2003) 2 SCC 107* has held that even if an alternate and efficacious remedy exists, the High Court may intervene if the case involves:

- Pure question of law
- Urgent or time sensitive matters
- Failure of justice if relegated to an alternate remedy

In *Union of India v. Tania Construction Pvt. Ltd (2011) 5 SCC 697*, the Court ruled that where delay could defeat the ends of justice, the High Court can exercise its jurisdiction rather than remitting the case to another authority. The Supreme Court has also clarified that High Courts can adjudicate matters even where lower authorities are competent if the case demands immediate resolution. Similarly, in *Surya Dev Rai v. Ram Chander Rai, (2003) 6 SCC 675*, the Apex Court ruled that where justice demands urgency, the High Court should not decline jurisdiction merely because a lower forum exists.

96. Thus, in light of what has been discussed hereinabove coupled with the settled principles of law, this Court is not obligated to refer the case to an alternative forum, given it falls under exceptional circumstances. In light of the unique nature of this case, insisting on relegation to another forum would not serve

the interest of justice. Therefore, this Court is justified in exercising its jurisdiction to address the matter directly.

97. **Accordingly Question-(d) is answered.**

Question-(e)

Whether the Writ petition, bearing no. WP(C) 2648/2024 is maintainable, considering it involves serious and disputed questions of fact?

98. The record reveals that the petitioner has not raised any specific challenge against the inquiry report dated 30.10.2024 or the detailed cancellation order dated 31.10.2024 issued by the Tehsildar, both of which serve as the foundation for the cancellation of the category certificate. The inquiry report presents the factual findings, and the cancellation order provides a detailed explanation with cogent reasons for the decision taken. In the absence of a direct challenge to these key documents, which are critical to the matter at hand, the petitioner's writ petition (WP(C) 2648/2024) is held to be not maintainable. Thus, in the light of preliminary objections raised by Mr. Kohli, the very maintainability of the petition is under cloud, and therefore, the petitioner is precluded from agitating the grounds raised in the petition in absence of specific challenge to the order of cancellation or inquiry report assigning cogent reasons.

99. It is worthwhile to mention that although, the petitioner has sought quashment of the detailed cancellation order dated 31.10.2024 vide No. TR/BCG/2024-25/63-71 in the prayer clause, yet, the aforesaid detailed order of cancellation has not been challenged or placed on record and there is even no specific challenge to the enquiry committee's report and thus, the grounds urged by

the petitioner that the cancellation is illegal cannot be gone into in absence of any specific challenge to the same.

100. Notably, the detailed order of cancellation has been placed on record by the newly added respondent no. 6-Ansh Mahajan, who was initially not made as party respondent by Mohd. Umar Farooq and subsequently, with the intervention of this Court, Ansh Mahajan was arrayed as a party respondent no. 6 in the writ petition preferred by Mohd. Umar Farooq. It is respondent no. 6 who has also placed on record the detailed enquiry report dated 30.10.2024 and also the detailed cancellation order dated 31.10.2024 justifying such cancellation while filing reply in the said petition. These documents, crucial for the adjudication of the present writ petition were **suppressed** by the petitioner Mohd. Umar Farooq.

101. Even otherwise, the present writ petition filed by Mohd. Umar Farooq raises disputed question of facts and this Court cannot adjudicate the said disputed question of facts while exercising writ jurisdiction.

102. In addition to the above, the findings recorded by the enquiry committee reveal that the petitioner Mohd. Umar Farooq has manipulated material facts that his father migrated to Tehsil Ramban from Banihal in the year 2000 due to militancy, whereas, the enquiry established that the petitioner was unable to provide the satisfactory explanation to the enquiry committee, when he was questioned regarding the timing and implication of his migration. Despite the alleged precarious situation and post the migration to Tehsil Ramban in the early 2000, petitioner still continues to be in possession of the essential documents which ostensibly connote that he is a permanent resident of Tehsil Banihal and yet, managed to acquire the false EWS in his favour from Tehsil

Ramban in the year 2024 i.e. on 16.08.2024, two days before the commencement of NEET 2024 Counseling for ulterior motive and undue personal gains/benefit.

103. Another ground that is material for adjudicating on the maintainability of the writ petition is concealment, misrepresentation, and fraudulent conduct on the part of the petitioner. It is apparent that the petitioner has submitted a false and misleading affidavit to Tehsildar Ramban while applying for the EWS certificate, wherein, he falsely affirmed that he belongs to the general category and is not covered by any of the categories excluded from the scope of EWS. Upon reviewing the records, it has come to light that the petitioner has also provided a false declaration while applying for the Ramban Domicile Certificate, claiming that he does not hold any other domicile certificate. In doing so, he concealed his permanent residential status in Banihal from the Tehsildar Ramban. This act of misrepresentation and concealment undermines the legitimacy of the petitioner's claim, further rendering the writ petition untenable. Not only this, the petitioner has suppressed the detailed enquiry report dated 30.10.2024 and also the detailed cancellation order dated 31.10.2024 in the petition, which were crucial for the adjudication of the present writ petition and were placed on record only by respondent no. 6.
104. It is a well-established principle that a party seeking relief from a court must come with clean hands. Anyone who approaches the court while engaging in misconduct, dishonesty, or bad faith cannot expect to receive equitable relief. Courts uphold the doctrine of "clean hands" to ensure fairness and prevent individuals from taking advantage of the judicial system while acting in an unjust or unethical manner.

105. The doctrine of "*clean hands*" is a fundamental principle of equity that ensures that those seeking judicial intervention do so with integrity and good faith. This principle is rooted in the idea that the legal system should not be used as a tool to benefit individuals who themselves engaged in wrongdoing. If a party has acted fraudulently, deceptively, or in violation of legal or moral standards, they forfeit their right to claim equitable relief.

106. Moreover, the doctrine does not require absolute purity of conduct but rather a demonstration of good faith and honesty in the matter before the court. If the misconduct of the petitioner is directly related to the claim he is making, the court may deny relief. However, if the alleged wrongdoing is unrelated or trivial in nature, the doctrine may not be strictly applied. Ultimately, the "clean hands" principle safeguards the credibility of the legal system by ensuring that equity is granted only to those who uphold ethical and legal standards in their dealings.

107. Reliance is placed upon a judgment of Hon'ble Supreme Court, titled "*Union of India vs Dattatray and Ors*", bearing Appeal (civil) No.1639 of 2008, decided on 15.02.2008, wherein, the Court laid down the principle of law that where a benefit such as an appointment to a post or admission to an educational institution is secured on the basis that the candidate belongs to a reserved category, the invalidation of the caste or tribe claim upon verification would result in the appointment or the admission, as the case may be, being rendered *void* or *non est*. In relevant Para 6, it was observed as under:

"6. In this context, we may also refer to the decisions in Bank of India v. Avinash D.Mandivikar (2005) 7 SCC 690 and Additional General Manager Human Resources, Bharat Heavy Electricals Ltd. V. Suresh Ramkrishna Burde, 2007 (5) SCC 336, wherein this Court held that when a person secures appointment on the basis of a false caste certificate, he cannot be allowed to retain the benefit of the wrong committed by him and his services

are liable to be terminated. In the latter case, this Court explained Milind thus : "The High Court has granted relief to the respondent and has directed his reinstatement only on the basis of the Constitution Bench decision of this Court in State of Maharashtra v. Milind. In our opinion the said judgment does not lay down any such principle of law that where a person secures an appointment by producing a false caste certificate, his services can be protected and an order of reinstatement can be passed if he gives an undertaking that in future he and his family members shall not take any advantage of being member of a caste which is in reserved category."

This Court further held that even in cases of admission to educational institutions, the protection extended by Milind (supra) will be applicable only where the candidate had successfully completed the course and secured the degree, and not to cases where the falsehood of the caste certificate is detected within a short period from the date of admission."

108. In light of the well-established legal principle that a party seeking relief must approach the court with clean hands, the petitioner in WP(C) 2648/2024 is not entitled to any equitable relief as the petitioner has not come up with clean hands. The petitioner has unlawfully usurped an MBBS seat reserved under the Economically Weaker Section (EWS) category, which was specifically intended for a deserving and eligible candidate meeting the EWS criteria. By securing admission through illegitimate means, the petitioner has not only deprived a rightful candidate of their opportunity but has also acted in bad faith, thereby violating the principles of fairness and justice.
109. Record further reveals that Mohd. Umar Farooq in the previous academic year - 2023 had registered himself with NEET-UG 2023 counseling but under RBA category, however, when he could not fall in the cut off merit of RBA for MBBS Course or for BDS Course, then the petitioner managed to obtain aforesaid EWS certificate in the year 2024 by fraudulent means from Tehsil Ramban so as to facilitate his MBBS degree by suppressing and manipulating the material facts.
110. The glaring irregularity on the part of the petitioner is exacerbated by the fact that said RBA certificate was obtained by him in the year 2016 and instead of

surrendering his domicile and RBA from Tehsil Ramban, he preferred to renew his RBA in the year 2022 which has an endorsement that the same is valid w.e.f. 13.08.2021 to 12.08.2026 and it is apparent that he applied under the said category in NEET UG 2023 counseling. The act of renewal and usage of the said certificate in the 2023 counseling clearly contradicts the petitioner's assertion that certificate was wrongly issued and the petitioner took steps to rectify the same.

111. Thus, a bare perusal of the record leads to an irresistible conclusion that renewing the RBA certificate in the year 2022 up to 2026 and using the same in the year 2023 instead of surrendering it from Tehsil Banihal and simultaneously getting the EWS certificate from Tehsil Ramban in 2024 reflects the manipulation on the part of the petitioner-Mohd. Umar Farooq with a view to deceive the authorities and to get admission by fraudulent means by way of misrepresentation. This is the precise reason that the Tehsildar Banihal has reported to the Enquiry Committee that the father of Mohd. Umar Farooq approached Tehsildar Banihal on 16.10.2024 i.e. one month after the date of the complaint i.e. on 17.09.2024 preferred by the complainant against him. When this fact came to the knowledge of Mohd. Umar Farooq that his EWS has been called in question and after two months from the issuance of the said certificate i.e. 16.08.2024, he expressed an intent to surrender his domicile and RBA certificate previously issued whereas, the enquiry report has given a finding that no such application for surrender has ever been made prior to 16.10.2024 before the competent authority and both the domicile and RBA certificate remained valid and have not been cancelled on the date of the enquiry. Thus, the claim of the petitioner that he has

surrendered the certificates is falsified by the findings of the enquiry committee.

112. Thus, based on the observations and discussions presented, this Court is of the considered view that the petitioner in WP(C) 2648/2024 is not entitled to any equitable relief. The facts and circumstances of the case clearly establish that the petitioner has wrongfully secured an MBBS seat under the Economically Weaker Section (EWS) category, which was specifically intended for a deserving and eligible candidate. By doing so, the petitioner has not only violated the principles of fairness and justice but has also approached the Court with unclean hands, seeking to legitimize an act that is fundamentally unjust and contrary to law.

113. It is a well-settled principle of law that a person who secures any benefit through fraudulent means and then invokes the extraordinary jurisdiction of the Court under Article 226 while acting with unclean hands is not entitled to any protection or relief. Courts of equity do not extend their discretionary powers to those who seek to take advantage of their own wrongdoing.

114. Fraud vitiates all proceedings and taints any right or privilege obtained through deceptive practices. It is a fundamental rule that one who approaches the Court must do so with clean hands, meaning thereby, they must disclose all material facts truthfully and act in good faith. If a person has obtained a benefit by misrepresentation, concealment of facts, or any form of deceit, they cannot seek the Court's intervention to perpetuate or retain such an unlawfully acquired benefit.

115. The principle of "*ex turpi causa non oritur actio*" (no right of action arises from a fraudulent cause) applies in such cases, ensuring that fraudsters do not

take advantage of their own misconduct. Courts have consistently held that any right, privilege, or certificate acquired through fraudulent means is *void ab initio* and that an individual guilty of fraud cannot claim protection under constitutional remedies.

116. In the present case, the petitioner has obtained an EWS certificate by fraudulent means and now seeks relief under Article 226 to retain the benefits of that fraud, the Court, as such, is duty-bound to deny such relief. Recognizing such a claim would not only go against established legal principles but would also set a dangerous precedent, allowing individuals to manipulate the system and later shield themselves under the guise of constitutional remedies.

117. *In Prakash Jayawant Koli. Vs State of Maharashtra 2008(1) BOMCR 196, decided on 20.09.2007* in similar facts and circumstances has held as under;

“ 13. The admission wrongly gained or appointment wrongly obtained on the basis of false social status certificate necessarily have the effect of depriving the genuine Scheduled Castes or Scheduled Tribes or OBC candidates as enjoined in the Constitution of the benefits conferred on them by the constitution. The genuine candidates are also denied admission to educational institutions or appointments to office or posts under a State for want of social status certificate.”

“10. The above enunciated propositions of law clearly show that a person who has obtained the benefit of employment on the basis of an incorrect certificate or a certificate obtained by misrepresentation or fraud, cannot be permitted to avail the benefit thereof, once it comes to the notice of the concerned authorities.”

118. Thus, a person who has defrauded the system cannot claim equity, and the Court, in the exercise of its writ jurisdiction, must refuse to entertain or grant any relief that would allow the continuation of an illegitimate advantage.

119. An admission secured through an invalid claim shall be rendered *void or non-est* upon its invalidation. The invalidation of the claim does not merely void future benefits but also erases any rights purportedly conferred by the

fraudulent or erroneous admission. Courts have consistently held that when an admission is obtained through misrepresentation or concealment of facts, it is liable to be revoked, and the individual cannot claim any equity or protection.

120. Thus, the conduct of the petitioner has always been considered as a relevant consideration for exercise of jurisdiction of this Court under Article 226 of the Constitution. Wherever it is found that the benefit has been obtained by fraud or misrepresentation, the time and concept of acquiescence has hardly any scope because it would primarily depend upon detection of misrepresentation or fraud. It goes without saying that one who comes to the Court must come with clean hands and any person whose case is based on falsehood has no right to approach this Court as fraud is an act of deliberate deception with a design by taking advantage of another. It is a deception in order to gain by another's loss. A litigant who approaches the Court is bound to produce all documents executed to him which are relevant to the litigation and if he holds a vital document in order to gain advantage on the other side then he would be guilty of playing fraud as well as on the opposite party. In the instant case, petitioner Mohd. Umar Farooq knowing fully well that Ansh Mahajan is necessary party deliberately omitted him from the array of respondents and subsequently, the petitioner Mohd. Umar Farooq withheld the vital information by concealing the detailed order of cancellation and enquiry report which demonstrates his conduct in approaching this Court with unclean hands and tantamount to playing fraud with the court. The petitioner was aware that in case true facts were brought to the notice of this Court then this Court could not have shown indulgence and would have declined in passing any interim order in his favour.

121. This Court cannot lose sight of the fact that materialism has over shadowed the old ethos and quest for personal gain has become so intense that those who are involved in litigation do not hesitate to take shelter of fraud, misrepresentation of facts in court proceedings. This Court is not just a court of law but is also a court of equity and a person who invokes the High Court's jurisdiction under Article 226 is duty bound to place all the material facts before the court without reservation. If it found that there is suppression of material facts or twisted facts have been placed before this Court, then it will be fully justified by this Court in refusing to entertain the petition filed under Article 226 while keeping in mind the conduct of the party who is invoking such jurisdiction.
122. Admittedly, in the instant case, the petitioner has not disclosed all the material facts and has suppressed relevant material with a view to mislead this Court. The very basis of the writ jurisdiction rests in true, complete and correct facts, however, this has not happened in the instant case. Thus, a person cannot claim any right arising out of his own wrong doing.
123. Reliance in this regard is placed upon the judgment passed by the Hon'ble Apex Court in case titled *Union of India & Ors. Vs. Prohlad Guha in Civil Appeal Nos. 4434-4437 of 2014 decided on 01.08.2024*, relevant portion of which is reproduced as under:

*"6.4..... The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentations and suppression of facts in the court proceedings.
7..... In prestige Lights Ltd. V. SBI [(2007) 8 SCC 449] it was held that in exercising power under Article 226 of the Constitution of India the High Court is not just a court of law, but is also a court of equity and a person who invokes the High Court's jurisdiction under Article 226 of the Constitution is duty-bound to place all the facts before the Court without any reservation. If there is suppression of material facts or twisted facts*

have been placed before the High Court then it will be fully justified in refusing to entertain a petition filed under Article 226 of the Constitution. In exercising jurisdiction under Article 226 of the Constitution, the High Court will always keep in mind the conduct of the party who is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the court, then the Court may dismiss the action without adjudicating the matter on merits. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of court by deceiving it. The very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted, the very functioning of the writ courts would become impossible.

14..... The respondent –employees in the present case, having obtained their position by fraud, would not be considered to be holding a post for the purpose of the protections under the Constitution. We are supported in this conclusion by the observations made in Devendra Kumar v. State of Uttaranchal. In paragraph 25 thereof it was observed -

25. More so, if the initial action is not in consonance with law, the subsequent conduct of a party cannot sanctify the same. Sublato fundamento cadit opus – a foundation being removed, the superstructure falls. A person having done wrong cannot take advantage of his own wrong and plead bar of any law to frustrate the lawful trial by a competent court. In such a case the legal maxim nullus commodum capere potest de injuria sua propria applies.”

124. The Hon’ble Apex Court in case ***titled Chairman and Managing Director FCI and ors v. Jagdish Balaram Bahira and ors. Civil Appeal no. 8928 of 2015, decided on 06.07.2017*** has observed as under:

“..39.The cancellation of a certificate would, as a necessary consequence, involve the invalidation of the appointment to a post or admission to an educational institution. Where a candidate had been appointed to a reserved post on the basis of the claim that he or she was a member of the group for which the reservation is intended, the invalidation of the claim to belong to that group would, as a necessary consequence, render the appointment void ab initio. The rationale for this is that a candidate who would otherwise have to compete for a post in the general pool of unreserved seats had secured appointment in a more restricted competition confined to the reserved category and usurped a benefit meant for a designated caste, tribe or class. Once it was found that the candidate had obtained admission upon a false representation to belong to the reserved category, the appointment would be vitiated by fraud and would be void ab initio. The falsity of the claim lies in a representation that the candidate belongs to a category of persons for whom the reservation is intended whereas in fact the candidate does not so belong. The reason for depriving the candidate of the benefit which she or he has obtained on the strength of such a claim, is that a person cannot retain the fruits of a false claim on the basis of which a scarce public resource is obtained. The same principle would apply where a candidate secures admission to an educational institution on the basis of a false claim to belong to a reserved category. A candidate who does so causes detriment to a genuine candidate who actually belongs to the

reserved category who is deprived of the seat. For that matter, a detriment is caused to the entire class of persons for whom reservations are intended, the members of which are excluded as a result of an admission granted to an imposter who does not belong to the class. The withdrawal of benefits, either in terms of the revocation of employment or the termination of an admission was hence a necessary corollary of the invalidation of the claim on the basis of which the appointment or admission was obtained.’’

56. Medical education is what middle-class parents across the length and breadth of the county aspire for their children (whether this will continue to be so in future is a moot question). There is intense competition for a limited number of under-graduate, post-graduate and super-specialty seats. This can furnish no justification for recourse to unfair means including adopting a false claim to belong to the reserved category. The fault – lines of our system, be it in education, health or law, are that its lethargy and indolence furnish incentives for the few who choose to break the rules to gain an unfair advantage. In such a situation, the court as a vital institution of democratic governance must be firm in sending out a principled message that there is no incentive other than for behavior compliant with rules and deviance will meet severe reprimands of the law’’.

125. In legal parlance, when a document or claim is declared *void ab initio*, it is treated as if it never existed. Therefore, the petitioner's admission, having been obtained on the basis of an ineligible and fraudulent claim, is deemed *non-est* in law. The petitioner cannot claim any vested right over the admission, nor can they seek protection under equitable considerations. Courts have consistently held that no one can be permitted to reap the benefits of an act founded on fraud, misrepresentation, or illegality. Thus, it is unequivocally established that the certificate obtained by the petitioner is invalid, rendering all benefits derived from such fraudulent procurement, including admission to the MBBS course, null and void.

126. **The above findings answer the twin questions which include the maintainability of the petition and the fall out of the certificate obtained by fraudulent means.**

127. Now coming to the case registered as *WP (C) 2379/2024*, wherein the petitioner Ansh Mahajan has sought the quashment of illegal admission of

Mohd Umar Farooq (Private respondent no. 5 herein) to the MBBS course under EWS category.

128. The record reveals that both Basit Ahmad Bhat and Ansh Mahajan scored the same cut off marks (i.e 404). It has been argued by the learned counsel for the petitioner, Mr. Kohli, that Basit Ahmad Bhat has already been selected for admission to the MBBS course under the Economically Weaker Sections (EWS) category. However, this position is not clear before this Court and it is left open for BOPEE to take a call on this aspect. As such, Ansh Mahajan cannot be regarded as the "next in order of merit for the purpose of filling the seat that has been usurped by the Petitioner in WP(C) 2648/2024. As per Mr.Bhatia, Basit Ahmad Bhat was, in fact, the last selected candidate under the EWS quota for MBBS and this fact has not been proved by the counsel for the parties and is left open for BOPEE to take a final call.

129. Now, the question arises with regard to the principle **whether any right accrues to a person who is not before the Court**. Mr. Kohli has placed reliance upon a judgment of the Hon'ble Apex Court "*Ashok Alias Somanna Gowda and Anr VS State of Karnataka by its Chief Sec and Ors*", 1992 SCC (1) 28 JT 1991 (4) 160. (Relevant Para 4 and last).

"4. Since the appointments under the Rules were made way back in 1987, the case of other candidates cannot be considered as they never approached for redress within reasonable time. The relief is thus restricted only to the present appellants who were vigilant in making grievance and approaching the Tribunal in time".

(Last Para) "In view of the fact that appointments under the impugned Rules were made as back as in 1987 and only the present appellants had approached the Tribunal for relief, the case of other candidates cannot be considered as they never approached for redress within reasonable time. We are thus inclined to grant relief only to the present appellants who were vigilant in making grievance and approaching the Tribunal in time".

130. Reliance is also placed upon a judgement of Hon'ble High Court of J&K&L, titled ***“Chairman JK Service Selection Board, Jammu VS Udhay Rani and Ors”***, bearing LPASW No. 04/2011. (Relevant Para 10, Page 2).

“10. Petitioner had approached this Court in the year 2002 and during the pendency of the Writ Petition in the Court for about eight years, no other candidate belonging to the reserved category of Other Backward Classes has either questioned the selection of respondent No.5 or staked his or her claim to selection indicating that none other than the petitioner was interested to serve as Teacher against the post for which respondent No.5 had been recommended by the Board”.

131. The learned counsel for the respondents has submitted the merit list, which indicates that if the seat occupied by Mohd Umar Farooq is vacated, there are two possible courses of action. Firstly, the seat would be offered to the next most meritorious candidate, Basit Ahmad Bhat. If Mr. Basit chooses to accept the offer, he would be granted admission. However, if he declines the offer, the seat would then be made available to the next eligible candidate on the merit list, Ansh Mahajan, who has an equal NEET score of 404 marks.

132. The J&K BOPEE being a counseling authority in accordance with its mandate, conducted the counseling for various Professional Courses 2024 including NEET-UG Courses,(MBBS/BDS etc courses). Apposite to submit that the whole counseling process is governed by well defined rules/guidelines and in this regard, in the first step, a comprehensive and detailed E-information, brochure is published, in which information was expressly laid down.

133. That in conformity with the procedure established the J&K BOPEE consequent upon the declaration of NEET-UG, 2024, re-revised result by the National Testing Agency on 26.07.2024, and subsequent notifications issued by the Board with regard to registration/verification of documents, filling up of online preferences and other actions including notifying of sports merit of

candidates vide Notification No. 084-BOPEE of 2024 dated 25.08.2024 and after application of reservation rules and on the basis of merit preferences preferred by eligible candidates through online mode BOPEE, published the list of candidates provisionally selected for undergoing MBBS/BDS Courses, 2024 in various Government Medical/Government Dental/Private Medical Colleges of the UT of J&K vide Notification No. 093-JKBOPEE of 2024 dated 03.09.2024, and in the said notification, the information was expressly stipulated regarding the allotment of the preferences.

134. It is apparent from the stand of Mr. Bhatia that the provisional selection list issued by Notification No. 093-JKBOPEE of 2024 dated 03.09.2024, Mohd Umar Farooq, who among other had registered himself for counseling and submitted documents online, as per his merit position, document submitted including EWS certificate issued by the Tehsildar Ramban and preference exercised, appeared at Serial No. 697, UT rank 1474, under EWS category and was *provisionally selected* for undergoing MBBS Course, 2024 under EWS category and allotted Government Medical College Jammu, subject to the condition that said institution shall ensure veracity of documents.

135. That vide order dated 06.11.2024 passed in clubbed **WP(C) No. 2648/2024 titled “Umar Farooq vs UT of J&K and others”**, this Court has been pleased to order (verbatim) as under:

“In the instant petition the petitioner herein has challenged the Order No.TR/BCG/2024-25/63/71 dated 31.10.2024, whereby the economically weaker section certificate, dated 16.08.2024 has been withdrawn/rejected by respondent No.4.

Learned counsel for the petitioner states that the respondent No.4-Tehsildar Ramban had issued the certificate for economically weaker section in favour of the petitioner on 16.08.2024 and the same authority has rejected the said certificate issued by him on 31.10.2024. Learned counsel for the respondent has stated that there is a remedy of filing an appeal against the

impugned order. Mr. Gupta states that respondent No.4 has exceeded his jurisdiction which has forced the petitioner to approach this Court by way of instant petition.

Issue notice to the respondents.

Meanwhile, subject to objection from other side and till next date of hearing before the Bench, operation of impugned Order No. TR/BCG/2024-25/63/71 dated 31.10.2024, shall remain stayed”.

136. For the purpose of *inter-se-* merit of candidate for tie- breaking if in case of two or more candidates obtain equal marks/ percentile scores in the NEET(UG)- 2024, the inter-se-merit shall be determined as follows;

- a) Candidate obtaining higher marks/percentile score in Biology (Botany& Zoology) in the test followed by,*
- b) Candidate obtaining higher marks/ percentile score in Chemistry in the test followed by,*
- c) Candidate obtaining higher marks/ percentile score in Physics in the test followed by,*
- d) Candidate with less proportion of the number of attempted incorrect and correct answers in all the subjects in the test,*
- e) Candidate with less proportion of the number of attempted incorrect and correct answers in Biology (Botany& Zoology) in the test followed by,*
- f) Candidate with less proportion of the number of attempted incorrect and correct answers in Chemistry in the test followed by,*
- g) Candidate with less proportion of the number of attempted incorrect and correct answers in Physics*

137. In light of these facts, the core legal issue that emerges before this Court is whether, at this advanced stage, after the lapse of approximately four months since the commencement of the academic session, can a new candidate be granted admission. This issue necessitates a careful examination of the applicable rules, regulations, and judicial precedents governing the admission process.

138. A primary consideration in this regard is whether allowing a fresh admission at this juncture would be consistent with the principles of fairness, equity, and adherence to the established cut-off dates prescribed by the relevant regulatory authorities, such as the National Medical Commission (NMC) and the concerned educational institution. It must also be assessed whether such

an admission would be in conformity with the binding precedents laid down by the Hon'ble Supreme Court and various High Courts, which have time and again emphasized the importance of maintaining the sanctity of admission deadlines in professional courses to ensure the integrity of the academic process.

139. Therefore, the matter before this Court is one that requires a judicious balance between the right of meritorious candidates to secure admission and the overarching need to uphold the regulatory framework governing timely admissions, academic discipline, and institutional stability.

140. To support this legal issue this Court deems it proper to place the reliance upon the judgment passed by the Hon'ble Supreme Court in case titled *S. Krishna Sradha v. State of Andhra Pradesh and Ors, bearing Civil Appeal No.1081 of 2017 decided on 13.12.2019*, wherein it has been held as under:

“8.1. At the outset, it is required to be noted that the question is with respect to a student/candidate seeking admission in the medical course more particularly in MBBS course. For a student/candidate seeking admission in professional courses more particularly the medical course each year is very important and precious. Similarly, getting admission in medical course itself is very important in the life of a candidate/student and even a dream of man. In light of the above, the question for consideration is whether compensation for a meritorious candidate, who has been denied the admission illegally and arbitrary having approached the court in time can be said to be just and equitable relief?”

8.2. A natural corollary of declaring that an administrative act more particularly the denial of admission illegally and for no fault of a candidate/student violates principles of Article 14 is that the citizen injured must be put back to his/her original position. In that sense, the primary relief is restitutionary. As observed hereinabove, for a meritorious student seeking admission in medical course is very important in the life of student/candidate and denial of admission to a meritorious candidate though no fault of his/her violates his/her fundamental rights. Compensation could be an additional remedy but not a substitute for restitutionary remedies. In case of medical admissions, even the restitutionary remedy of providing a seat in the subsequent year would lead to loss of one full academic year to a meritorious candidate, which cannot be compensated in real terms. Thus compensation for loss of year could be provided, but denial of admissions to a meritorious candidate cannot be compensated in

monetary terms. Thus, denial of admission in medical course to a meritorious candidate for no fault of his/her and though he/she has approached the Court in time and despite the same not granting any just and equitable relief would be denial of justice. However, at the same time it can safely be said that the view taken by this Court in Jasmine Kaur (Supra) that the only relief which can be granted to such a candidate would be the compensation only is not good law and cannot be accepted. Even granting a relief to such a candidate/student in the next academic year to accommodate him/her in the next year and in the sanctioned intake may even affect the right of some other candidate/student seeking admission in the next academic year and that too for no fault of his/her. Therefore, we are of the view that in the exceptional and in the rarest of rare cases and in case where all the conditions stipulated in paragraph 3.3 in the case of Jasmine Kaur (Supra) are satisfied, the Court can grant exceptional relief to the candidate of granting admission even after the cut-off date is over.

9. In light of the discussion/observations made hereinabove, a meritorious candidate/student who has been denied an admission in MBBS Course illegally or irrationally by the authorities for no fault of his/her and who has approached the Court in time and so as to see that such a meritorious candidate may not have to suffer for no fault of his/her, we answer the reference as under:

(ii) However, it is observed that such relief can be granted only in exceptional circumstances and in the rarest of rare cases. In case of such an eventuality, the Court may also pass an order cancelling the admission given to a candidate who is at the bottom of the merit list of the category who, if the admission would have been given to a more meritorious candidate who has been denied admission illegally, would not have got the admission, if the Court deems it fit and proper, however, after giving an opportunity of hearing to a student whose admission is sought to be cancelled”.

141. Thus, this Court firmly upholds the principle that meritorious candidates cannot be arbitrarily deprived of their rightful admission, particularly in professional courses, such as MBBS, where each academic year is of paramount importance. The denial of admission due to an illegal or arbitrary administrative action constitutes a violation of Article 14 of the Constitution, as it unfairly discriminates against deserving candidates.

142. While monetary compensation may serve as an additional remedy, it cannot be a substitute for actual admission, especially in cases where the candidate has approached the Court in a timely manner and the denial of admission has been established to be unjust. Compensation may alleviate some of the hardship suffered by the candidate, but it does not restore their fundamental

right to education or rectify the academic loss caused by the wrongful denial of admission.

143. Although the aforementioned legal principles govern the present matter, this Court refrains from making any conclusive determination regarding the allotment of the seat which is likely to fall vacant in terms of this judgment, which was previously occupied by the petitioner, Mohd Umar Farooq. The issue of reallocation falls within the domain of the competent authority, namely the Jammu and Kashmir Board of Professional Entrance Examinations (JKBOPEE), which is entrusted with verifying records and determining the rightful candidate for the said seat.

144. It is noted that, as per the merit list, the candidate immediately next in rank after Mohd Umar Farooq is Basit Ahmad Bhat. However, this Court acknowledges the possibility that Basit Ahmed may choose not to avail himself of the admission opportunity. In such an eventuality, the seat would naturally be offered to the next candidate in the order of merit, namely Ansh Mahajan. Accordingly, the responsibility of verifying the eligibility and willingness of the next meritorious candidate to accept the seat is left to the discretion of JKBOPEE. The Board, being the competent authority, is directed to take appropriate steps in accordance with established rules, regulations, and merit-based criteria to ensure the rightful allotment of the vacated seat.

CONCLUSION

145. Thus, in the light of what has been discussed herein above, coupled with the settled legal position, this Court holds that the cancellation order passed by the Tehsildar dated 31.10.2024 assigning cogent reasons, which has not been challenged by the petitioner Mohd Umar Farooq and is the basis of detailed

enquiry is upheld and the admission procured by Mohd Umar Farooq (petitioner in WP(C) 2648/2024), on the basis of EWS certificate obtained by fraud, concealment and misrepresentation and also by way of filing a wrong affidavit, is hereby cancelled. As a necessary corollary, the seat which will fall vacant has to be offered expeditiously by JKBOPEE to the next candidate falling in the order of merit after verifying from the record and determining the eligibility, suitability and willingness of the said candidate.

146. In the event the next candidate falling in the order of merit as per the list prepared by BOPEE, is unwilling to accept the offered seat within a period of one week from the date of such offer, the said seat shall be offered to the next candidate in the order of merit. As per the admitted position of the parties, the next eligible candidate in the merit list is Mr. Basit Ahmad Bhat. Accordingly, the BOPEE is directed to admit the next meritorious candidate to the said course in strict adherence to the merit list prepared by NEET-UG and the norms.

147. Although the said candidate, who is next in the order of merit, has not approached this Court or actively participated in the present proceedings, the Court cannot disregard the fundamental principle that the merit list prepared by NEET-(UG) must be upheld and cannot be arbitrarily altered. The Hon'ble Supreme Court has consistently maintained that merit is of paramount importance in the admission process and must be given due consideration during counseling. Any deviation from the established merit order would not only contravene settled legal principles but also risk setting a precedent detrimental to the fairness and transparency of the admission process.

148. Furthermore, in view of the fact that time is the essence in the instant matter, and to prevent any potential multiplicity of litigation, this Court, in the peculiar facts and circumstances of the case, deems it appropriate to direct BOPEE to offer the seat to the next meritorious candidate in line, even if, the said candidate was watching from the fence and has not participated in the proceedings. This approach ensures that merit remains the sole criterion for admission and mitigates any further legal disputes arising from the allocation of the seat.
149. Merely because the said candidate falling in merit has remained a passive observer in these proceedings and has not actively pursued his claim before this Court, does not warrant placing him in a disadvantageous position. Denying him the seat solely on this ground would lead to further litigation, which would not serve the interests of justice or the meritorious candidates seeking admission. Therefore, in the interest of upholding the integrity of the admission process and ensuring that deserving candidates are not unjustly deprived of their rightful opportunity, the Court directs that the seat be first offered to said candidate.
150. However, in the event the said candidate (Mr. Basit Ahmad Bhat), falling in the order of merit is unwilling to accept the offered seat for any reason, the same shall be allocated to the next eligible candidate, who as per the merit list prepared by BOPEE is Ansh Mahajan. This direction is issued to conclusively resolve the issues raised in both the petitions and to prevent any further dispute regarding the allotment of the seat. By adhering strictly to the merit list, the Court ensures that the matter is settled in a just, transparent, and legally sound manner.

151. Keeping in view the authoritative enunciation of law as referred and the discussion made hereinabove, the present petition bearing WP(C) No. 2648/2024 is **dismissed** being devoid of any merit and the order passed by the Tehsildar Ramban dated 31.10.2024 canceling the EWS certificate (although not challenged), is upheld. So far as the writ petition bearing WP(C) No. 2379/2024 is concerned, the same is **allowed** with a direction to the respondents to consider the claim of the petitioner and offer him MBBS seat, in case, the next meritorious candidate, mentioned supra, does not accept the said offer, strictly in tune with the merit list prepared by the NEET-(UG).

152. *Disposed of* along with all connected applications.

(WASIM SADIQ NARGAL)
JUDGE

JAMMU
13.03.2025
Vijay/Manan

Whether the order is speaking: Yes
Whether the order is reportable: Yes