

IN THE HIGH COURT OF DELHI AT NEW DELHI

CIVIL ORIGINAL WRIT JURISDICTION

WRIT PETITION (CIVIL) NO. _____ OF 2020

(Under Article-226 of the Constitution of India)

IN THE MATTER OF:

PIA SINGGH

...PETITIONER

VERSUS

NATIONAL LAW UNIVERSITY DELHI

...RESPONDENT

I N D E X

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9.	<u>Annexure: P-3:</u> True typed Copy of the Office Memorandum (OM) No.12-4/2019-U1, dated 17.01.2019 issued by Ministry of Human Resource Development [MHRD]	28-30	Rs-2/-
10.	<u>Annexure: P-4:</u> True typed Copy of the e-prospectus of NLU Delhi for academic session 2019-20.	31	Rs-2/-
11.	<u>Annexure: P-5:</u> True typed Copy of the e-prospectus of NLU Delhi for academic session 2020-21.	32	Rs-2/-
12.	<u>Annexure: P-6:</u> True copy of the relevant extract of admission guidelines of NLU Delhi which prescribed Delhi-students reservations for academic session 2020-21.	33-35	Rs-2/-
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Total Court Fees			Rs-80/-

Dated:12.05.2020

Place: New Delhi

DRAFTED AND FILED BY:

NISHANT KHATRI
(ADVOCATE FOR THE PETITIONER)
BCD ENROLLMENT NO:D/9338/2019

IN THE HIGH COURT OF DELHI AT NEW DELHI

CIVIL ORIGINAL WRIT JURISDICTION

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IN THE HIGH COURT OF DELHI AT NEW DELHI**CIVIL ORIGINAL WRIT JURISDICTION****WRIT PETITION (CIVIL) NO. _____ OF 2020**

(Under Article-226 of the Constitution of India)

IN THE MATTER OF:

PIA SINGGH

...PETITIONER

VERSUS

NATIONAL LAW UNIVERSITY DELHI

...RESPONDENT

URGENT APPLICATION

To,

The Registrar,

High Court of Delhi,

Sir/Madam,

Kindly treat the accompanying petition as urgent as per High Court Rules. The ground of urgency is that the admission process for post-graduate courses in NLU Delhi has already started and the last date of submissions of forms is 15.05.2020.

Thanking you,

Yours sincerely,

NISHANT KHATRI

(ADVOCATE FOR THE PETITIONER)

BCD ENROLLMENT NO: D/9338/2019

IN THE HIGH COURT OF DELHI AT NEW DELHI

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IN THE MATTER OF:

PIA SINGGH

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NATIONAL LAW UNIVERSITY DELHI

...RESPONDENT

NOTICE OF MOTION

To,

Standing Counsel of Respondent NLU DELHI

Sir/ Madam,

The above-mentioned Writ Petition is being filed by me before this Hon'ble Court. The same is likely to be listed on 18.05.2020 or so soon thereafter. Kindly take notice accordingly.

Dated: 12.05.2020

Place: New Delhi

NISHANT KHATRI

(ADVOCATE FOR THE PETITIONER)

BCD ENROLLMENT NO: D/9338/2019

IN THE HIGH COURT OF DELHI AT NEW DELHI
CIVIL ORIGINAL WRIT JURISDICTION

WRIT PETITION (CIVIL) NO. _____ OF 2020

(Under Article-226 of the Constitution of India)

MEMO OF PARTIES

IN THE MATTER OF:

PIA SINGGH, d/o Sh. Pradeep Yadav, aged around 24 years,

... PETITIONER

VERSUS

NATIONAL LAW UNIVERSITY DELHI, through its
Registrar,

...RESPONDENT

Dated: 12.05.2020

Place: New Delhi

DRAFTED & FILED BY:

NISHANTKHATRI

(ADVOCATE FOR THE PETITIONER)
BCD ENROLLMENT NO:D/9338/2019

SYNOPSIS

The present writ petition is filed by this petitioner under compelling reasons due to utter discrimination with her by the respondent university. By way of appropriate writ, order or directions the petitioner seeks quashing of provision giving 50% reservation to students who passed their qualifying exam from institute located in Delhi. Besides this, the Petitioner also seeks the intervention of Hon'ble court to declare the implementation of 22% OBC and 10% EWS quota without increasing total of number seats as unconstitutional. The detailed reasons supporting these two prayers are stated in this petition at appropriate place.

The reservation policy of respondent University to give 50% reservation to those students who have passed their qualifying degree from Institute situated in Delhi is not only against the constitutional mandate under art 15(3) but is also against all reasonable and logical norms.

The classification for 50% reservation to students who have passed their qualifying degree from Institute situated in Delhi is far away from intelligible differentia. Also, there seems no object behind this classification which respondent university is sought to achieve.

Furthermore, providing 22% reservation to OBC and 10% reservation to EWS category without increasing the total no. of seats is also unconstitutional and against the mandate of guidelines issued by MHRD.

Since, the petitioner belong to General/Unreserved category, also permanent resident of Delhi and intend to pursue her LL.M. from NLU Delhi; the provision of 50% reservation to the students of Delhi and also, the provision of 22% OBC & 10% EWS reservations in LL.M. without increasing the number of seats as per MHRD guidelines is adversely affecting her chances of selection and her future career prospects. Hence, this writ petition.

LIST OF DATES

20.01.2006	93 rd Constitutional Amendment Act, 2005, inserting Article-15(5) in the Constitution of India came into force.
03.01.2007	Central Educational Institutions (Reservation in Admission) Act, 2006 [Act 5 of 2007], giving <i>inter alia</i> 27% reservations to Socially and Educationally Backward Classes [SEBCs] also known as Other Backward Classes [OBCs] in Central Educational Institutions came into force.
17.01.2019	Ministry of Human Resource Development issued an Office Memorandum (OM) No.12-4/2019-U1, wherein it gives direction to Central educational institutions as well as chief secretaries of all state government/UTs to give effect to the provision of 103 rd constitutional amendment for giving 10% EWS reservation in educational institutions.
15.01.2020	Respondent released its e-prospectus for under graduate & post graduate courses, implementing the 50% reservation to candidates who have passed their qualifying examination from any institution situated in Delhi and also, by providing 22% OBC & 10% EWS reservations in LL.M. without increasing the seats as per the guidelines of MHRD for the current academic year 2020-21.

12.05.2020	Since, the petitioner belong to General/Unreserved category and intend to pursue her LL.M. from NLU Delhi; the provision of 50% horizontal reservation to the students of Delhi and also, the provision of 22% OBC & 10% EWS reservations in LL.M. without increasing the number of seats as per MHRD guidelines is adversely affecting her chances of selection and her future career prospects. Hence, this writ petition before this Hon'ble court.
15.05.2020	Last date for submission of application form for LL.M.

NISHANTKHATRI

(ADVOCATE FOR THE PETITIONER)

BCD ENROLLMENT NO:D/9338/2019

IN THE HIGH COURT OF DELHI AT NEW DELHI

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WRIT PETITION (CIVIL) NO. _____ OF 2020

(Under Article-226 of the Constitution of India)

IN THE MATTER OF:

PIA SINGGH

...PETITIONER

VERSUS

NATIONAL LAW UNIVERSITY DELHI

...RESPONDENT

**WRIT PETITION SEEKING A WRIT, ORDER OR DIRECTION IN
THE NATURE OF WRIT OF MANDAMUS OR CERTIORARI:**

**A. QUASHING THE 15.01.2020 PROSPECTUS RELEASED
BY NLU DELHI FOR ACADEMIC SESSION 2020-21, AS
VIOLATIVE OF ARTICLE 14 OF THE CONSTITUTION OF
INDIA IN SO FAR AS IT DIRECTS 50% HORIZONTAL
RESERVATION TO CANDIDATES WHO HAVE PASSED
THEIR QUALIFYING EXAMINATION FROM ANY
INSTITUTION SITUATED IN DELHI AND;**

**B. DECLARING THE PROVISION OF 22% OBC & 10% EWS
RESERVATIONS IN LL.M. IN NATIONAL LAW
UNIVERSITY DELHI WITHOUT INCREASING THE SEATS
AS PER THE GUIDELINES OF MHRD FOR THE
CURRENT ACADEMIC YEAR 2020-21, AS
UNCONSTITUTIONAL AND OF NO EFFECT.**

TO,

HON'BLE THE CHIEF JUSTICE AND HIS/HER COMPANION
JUSTICES OF THE HIGH COURT OF DELHI AT NEWDELHI.

THE HUMBLE PETITION OF THE PETITIONER ABOVE-NAMED

MOST RESPECTFULLY SHOWETH:

- (1) This is a Writ Petition seeking a writ, order or direction in the nature of mandamus or certiorari quashing the 15.01.2020 e-prospectus released by NLU Delhi for academic session 2020-21, as violative of article 14 of the constitution of India in so far as it directs 50% horizontal reservation to candidates who have passed their qualifying examination from any institution situated in Delhi and also, for declaring the provision of 22% OBC & 10% EWS reservations in LL.M. in National Law University Delhi without increasing the seats as per the guidelines of MHRD for the current academic year 2020-21, as unconstitutional and of no effect.

2. DECLARATIONS/ STATEMENTS/UNDERTAKINGS:

- (1) **STATEMENT ON RELIEF:** The relief is sought against NLU Delhi.
- (2) **STATEMENT ON CAUSE OF ACTION:** The Cause of Action (COA) arose on 15.01.2020, when NLU Delhi has released its e-prospectus with provision of 50% horizontal reservation to students of Delhi and 22% OBC & 10%EWS

reservation in LL.M. without increasing the seats as per the mandate of MHRD guidelines.

- (3) **STATEMENT ON JURISDICTION:** This Hon'ble High Court has the territorial, subject matter and pecuniary jurisdiction to entertain this Writ Petition under Article-226 of The Constitution of India.
- (4) **NON-FILING STATEMENT:** The petitioner has not earlier filed a similar petition before this Hon'ble Court or any other court of law.
- (5) **STATEMENT ON LOCUS STANDI:** Since the petitioner belong to General/Unreserved Category and intend to pursue LL.M. from NLU Delhi; She is adversely affected by the 15.01.2020 e-prospectus of NLU Delhi, providing 50% horizontal reservation to the candidates who have passed their qualifying examination from Delhi and also, by provision of 22% OBC & 10% EWS reservations in LL.M. without increasing the number of seats as per MHRD guidelines. The petitioner thus has requisite locus to file this petition.
- (6) **UNDERTAKING VIS-À-VIS FILING OF DULY AFFIRMED AFFIDAVITS AND COURT FEES:** The Petitioner undertake to file duly affirmed Affidavits and requisite court fee within 72 hours from the date of resumption of the regular functioning of this Court.

3. THE PARTIES IN THIS PETITION:

- (1) The petitioner is a General/Unreserved Category candidate, a permanent resident of Delhi and also an Advocate enrolled with

the Bar Council of Delhi having passed her LL.B. from Madhav University, Rajasthan in July 2019. Now, the Petitioner intend to further pursue her post-graduate i.e. LLM. from NLU, Delhi for which e-prospectus has been released by the University on 15.01.2020. The last date of filling of forms is 15.05.2020. True copy of the petitioner's application form is annexed herewith as **Annexure: P-1.**

(2) Respondent, is National Law University (NLU) Delhi, which on 02.03.2020, has issued its e-prospectus for under graduate & post graduate courses, implementing the 50% reservation to candidates who have passed their qualifying examination from any institution situated in Delhi and also, by providing 22% OBC & 10% EWS reservations in LL.M. without increasing the seats as per the guidelines of MHRD for the current academic year 2020-21.

4. FACTS IN BRIEF:

(1) On 03.01.2007, Central Educational Institutions (Reservation in Admission) Act, 2006 [Act 5 of 2007], giving *inter alia* reservations to Socially and Educationally Backward Classes [SEBCs] also known as Other Backward Classes [OBCs] in Central Educational Institutions came into force. This act was enacted only for central educational institutions but all the state or union territory government issued notifications to implement OBC reservation in the institution as per the

mandate of Central Educational Institutions (Reservation in Admission) Act, 2006. True copy of the relevant section of this is annexed herewith as **Annexure P-2**.

- (2) Section-5 of the aforesaid act clearly says that every Central Educational Institution shall, with the prior approval of the appropriate authority, increase the number of seats in a branch of study or faculty over and above its annual permitted strength so that the number of seats, excluding those reserved for the persons belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes, is not less than the [number of such seats available or actually filled, whichever be less,] for the academic session immediately preceding the date of the coming into force of this Act.

All state and Union territory govt. issued guidelines to their educational institutions on the same line of Section 5. Consequently, every educational institution throughout the territory of India which has implemented the 27% OBC reservation increased its seats by 54% **so that Unreserved/general category seats are not affected.**

- (3) On 17.01.2019, Ministry of Human Resource Development issued an Office Memorandum (OM) No.12-4/2019-U1, wherein it gives direction to Central educational institutions as well as chief secretaries of all state government/UTs to give effect to the provision of 103rd constitutional amendment. Similar direction as mentioned in Section-5 of the aforesaid was given to all educational institutions via this OM and **all institutions were permitted to increase seats by 25% so that unreserved category seats are not affected.** True copy of

17.01.2019 OM of MHRD is annexed herewith as **Annexure P-3.**

(4) In the previous academic year i.e. 2019-20 total seats for LL.M. was 70. Out of these seats 15% for SC & 7.5% for ST were vertically reserved and 5% for PWD were horizontally reserved. There was no other kind of reservation provided to any class, so number of seats were following:

Total seats=70

CATEGORY	NO. OF SEATS
UNRESERVED	64 (including 3 PWD seats)
SC	11 (including 1 PWD seats)
ST	5

True copy of the e-prospectus for academic session 2019-20 is attached herewith as **Annexure P-4.**

(5) On 02.03.2020, NLU Delhi has issued its e-prospectus for under graduate & post graduate course for academic year 2020-21. A provision for 50% reservation was made for students of Delhi. Also, provision for 22 % OBC & 10% EWS reservation in addition to 15% SC & 7.5% ST reservation was made for both B.A. LL.B. and LL.M. courses from the academic year 2020-21.

Total seats=70

S. No.	Particulars	Delhi Region		All India		Total
			PWD		PWD	
1.	Unreserved (UR)	14	1	14	1	30
2.	15% (SC)	05	00	05	00	10
3.	7.5% (ST)	03	00	03	00	06
4.	22% (OBC)	07	01	07	01	16
5.	10% (EWS)	04	00	04	00	08

- True copy of the e-prospectus for academic session 2019-20 is attached herewith as **Annexure P-5**.

(6) It is apparent by analyzing seat matrix of both academic year that in the previous year seats for unreserved category was 64 but in this academic year only 30 seats were notified for unreserved category. Hence, NLU Delhi has grossly violated the guidelines issued by MHRD and reservation for OBC & EWS were implemented without increasing the seats.

(7) While making 50% horizontal reservation for students of Delhi two classification was made by respondent i.e.-

- First, Candidates passing the qualifying examination from a recognized School/ College/ Institute located within the National Capital Territory (NCT) of Delhi

only will be eligible to apply for seats reserved for Delhi Region.

- Second, in case of **Distance education students**, if the Centre of examination/ study Centre is located in the N.C.T. of Delhi, the candidate shall be considered under the Delhi Region and if the Centre of examination/ study Centre is located outside N.C.T. of Delhi, he/ she shall be considered under the All India Level seats.

True copy of the relevant extract of admission guidelines of NLU Delhi which prescribed students of Delhi reservations for academic session 2020-21 is annexed herewith as **Annexure P-6**.

(8) Since, the petitioner belong to General/Unreserved category and intend to pursue her LL.M. from NLU Delhi; the provision of 50% horizontal reservation to the students of Delhi and also, the provision of 22% OBC & 10% EWS reservations in LL.M. without increasing the number of seats as per MHRD guidelines is adversely affecting her chances of selection and her future career prospects.

5. ANALYSIS:APPLICATION OF LAW ON THE FACTS OF THECASE:

(1) As MHRD has issued guidelines that OBC & EWS reservation only be implemented by increasing adequate number of seats so that unreserved category seats in the last preceding academic year and seats in the academic year in which reservation is implemented remains same. So, as per these guidelines respondent could have increased at least 50% seats for implementing 22% OBC reservation and 25% seats for implementing 10% EWS reservations in this academic year but

instead by doing so respondent has cut down these seats from the Unreserved category seats which is beyond the authority of the respondent university as unreserved category seats has been reduced to 30 from 64 this academic year.

- (2) The horizontal reservation given by respondent University to the students of Delhi region is sui generis and strange. The classification between students who are passing the qualifying examination from a recognized School/ College/ Institute located within Delhi and who are not passing the qualifying examination from institute located in Delhi is not germane to the very rule of intelligent differentia. The respondent has recognized those students as “students of Delhi regions” who have passed the qualifying exam (LL.B./B.A.LL.B. in this case) from any of the educational Institution located in Delhi. This classification is beyond any reason and bereft of logic and rule. It is true that any State, by mandate of constitution by passing law in legislative assembly can give a reservation to the '**domiciled**' person of the state, reason being that such state fund the institute and hence may seek welfare for the residence of that particular state. But respondent university is not giving this reservation to the domiciled of the state but to the students who has passed their qualifying examination from Delhi.

Delhi is a metro city and capital of India and a hub for the prominent educational institutes. Students from every corner of the country came here to study. The respondent University has given reservation only to those applicants who have passed qualifying degree from any institute located in Delhi. Circumstances may arise that many students who are the permanent resident of Delhi may not get admission in any of the school/college situated in Delhi and they got enrolled in any

other institutes located outside Delhi. In such cases, these students who are permanent resident of Delhi would be paying all taxes to state of Delhi but will not get the reservation in Institution of their State instead any other student from down south, east, west or north will get that benefit of this reservation, only because of the fact that he has passed his qualifying degree from Institute located in Delhi.

For instance, consider two students living in the same residential area in central Delhi, one has passed his LL.B. from Delhi University and one from Amity University, Noida. Now, student who has passed his degree from Delhi University will be considered under students of Delhi reservation but the applicant (a bona-fide Delhi resident) who has crossed the border of Delhi for study purpose and went to a University located in Noida, U.P. will not be recognized under students of Delhi reservation.

There seems no objective to be achieved by this kind of classification by respondent University. This classification is unreasonable and rather discrimination to the bona-fide resident/domiciled of Delhi.

This is apparent that most of the Law colleges of Delhi are occupied by students of other states, in that case, providing the reservation to such students who merely passed the qualifying degree from the Institutes located in Delhi is utter discrimination with Domiciled/residents of Delhi who has passed their qualifying degree from any institution which is located outside Delhi. This theory of reservation based on location of institution from where one has passed the qualifying degree is beyond the constitutional mandates under article 14 and 15 and has made a very different and unique imaginary

class. The classification for the students of distance education is not only ridiculously drafted, but also, suffice to stunt any prudent, right thinking and reasonable person.

Those students whose Centre is located in Delhi will get the benefit of reservation, as such students will be considered as students of Delhi. This classification is harassing and imaginary only. Thousands of such Institution works in Delhi NCR and surrounding states whose Centre of examination falls in Delhi for sake of convenience. And the Centre of examination is completely dependent on the discretion of examination authority. In distance education a student comes only for examination to that Centre. This classification has created a sheer absurd situation in which any student from any part of India will come for a few days for his examination only (his institute though situated out of Delhi) and will get “Students of Delhi” reservation. This kind of classification has made mockery of rule of law and is inclined towards rule of man.

(3)Petitioner failed to carved out from where the respondent University took power to implement such reservation policy because it is published nowhere that state assembly of NCT Delhi has made any law related to this 50% students of Delhi reservation. Hence, making such provision of reservation by way of an executive order is also against the law enshrined under Article 14 & 15 of the Constitution. And even we consider that University has such power then also quantum of

reservation i.e. 50% reservation is bad in law as it has reduced the all India unreserved category seats to the extent of 20% of total seats.

(4) If we add up all the kind of reservation provided by respondent university then quantum of total reservation is 80% which means, now OBC reserved seats are more than the Unreserved category seats. Hence, quantum of 50% reservation is also against the principle of equality enshrined under part-III of the constitution.

6. MAIN PRAYER: On the basis of the above premises, it is most humbly and respectfully prayed that this Hon'ble Court may graciously be pleased to issue a declaration, writ, order or direction in the nature of mandamus or certiorari:

- (1) Quashing the 15.01.2020 prospectus released by NLU Delhi for academic session 2020-21, as violative of article 14 of the constitution of India in so far as it directs 50% horizontal reservation to candidates who have passed their qualifying examination from any institution situated in Delhi and;
- (2) Declaring the provision of 22% OBC & 10% EWS reservations in LL.M. in National Law University Delhi without increasing the seats as per the guidelines of MHRD for the current academic year 2020-21, as unconstitutional and of no effect.
- (3) Pass any other or further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in the interest of justice and to meet the ends of justice.

AND FOR THIS ACT OF KINDNESS, YOUR HUMBLE
PETITIONER, AS IN DUTY BOUND SHALL EVERPRAY.

Dated: 12.05.2020

Place: New Delhi

DRAFTED AND FILEDBY:

NISHANT KHATRI

(ADVOCATE FOR THE PETITIONER)

BCD ENROLLMENT

NO:D/9338/2019