

Court No. - 10

Case :- WRIT - C No. - 18739 of 2023

Petitioner :- Anshika Bhardawaj

Respondent :- Union Of India And 7 Others

Counsel for Petitioner :- Subhash Chandra Maurya,Dharmendra Shukla,Sr. Advocate

Counsel for Respondent :- A.S.G.I.,Manoj Kumar Singh

Hon'ble Kshitij Shailendra,J.

1. Heard Sri Subhash Chandra Maurya, learned counsel for the petitioner and Sri Manoj Kumar Singh, learned counsel for all the respondents.

2. The petitioner was admitted in M.B.B.S. course run by All India Institute of Medical Sciences, Gorakhpur in December, 2020 and has filed the present writ petition seeking following reliefs:-

"(i) Issue, writ, order or direction in the nature of mandamus directing the respondents to exempt the short attendance of the petitioner during Covid-19 pandemic period in year 2021.

(ii) Issue, writ order or direction in the nature of mandamus directing the respondents to consider the maternity leave of the petitioner recommended by Head of Department, Gynecologist and permit the petitioner to appear in professional exam M.B.B.S. Ist year batch 2020 by conducting the special exam.

(iii) Issue, writ order or direction in the nature of mandamus directing the respondents to promote the petitioner in M.B.B.S. 2nd year batch 2020 for completing her course."

3. It is contended by the learned counsel for the petitioner that on account of her physical ailments coupled with factum of pregnancy, the petitioner's attendance fell short of requirements and in the meantime Pandemic Covid-19 also played havoc and for all the said reasons, the petitioner could not be regular in her attendance. It is further argued that in so far as the maternity leave is concerned, a positive recommendation was made in her favour on 13.05.2023 recommending three months consideration, however, even that direction has not been given effect to and in case the said leave is granted, the petitioner would be able to appear in the concerned examinations and the shortage of attendance would stand completed.

4. On the other hand, Sri Manoj Kumar Singh, Advocate submits that the petitioner successively failed in her examinations and in so

far as her attendance is concerned, in session 2022, she attended the institution only for 4 days, whereas in session 2023, her attendance is 42 days and even if the petitioner is accorded the benefit of medical/ maternity leave, she cannot complete the shortage of attendance.

5. Be that as it may, the running of M.B.B.S. course is certainly governed by certain guidelines/ Regulations/ Norms, which are not before this Court as on today.

6. The Court finds it appropriate that the Executive Director/ Registrar or any other Authority of the Institute competent to take a decision in relation to the shortage/ completion of attendance should be directed to take up the matter and deal with the grievance of the petitioner as applications have been moved by the petitioner from time to time before the authorities.

7. In view of the factual dispute involved in the case, the writ petition is **disposed of** directing the Executive Director/ Registrar or any other competent Authority of the Institute to **immediately** take up the matter and, considering the fact that there was a recommendation in favour of the petitioner on 13.05.2023 according consideration of the medical/ maternity leave for a period of three months, the Authority shall examine the record and shall pass appropriate order **in the month of December, 2023 itself**, provided a self attested downloaded copy of this order is produced before the Registrar of the University as soon as it is available to the petitioner.

8. Further continuance in the course as well as appearance in the examinations shall be dependent upon the decision of the authority, which shall be taken by the Authority on merits of the claim of the petitioner and without being influenced by any observation made in this order.

Order Date :- 7.12.2023

AKShukla/-