

09.09.2020
Supp-04
Ct.12
(S.R.)
via video
conference

W. P.A. No.7039 (W) of 2020
Souvik Panda
v.
The State of West Bengal & Ors.
with
CAN 1 of 2020

Mr. Kallol Basu
Mr. Sabyasachi Chatterjee
Mr. Suman Banerjee
Mr. Pintu Karan
Mr. Akashdeep Mukherjee ... for the petitioners.

Mr. Abhratosh Mazumder, AAG ... for the State.

Mr. Y.J. Dastoor, Ld. ASG
Mr. Siddhartha Lahiri
... for the respondent nos.5 and 7.

In view of the express undertaking of the petitioner to comply with all formalities regarding filing including stamping and punching of the petition immediately upon resumption of normal court business and in view of the urgency involved, the application being CAN 1 of 2020 is allowed and the writ petition is taken up for hearing.

The present writ petition has been preferred primarily praying for the following relief:-

“b) A Writ of and/or the nature of Mandamus commanding the respondent authorities concerned and/or their men, servants, agents and/or assigns to forthwith make separate arrangements for allowing the petitioner who is tested covid-19 positive to participate in NEET-UG Examination on 13.09.2020 including all transport and medical facilities;”

Mr. Bose, learned advocate appearing for the petitioner submits that the petitioner is a resident of the district of Purba Medinipur and he has been assigned an examination centre at Bhatler College at Dantan which is

about 70 kilometers from his residence. It would be an impossibility for the petitioner to reach the examination centre upon travelling such long distance unless appropriate transport facility is provided by the State authorities.

Mr. Bose further submits that the petitioner was found to be Covid-19 positive on 18th August, 2020 and that the authorities may prevent him from appearing in the said examination at the said centre.

As no one appeared on behalf of the State respondents, this Court requested Mr. Abhratosh Mazumder, learned Additional Advocate General to appear.

Drawing the attention of this Court to an advisory regarding Covid-19 for all functionaries as issued by the respondent no.5, Mr. Dastoor, learned Additional Solicitor General appearing on behalf of the respondent nos.5 and 7 submits that in view of the directions contained in the advisory, the apprehension of the petitioner has no basis. Let a copy of the said advisory, as produced, be kept on record.

Mr. Dastoor, however, submits that upon arriving at the centre the petitioner must duly fill up all the particulars, as detailed in the Admit Card. Mr. Bose undertakes that the petitioner shall do so.

Records reveal that the prayer for postponement of the NEET-UG Examination has been refused by the

Hon'ble Supreme Court by an order dated 17th August, 2020 and a review application filed thereafter by the State has also been dismissed on 4th September, 2020. The examination in question is scheduled to be held on 13th September, 2020.

The importance of conducting the examination cannot be emphasized enough. Almost equally important is the possession of means for reaching the examination centers. Thus, in view of the present unprecedented situation which has been caused due to the Covid – 19 virus and as suburban and other scheduled trains are not in operation, it is expected that State authorities shall, upon empathetic consideration of the anxiety of the students, make a sincere endeavour to start bus services from early morning and to increase the frequency of buses to enable the students at large to reach their respective examination centers in time.

Mr. Mazumder, in his usual fairness, submits that in the event a copy of the writ petition along with the admit cards and other documents as annexed are forwarded by *email* to the Law Officer of the Transport Department then appropriate instruction would also be given by the competent authority to the respective Regional Transport Authorities.

In the said advisory it has, *inter alia*, been stated in the clause “*Managing Candidate after Entry into centre*” as follows:-

“ - Candidates report in batches from 11:00 A.M onwards (as per the staggered time slot mentioned in admit Card)

- At the entry of Registration Room their body temperature is recorded through thermal gun.

- If temperature ($<37.4^{\circ}\text{C}/99.4^{\circ}\text{F}$), they move to frisking personnel for frisking.

- If temperature is ($>37.4^{\circ}\text{C}/99.4^{\circ}\text{F}$), they will be taken to Isolation Room. All processes of frisking and document verification will be done after a period of 15-20 minutes. In this time their temperature may become even normal, if not they will be allowed to take the examination alone in a separate room.

- Candidates display Admit card, Valid Govt. ID proof, PwD certificate (if PwD candidate), Scribe undertaking (if applicable in proforma given in Information Bulletin) to Invigilator on duty across the table.

- After due verification, Invigilator checks seat allocation chart & direct them to their examination room as per roll number.

- Invigilator on Duty outside the Registration Room ensures that students enter Registration Room in batches of 10 (first) and then 5, when first 5 leave. After leaving he/she directs Candidates to their Examination room.”

In the Advisory, the clause “Use of Thermo Guns” runs as follows: -

“^o All Staff members and candidates to be checked

with Thermo guns at the entry point for fever. In case, any staff person and candidate is observed to be having above normal temperature ($>37.5^{\circ}\text{C}/99.4^{\circ}\text{F}$) or displaying any symptom of COVID-19 suspect, they will be placed in separate Isolation Room.

o Local Helpline Number for COVID-19 be displayed prominently at the examination centres and used when required

o Regular announcements will be made urging candidates to maintain social distance amongst them as per the social distancing norms. Volunteers/Invigilators will also guide the candidates to maintain social distance.”

A perusal of the said Advisory reveals that an elaborate procedure has been detailed to assist the candidates in every manner so that they can appear in the said examination peacefully. It appears that even in the event the normal body temperature of the candidates is above 37.4°C and such candidates are displaying any symptom of Covid-19, they will be placed in separate isolation room. The said advisory had been issued by the respondent no.5 and the same is binding upon the respondent no.7 and all the examination centers and the same is required to be strictly followed.

In view thereof, this Court directs that the centre-in-charge of Bhatler College at Dantan to strictly comply with the advisory issued by the respondent no.5 so that the petitioner can appear in the said examination

peacefully.

The learned advocate on record of the petitioner is directed to immediately communicate all the documents to the Law Officer of the concerned Transport Department as well as to the Principal Secretary of the Transport Department along with a server copy of this order.

The learned advocate is also directed to communicate all the said documents and a copy of this order to the centre-in-charge of Bhatler College at Dantan, Paschim Medinipur.

With the above observations and directions, the writ application is disposed of.

There shall, however, be no order as to costs.

All the parties shall act on a server copy of this order.

(Tapabrata Chakraborty, J.)