

12.07.2021
SL No. 5
Court No. 24
(P.M.)

WPA 8464 of 2021

**Supriya Mondal
Vs
The State of West Bengal & Ors.
(Via Video Conference)**

Mr. Partha Sarathi Bhattacharya, Sr. Adv
Mr. Jia ul Haque
... for the petitioner

Mr. Indranil Roy,
Mr. Sumit Kr. Roy
... for National Medical Commission.

Mr. Swapan Kr. Datta, Sr. Adv
Mr. Tapas Kr. Dey
... for the State.

The petitioner seeks admission in Medical College. She participated in the National Eligibility cum Entrance Test (U.G.), 2020 and secured the rank 478723.

The specific case of the petitioner is that there are certain vacancies in various Government Medical Colleges in West Bengal and accordingly she made a prayer before the Registrar of West Bengal University of Health Sciences on 5th February, 2021 to consider her prayer for admission in M.B.B.S. Course for the year 2020-2021.

According to the petitioner as there are vacancies in several medical colleges, accordingly her case ought to be considered in terms of the representation filed by her.

The petitioner relies upon a judgment reported in 2019 SCC Online SC 1609 dated 13th December, 2019 (Para

– 9) delivered by the Hon’ble Supreme Court in Civil Appeal No. 1081 of 2017 in the matter of S. Krishna Sradha – Vs – The State of Andhra Pradesh & Ors.

The petitioner also relies upon an unreported order of a learned Single Judge of this Court (Circuit Bench at Jalpaiguri) dated 20th August, 2019 passed in WPA No. 344 of 2019 (Sandip Mondal – Vs – West Bengal University of Health Sciences & Ors.) wherein the Court disposed of the writ petition by holding that in order to prevent unnecessary harassment to the petitioner in the event there are actually vacant posts to which the petitioner is entitled to get admitted the respondent authority was to provisionally admit the petitioner in a college under the University and the said admission was subject to availability of vacancies. It was clearly indicated that the petitioner shall not claim any equity in his favour in the event he qualifies or was allowed to take an examination by the University.

The learned advocate representing the National Medical Commission submits that there has been no illegality in the process of admission in the various medical colleges in the State of West Bengal. It has been submitted that the petitioner failed to qualify in the four rounds of counselling that was held.

It has further been submitted that the petitioner has come up with an omnibus and vague allegation that there are vacancies in the medical colleges in the State of West

Bengal. The details of the vacancies have not been disclosed.

It has been submitted, upon instructions, that at present all the vacancies have been filled up in the specified category (general category).

The learned advocate further submits that the judgment delivered by the Hon'ble Supreme Court in the matter of S. Krishna Sradha will not apply in the present case. It has been submitted that as there has been no illegality or irrationality by the authorities, accordingly the direction passed in the said judgment will be not be applicable.

It has also been submitted that the petitioner has not approached the Court in proper time. The Hon'ble Supreme Court in the order dated 8th February, 2021 in the matter of Asish Ranjan & Ors. – Vs – Union of India & Ors. in WP(C) No. 76 of 2015, MA No. 240/2021 specifically directed that time for admission in under graduate MBBS Courses for the academic session 2020-21 is extended by a period of one week from date, i.e. no admission to any UG MBBS Course can be made after the date as specified by the Hon'ble Supreme Court for the academic session 2020-21.

Upon hearing the submissions of the parties it appears that the petitioner did not get a chance in the four rounds of counselling that were held for admission in the various medical colleges.

The petitioner in her representation dated 5th February, 2021 has not specified the number of vacancies in the specified category in the Government Medical Colleges she seeks admission. There is no allegation that there has been any illegality or irrationality on the part of the respondent authorities in conducting the admission process.

The first year course of the M.B.B.S. has already started and admission for the fresh batch of the year 2021 will take place shortly.

The Supreme Court in *S. Krishna Sradha* (supra) in paragraph 9 specifically laid down that if a meritorious candidate has been denied admission in M.B.B.S. course illegally or irrationally by the authorities for no fault of his/her and who has approached the court in time and to see that such a meritorious candidate may not have to suffer for no fault, the Court may entertain the writ petition to do complete justice. The judgment further held that under exceptional circumstances, if the Court finds that there is no fault attributable to the candidate and the candidate has pursued his/her legal rights expeditiously without any delay or there is apparent breach of rules and regulations in the process of grant of admission which would violate the right of equality, the Court under exceptional circumstances and in the rarest of rare cases direct admission in the same year.

Such is not a case in hand. The petitioner being unsuccessful in the counselling has approached this Court at a delayed date. This is not the rarest of rare cases warranting interference. Moreover, the order dated 8th February, 2021 has specifically made it clear that there can be no admission in UG MBBS Courses for the academic session 2020-21 after 15th February, 2021. Irrespective of the fact whether there is any vacancy or not, the petitioner has lost her chance to seek admission in the said course in view of the aforesaid order of the Supreme Court dated 8th February, 2021.

In view of the time limit set by the Hon'ble Supreme Court in the order dated 8th February, 2021, no relief can be granted to the petitioner in the instant case.

The writ petition stands dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)