Serial No. 19
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 355 of 2020

Date of Order: 04.12.2020

Shri. Dinesh Arjel Vs. The Union of India & 3 Ors.

Coram:

Hon'ble Mr. Justice Ranjit More, Judge.

Appearance:

For the Petitioner/Appellant(s) : Ms. P.Agarwal, Adv.

For the Respondent(s) : Dr. N.Mozika, Sr. Adv. with
Ms. S.A.Shallam, Adv. for R 1&2.
Ms. R.Dutta, Adv. for R 3 & 4.

1. Heard Ms. P.Agarwal, learned counsel for the petitioner, Dr. N.Mozika, learned Sr. counsel for the respondents No. 1 & 2 and Ms. R.Dutta, learned counsel for the respondents No. 3 & 4.

2. The petition pertains to the admission of MBBS Course in North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences (NEIGRIHMS), Shillong against 18 (eighteen) nos. North East Open category seats (open to all North Eastern States including Sikkim) for the Session 2020-2021. The petitioner passed his Higher Secondary Examination (Science) in the year 2018 by securing 82.6 % marks. The petitioner thereafter, appeared for the National Eligibility cum Entrance Test (NEET) (UG)-2020. In this National Eligibility cum Entrance Test, petitioner obtained 616 marks out of 720 and secured 13152nd in the NEET All India Rank.

3. The petitioner thereafter wanted to apply for admission to the MBBS Course in respondent No. 3-Institute and obtained the prospectus for the Academic Session 2020-21. In this prospectus, the last date for submission of application form was fixed on 20th November, 2020.

4. The respondent No. 4 however abruptly preponed the last date for submitting the application form from 20th November, 2020 to 12th November, 2020. It is the case of the petitioner that he came to know about the preponement of the last date for submission of application form only on 14th November, 2020. Immediately he enquired into the matter and learned from the website of respondent No. 3-Institute, that without assigning any valid reasons, by notice dated 6th November, 2020 issued by respondent No. 4, the last date for submission of application form for admission to the MBBS Course in respondent No. 3-Institute against 18 (eighteen) nos. North East Open category seats for the Academic Session 2020-21 was preponed to 12th November, 2020 instead of 20th November, 2020.

5. The petitioner thereafter, on 16th November, 2020 went to the respondent No. 3-Institute for submission of his application form. The office of respondent No. 3 however refused to accept the application form submitted by the petitioner on the ground that last date for submission of application form has already expired. Petitioner thereafter being aggrieved, approached this Court invoking jurisdiction under Article 226 of the Constitution of India seeking following reliefs:

> *"(a) Certiorari, or any other similar writ/order/direction, should not be issued to set aside the impugned Notice No. NEIGR/Exam/MBBS ADM/2020/13, dated 06-11-2020, issued by the Respondent no. 3 Institute under the signature of the Respondent no. 4 herein; and/or*
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> *(b) Mandamus, or any other such similar writ/order/direction, should not be issued directing the Respondent authorities, more particularly, the Respondent No. 4 to allow the petitioner to submit his application for admission in MBBS course in the Respondent no. 3 Institute, against one of the 18 North east open category seats, in the Session 2020-2021."*

6. The petition was listed for admission on 24th November, 2020. Mr. K.Paul, learned counsel for the respondents No. 3 & 4 had drawn the attention of this Court to the Minutes of the 1st meeting of the e-Counselling Committee for Provisional Admission to the MBBS Course (2020-21) from 18 North East Open category seats held on 18th November, 2020 and submitted that 18 (eighteen) selected candidates were provisionally allowed and selected for

admission. Mr. K.Paul, learned counsel also submitted that however, the Committee has opined that incase of vacancies, the candidates from Serial No. 27 onwards from the merit list for counselling will be called for the second round of counselling. Mr. K.Paul, learned counsel also gave an assurance before this Court that incase of vacancies, the petitioner would be favourably considered. He further submitted that petitioner will be called upon to visit the Institute and complete the necessary formalities as and when required.

7. Ms. R.Dutta, learned counsel appearing today for the respondents No. 3 & 4 placed on record the Notice dated 3rd December, 2020. By this Notice, it is notified that the 2nd e-Counselling for admission into the MBBS Course at NEIGRIHMS, Shillong for Session 2020-21 will be held on 10th December, 2020 from 10am onwards via Video Conferencing/e-Counselling to fill up the remaining 10 (ten) vacant MBBS seats from the 1st Counselling against the North East Open Category at NEIGRIHMS starting from Rank No. 27 upto Rank No. 90 from the same Merit List uploaded in the respondent No. 3-Institute website on 16th November, 2020. The said Notice also notified that the list of provisionally selected candidates from the 2nd Counselling based on merit will be uploaded in the Institute website on 10th December, 2020. The list of Rank No. 27 upto Rank No. 90 stated herein above is annexed to the Notice dated 3rd December, 2020.

8. Admittedly, the petitioner secured 616 marks out of 720 and his All India NEET Rank is 13152nd. It is not disputed by either parties that the petitioner ranks at Sl.No. 3 on merit in the North East Open category at NEIGRIHMS. It is further not disputed that had the petitioner applied earlier, he would have been selected on merit in the first round itself. It is also further undisputed. Fact that the petitioner's merit is much above the candidates at Sl. No. 27 to 90, list of which is annexed along with the Notice dated 3rd December, 2020.

9. It is the contention of learned counsel for respondents No. 3 & 4 that the last date for submission of application form had been preponed form 20th November,2020 to 12th November, 2020 at the instance of respondent No. 2. Respondent No. 2 however, has not filed any response to the petition giving any justification or any valid reasons as to why instructions were issued to respondents No. 3 & 4 for preponement of the last date of submission of

application forms. In these circumstances, in my view the petitioner cannot be penalized for no fault on his part. The bona fide of the petitioner is also evident from the fact that before 20th November, 2020, i.e., on 16th November, 2020, he went to respondent No. 3 -Institute for submission of his application form.

10. Ms. P.Agarwal, learned counsel for the petitioner submitted that petitioner comes from a very poor family and hails from Kohima. She submitted that at present, petitioner is stationed at Guwahati and if he is allowed to submit the application form for admission, he will go tomorrow to respondent No.3-Institute and submit his form. Statement accepted.

11. In above circumstances, in my considered view, interest of justice would be sub served by passing following order:

1. The petitioner is directed to approach the respondents No. 3 & 4 tomorrow at 11am along with the hard copy of his application form for admission to MBBS Course against 18 nos. North East Open category seats for Session 2020-21.

2. The respondents No. 3 & 4 shall accept the application form of the petitioner and consider him for admission in MBBS Course against 18 nos. North East category seats for Session 2020-21 in the 2nd e-Counselling which will held on 10th December, 2020 at 10am onwards via Video Conferencing/e-Counselling to fill up the remaining 10 vacant MBBS seats from the 1st Counselling. It is expressly made clear that the petitioner shall be considered for admission in the 2nd e-Counselling on his merit subject to other formalities.

3. All concerned shall act on the copy authenticated by Private Secretary of this Court.

4. Petition stands disposed of.

Judge

Meghalaya
04.12.2020
"Samantha PS"