

Court No. - 10

Case :- WRIT - C No. - 21810 of 2023

Petitioner :- Anup Kumar

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Manish Kumar Yadav, Surya Bhan Singh

Counsel for Respondent :- C.S.C.

Hon'ble Kshitij Shailendra, J.

1. Heard Shri Surya Bhan Singh, learned counsel for the petitioner and Shri R.P. Tiwari, learned Standing Counsel for the State-respondents.

2. Affidavits have been exchanged and, therefore, this writ petition is being finally decided at this stage.

3. By means of the present writ petition, the order impugned dated 30.05.2023 has been challenged, whereby the petitioner's claim for the concerned seat has been rejected on the ground that since the petitioner did not get himself registered in the Mop-up round, he could not get a seat and considering the prayer made by the petitioner for admission on a vacant seat in King George's Medical University, U.P. Lucknow, it has been observed that such admission is done through online process on the basis of Merit-cum-Option basis.

4. After conducting preliminary hearing in this matter following detailed order was passed on 16.10.2023:

"1. Rejoinder affidavit filed today is taken on record.

2. Having heard learned counsel for the parties, I find that the petitioner filed Writ Petition No.754 of 2023 which has been dismissed on 06.02.2023, however, its complete order

has not been brought on record, although its relevant portion has been quoted in 'paragraph 3' of the counter affidavit which relies upon an order dated 10.06.2022 passed by Hon'ble Supreme Court in Special Leave to Appeal No.10571 of 2022, a copy whereof has also not been annexed.

3. Further, I find that petitioner has filed Special Appeal No.149 of 2023 against an order dated 06.02.2023 which is pending before the Lucknow Bench of this Court.

4. Let all the orders passed in Special Leave to Appeal No.10571 of 2022 and Special Appeal No.149 of 2023 be brought on record by learned counsel for the petitioner.

5. At the same time, I find that admitted case of the petitioner is that he did not get himself registered in the mop-up round but that would not, according to the petitioner, prejudice his case as by placing reliance upon a document at 'page 51' of the writ petition, it has been argued that seats are still lying vacant despite mop-up round being over.

6. There being time schedule fixed by Hon'ble Supreme Court or otherwise and there being simultaneous action on the part of the respondents striving to fill up vacant seats, all the aspects require consideration in the writ petition.

7. Let specific Supplementary Counter Affidavit be filed by the State only stating the fact as to in all the colleges running B.Sc. Nursing Course, after mop-up round, how many seats are lying vacant as on 01.11.2023.

8. The said affidavit shall be filed by the end of November 2023.

9. Put up this case on 11.12.2023 as fresh before appropriate Bench."

5. The stand taken in the counter affidavit is substantially based upon the judgement of the Supreme Court in the case of **St. Stephens Hospital College of Nursing vs Union of India and others**, covered by Special Leave to Appeal No. 10571 of 2022 decided on 10.06.2022, whereby the Apex Court has observed that process of admission in the Educational Institutions cannot be endless and it must come to an end at a particular point of time and

if there is any extension and/or deviation from the time schedule, that will ultimately affect the education.

6. The State has come up with the stand on the merits of the petitioner's claim mentioning that he did not get himself registered within the time limit fixed. With respect to the query raised regarding vacant seats, a supplementary counter affidavit has been filed mentioning that there were 11590 seats available in all nursing colleges in the State of U.P. and after filling-up all the seats and Mop-up round, 10548 were filled-up and 1042 seats are lying vacant. By referring to the table annexed in this regard, learned counsel for the petitioner as well as learned Standing Counsel point out that such position of vacant seats is in relation to 2023-24 as on 01.11.2023.

7. Learned counsel for the petitioner submits that petitioner's claim corresponds to year 2022-23, which admittedly is over and that the information furnished by the respondents does not pertain to 2022-23 but pertains to 2023-24.

8. Be that as it may, considering the observations made by the Apex Court in the case of *St. Stephens Hospital College of Nursing* (supra), coupled with the fact that the petitioner did not get himself registered in Mop-up round and now Session 2022-23 is already over, no relief can be granted to the petitioner.

9. The writ petition fails and is, accordingly, **dismissed**.

Order Date :- 11.12.2023

Sazia