

Court No. - 7

Case :- WRIT - C No. - 9516 of 2023

Petitioner :- Atul Yadav

Respondent :- State Of U.P. , Deptt. Of Medical Education, Lucknow Thru.
Prin. Secy And Others

Counsel for Petitioner :- Sunil Sharma, Anshuman Srivastava, Mohd. Murtaza
Hasan

Counsel for Respondent :- C.S.C., Abhinav Trivedi

Hon'ble Abdul Moin, J.

1. Heard Sri Sunil Sharma, learned counsel for the petitioner, learned Standing counsel appearing on behalf of the respondent no. 1 and Sri Ashish Pathak, Advocate holding brief of Sri Abhinav Narain Trivedi, learned counsel for the respondent no. 2.

2 Instant writ petition has been filed praying for quashing of the letter dated 19.10.2023 issued by the respondent no. 3 i.e Venkateshwara Institute of Medical Sciences, situated at NH-24, Venkateshwara Nagar, New Rajabpur, Gajraula, District- Amroha, Uttar Pradesh, a copy of which is annexure 1 to the writ petition. A further prayer is for a mandamus commanding the respondents to permit the petitioner to continue in the college of respondent no. 3 in the MBBS Course or alternatively allot a seat to the petitioner in any medical college in the State.

3. The case set forth by the petitioner is that the petitioner had appeared in the NEET (UG) Examination for the year 2023. The petitioner claims to have secured a rank and on the basis of the same appeared in the first round of counselling. The petitioner claims to have been allotted Prasad Institute of Medical Sciences, Lucknow vide provisional allotment letter, a copy of which is annexure 3 to the writ petition.

4. The petitioner claims that the institution pertaining to the petitioner was upgraded in the second round of counselling and on 28.08.2023, the petitioner was provisionally allotted the respondent no. 3- Institute. The copy of the said letter is annexure 6 to the writ petition. The petitioner was required to report on

or before 04.09.2023 for admission at the nodal center failing which the allotted seat will be considered as cancelled.

5. Learned counsel for the petitioner states that the nodal center in pursuance to the provisional letter was at Moradabad.

6. The contention of learned counsel for the petitioner is that when he was proceeding from Rewari in Harayana to the nodal center at Moradabad, he chanced to come upon the respondent no. 3- Institute. The petitioner claims to have entered the Institute out of curiosity and was taken to the office of the respondent no. 3- Institute where the petitioner found that the process of admission was going on. It is submitted that the petitioner was asked to deposit the entire fees by the respondent no. 3- Institute per which the father of the petitioner issued cheques in favour of the respondent no. 3- Institute and balance fee for the first year MBBS Course. It has also claimed that post dated cheques of the fee for subsequent years up to the year 2028 were also deposited. After deposit of fee, the petitioner had started undergoing the course under the respondent no. 3- Institute when the letter impugned dated 19.10.2023, a copy of which is annexure 1 to the writ petition was issued.

7. The contention is that a perusal of the impugned letter would indicate that the respondent no. 3- Institute has informed the petitioner that the petitioner had approached the respondent no. 3- Institute with only a provisional allotment letter of admission which had provisionally allotted the respondent no. 3- Institute. Despite the letter indicating that the petitioner was required to report on or before 04.09.2023 for admission at the nodal center, Moradabad yet the petitioner did not approach the Nodal Center and directly approached the respondent no. 3- Institute. Subsequently, after counselling, the Director General of Medical Education i.e respondent no. 2 has sent a final list of candidates on its website on 03.10.2023 of the students who have been allotted the respondent no. 3- Institute for the academic year 2023-2024 and in the list of the allotted candidates, the name of the petitioner did not mention and thus, considering that the petitioner had only been granted provisional admission for the academic session 2023-2024 and his allotment stands cancelled by the counseling

authority, the respondent no. 3- Institute has also cancelled the provisional admission of the petitioner and the petitioner has been required to collect his fee and the documents from the Institute.

8. The argument of learned counsel for the petitioner is that no fault has been committed by the petitioner in having directly gone to the respondent no.3- Institute and having deposited the fee and consequently, there cannot be any occasion for the respondent no. 3 to have cancelled the provisional admission of the petitioner. It is also contended that when the petitioner had secured the admission in the respondent no. 3- Institute and did not report at the Nodal Center, Moradabad where the petitioner was required to report and the respondent no. 3- Institute having granted admission to the petitioner consequently, the impugned letter merits to be set aside as the petitioner is already undergoing the course in the respondent no. 3- Institute.

9. In the alternate, learned counsel for the petitioner contends that in case the admission of the petitioner is not as per law, the respondents may explore the possibility of adjusting the petitioner on any vacant seat which may be lying vacant in the State of U.P.

10. Sri Sunil Sharma, learned counsel for the petitioner has vehemently argued that the respondent no. 3- Institute has misled the petitioner to deposit the fee and not to go to the nodal center.

11. On the other hand, Sri Ashish Pathak, learned counsel for the respondent no. 2 states that when the petitioner had been provisionally allotted the respondent no. 3- Institute, through the provisional allotment letter, he was required to report at Nodal Center, Moradabad. Consequently, it was in the fitness of things that the petitioner should have first reported at Nodal Center, secured his admission and thereafter should have gone to the respondent no. 3- Institute for the purpose of deposit of fee. It is submitted that as the petitioner failed to report at Nodal Center thus the seat of the petitioner fell vacant on account of his non reporting and the seat now stands allotted to some other candidate and consequently, the respondent no. 2 is not required to do anything further. It is

also contended that even if for the sake of argument, seats are still lying vacant in various medical institute in the State of U.P even then no admission can be made on the said vacant seats without counselling and the petitioner having not participated in a counseling process subsequent to the provisional allotment made of the respondent no. 3- Institute there cannot be any occasion for admission of the petitioner on the said vacant seats.

12. Heard the learned counsel appearing for the contesting parties and perused the records.

13. From a perusal of records, it emerges that the petitioner had appeared in the NEET (UG) Examination and had secured a rank. The petitioner had participated in the counselling and initially had been provisionally allotted the Prasad Institute of Medical Sciences, Lucknow. Subsequent thereto, in the second counselling, provisional allotment was made on 28.08.2023 per which the petitioner had been allotted the respondent no. 3-Institute. A perusal of the provisional allotment letter whereby the respondent no. 3- Institute has been allotted to the petitioner would indicate that the petitioner was required to report on or before 04.09.2023 for **admission** at Nodal Center, Moradabad failing which the allotted seat will be considered as cancelled. Admittedly, the petitioner failed to report at Nodal Center and thus keeping in view the specific terms and conditions of the provisional allotment letter, his admission stood cancelled.

14. The petitioner on his own accord, approached the respondent no. 3- Institute and may be on the basis of some misrepresentation, the petitioner deposited the fee with the respondent no. 3- Institute and also started the education session.

15. Be that as it may, the fact of the matter remains that the petitioner failed to report at Nodal Center consequently, his admission stood cancelled and the seat stood allotted to some other candidate. In the letter impugned dated 19.10.2023 issued by the respondent no. 3 it clearly emerges that in the list that had been sent by the respondent no. 3 of the candidates who have been allotted the respondent no. 3- Institute, the name of the petitioner does not find place

meaning thereby that the provisional admission of the petitioner stood cancelled.

16. As the petitioner failed to report at the Nodal Center in terms of the specific terms and conditions of the provisional allotment letter consequently, no fault is found with the respondent no. 2 in having cancelled the provisional admission of the petitioner in the respondent no.3 - Institute. Further, as the petitioner on his own accord deposited the fee with the respondent no. 3- Institute without adhering to the specific terms and conditions of the admission process which was required to be followed for the purpose of admission consequently, the Court cannot come to the rescue of the petitioner. It is always open for the petitioner to proceed in accordance with law against the respondent no. 3- Institute but no writ can be issued by this Court for the purpose of securing the admission on the vacant seat which may be lying vacant in various medical institution in the State of U.P inasmuch as no admission can be made without any counseling.

17. Keeping in view the aforesaid discussion, no case for interference is made out. Accordingly, the writ petition is dismissed.

Order Date :- 31.10.2023

Pachhere/-