

23rd December, 2021
(D/L No.13)
(SKB)

WPA 21105 of 2021
(Via Video Conference)

Belly Shankarpur Rajib Gandhi
Memorial Ayurvedic Society
Vs.
The State of West Bengal and others

Mr. Probal Kumar Mukherjee,
Ms. Shebatee Datta
... for the petitioner.

Mr. Supriyo Chattopadhyay,
Mr. Suman Dey
... for the State.

Mr. Nilotpal Chatterjee
... for the Indian Nursing Council.

The petitioner seeks an order in similar terms as that passed on 16th December, 2021 in W.P.A.20096 of 2021.

Learned counsel appearing for the petitioner submits that the factual position in the present matter is identical to the facts in the earlier writ petition and also involves an order of the Director of Health Services dated 30th November, 2021 by which Nursing Schools and Colleges which have not received affiliation from the Indian Nursing Council (in short 'INC') will not be included in the extended MOP-up round of the Council in the academic year 2021-2022.

Learned counsel appearing for the State submits that the order in W.P.A.20096 of 2021 was confined to the petitioner before the court and that the last date of

the counselling process is 31st December, 2021. It should be noted that the submissions made on behalf of the State is that the petitioner does not have the affiliation from the West Bengal University Health Science. This contention would be belied from the document dated 18th February, 2021 from the Registrar, West Bengal Nursing Council to the petitioner granting final permission for opening of a new School of Nursing for General Nursing Midwifery (3 years) course and new College of Nursing for B.Sc. (Nursing) course. The permission is recorded to be passed on a recommendation by the members of the Education and Examination Committee Meeting held on 11th November, 2020.

Upon hearing learned counsel and considering the materials on record, this court is of the view that since the order passed in the earlier writ petition construed the relevant provisions of the Indian Nursing Council Act, 1947 as not contemplating any requirement for affiliation of a Nursing College with the Indian Nursing Council and further that the petitioner as in the earlier matter, has already been recognised by the State under the notification of 5th July, 2021, the petitioner should be granted the same relief as in the earlier writ petition. The factual similarity as noticed by the court is also submitted by learned counsel appearing for the petitioner.

Since the last date for admission to the Nursing Programmes for the current year is 31st December, 2021, the petitioner cannot be made to suffer the consequences of the order which does not find statutory support. It may also be recorded that the inspection by the INC under Section 13 of the Act has already been done in the petitioner's case.

The respondent no.6 being the Chairperson, Central Selection Committee (Nursing), Government of West Bengal, is therefore directed to take steps so that the petitioner is allowed to participate in the ongoing MOP-Up counselling and other stages of the selection process. The respondents are also restrained from taking any steps in terms of the impugned order dated 30th November, 2021.

The writ petition is disposed of accordingly.

The order passed in the writ petition is with reference to the petitioner before this court.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Moushumi Bhattacharya, J.)