

**Circuit Bench of Calcutta High Court
at Jalpaiguri**

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2020

W.P.A. 378 of 2020

**Agniv Bhunia
Versus
North Bengal Medical College & Hospital & Ors.**

Mr. Surojit Dutta
.....for the petitioner.

Mr. Supratic Roy,
Mr. Deborshi Dhar.
....for the respondent no.2 & 3.

Mr. Sanjit Kumar Dey.
.....for the respondent no.4.

The petitioner participated in the National Eligibility-Cum-Entrance Test (UG) 2019 and secured NEET All India Rank of 520224 and All India Quota Rank of 55656 (for 15%) seats under the SC category. The petitioner participated in the counselling process and in the mop up round of counselling but failed to secure a seat in any of the medical colleges.

The petitioner thereafter came to learn that certain seats were still lying vacant and accordingly approached the Registrar of the West Bengal University of Health Science by filing a representation on 16th January, 2020 praying for consideration of his candidature in the vacant MBBS seats.

The petitioner has alleged in the said representation that candidates less meritorious than him were admitted under orders of Court and

requested for extending similar benefit in his case.

The learned advocate for the petitioner relies upon several orders passed by the Court allegedly in similar matters. In the last of such order dated 9th December, 2019 passed in W.P.A. 977 of 2019 the Court directed the University to grant provisional admission to the petitioner in a medical college with observations that the provisional admission shall not create any equity in favour of the petitioner and would be subject to the result of the writ petition. The respondents were directed to file their affidavit-in-opposition. The writ petition is pending consideration till date.

The petitioner submits that since candidates have been granted admission as late as in December, 2019 similar relief may be extended in his favour.

The learned advocates representing the respondents oppose the prayer of the petitioner. It has been submitted that the first year course began on 18th August, 2019 and the entire selection process ended on 31st August, 2019. The students of the first year are presently undergoing the second semester examination. The petitioner cannot be granted similar benefits of the orders which were passed earlier.

It has been submitted that the petitioner will miss-out on the attendance as 75% attendance is

compulsory for appearing in the examination.

The respondents have relied upon the schedule of examination for holding MBBS (UG) Course.

I have heard the submissions made on behalf of both the parties.

It appears that the entrance examination was held in May, 2019. The petitioner for the first time approached the authority for consideration of his candidature for filling up the vacant posts on 16th January, 2020, followed up by a reminder on 10th February, 2020. In the meantime, the first year class proceeded and the students of the first year MBBS Course are presently in the midst of the second semester examination. Permitting the petitioner to join the course at such a delayed stage possibly will not be desirable. The petitioner has already missed out nearly six months' of the first year curriculum. As it appears that the petitioner has secured a fairly low rank for which he was not allotted a seat and thereafter permitting the petitioner to be admitted in the course after a lapse of six months, in my opinion, ought not to be done.

Though the petitioner relies upon the order dated 9th December, 2019 permitting a candidate to be admitted in the course but fact remains that more than two months have elapsed by now. Had the

petitioner approached this Court at an earlier stage then the result of the writ petition may have been otherwise.

Since a fairly long time has lapsed and the students of the first year are nearing completion of their second semester examination I am not inclined to accept the prayer of the petitioner for granting provisional admission in the said course in the midst of the term. Allowing the petitioner to be admitted at such a late stage will imply that the selection process is still on and candidates with similar prayer will keep on approaching the court for relief. The selection process for NEET (UG) 2020 will start within a very short time. The selection for the year 2019 should not extend for such a long period.

In the view of the above no relief can be granted to the petitioner in the instant case.

The writ petition fails and is hereby dismissed.

W.P.A. 378 of 2020 is dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all necessary formalities.

(Amrita Sinha, J.)