

26
SB

21.09.2021
Ct. No. 24

WPA 15077 of 2021

Bishnupur Public Institute of Medical Science & Anr.
Vs.

The State of West Bengal and Ors.

(Via Video Conference)

Mr. Partha Sarathi Bhattacharyya
Mr. Lutful Haque
Mr. Raju Bhattacharyya
Mr. Arunava Maiti ... for the petitioners

Mr. Samrat Sen
Mr. Amitava Mitra
... for the State

In response to an advertisement dated 05-12-2020 published in the newspaper for Expression of Interest by the Department of Health and Family Welfare, Government of West Bengal for the use of Government Hospitals for facilitating establishment of private medical college in West Bengal based on National Medical Commission guidelines by allowing use of Government Hospitals of 300 beds or more in lieu of user charges on temporary basis for Academic Year 2021-22 the petitioners applied along with all necessary documents. The application of the petitioners was, however, rejected as the same was deficient in respect of certain document.

By an order dated 27/28 July, 2021, the petitioners were intimated by the National Medical Commission that the deficiency in their application was found incomplete to initiate the process of application for starting the medical college. The Essentiality Certificate, Consent of Affiliation and the Memorandum of Understanding from the Government on availing the district hospital for a period

of thirty years was not available.

Challenging the order passed by the President / Member, the petitioners preferred an appeal before the National Medical Commission and according to the petitioners the said appeal is still pending.

The petitioners are aggrieved by the fresh advertisement published by the Department of Health and Family Welfare on 14.09.2021 inviting applications from project proponents desirous of setting up of Medical Colleges in 300 bedded hospital running for two years or more to which they may show themselves to be attached to. The expression of interest is to be submitted on or before 21.09.2021 upto 5 PM through E-Procurement Portal.

The learned counsel for the petitioners submit that as of now no application has been made pursuant to the fresh advertisement dated 14.09.2021, as the appeal preferred by the petitioners in connection with the earlier advertisement is pending consideration before the appellate forum.

It has been submitted that in the event the petitioners become successful in the appeal, then there is no requirement for making fresh application in terms of the present advertisement.

It has further been submitted that the Bank Guarantee filed by the petitioners in terms of the earlier advertisement is still being held by the Department of Health and Family Welfare.

Though a prayer has been made in the writ petition for stay of the advertisement dated 14.09.2021, but it has been specifically submitted in Court that the application to be made by the petitioners in terms of the fresh advertisement may be considered in accordance with the provisions of law.

The learned counsel representing the State respondents submits, upon instructions, that the appeal preferred by the petitioners has been disapproved by an order dated 13/14.09.2021 passed by the President / Member Medical Assessment & Rating Board, National Medical Commission.

An advice has been given in the said letter of disapproval of the application that the petitioners may apply for the academic year 2022-2023 through online application with all the documents available.

The petitioners submit that though when the earlier application was made, all the documents were not readily available with the petitioners, but presently the petitioners are in possession of all the necessary documents that are required for the purpose of filing the application in terms of the present advertisement dated 14.09.2021.

In view of the aforesaid submission, the petitioners, without prejudice to its rights and contention, will be free to apply within the time as stipulated in the advertisement dated 14.09.2021 expressing interest for allowing the Government Hospital for initial period of five

years and extended upto thirty- three years in lieu of user charges for academic year 2022-2023. In the event, the petitioners make the application, the same shall be considered by the respondent authorities, along with other applicants, in accordance with law.

If the petitioners emerge successful pursuant to the present advertisement, then the State authority shall consider the prayer of the petitioners for adjustment of the Bank Guarantee which the petitioners submitted in response to the earlier advertisement dated 05.12.2020.

W.P.A. 15077 of 2021 stands disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Amrita Sinha, J.)