

04.01.2022
SL No. 14
Court No. 24
(P.M)

WPA 65 of 2022

**Md. Fahim Shakil Educational Trust
Vs
The State of West Bengal & Ors.
(Via Video Conference)**

Mr. Lutful Haque,
Mr. Golam Karim Choudhury
... for the petitioner

Mr. Nilotpal Chatterjee
... for Indian Nursing Council

Mr. Bhaskar Prasad Vaisya,
Mr. Ranjan Saha
... for the State

The petitioner is aggrieved by the order bearing No. HNG/3M-43-2020/1528 dated 30th November, 2021 issued by the Directorate of Health Services wherein it was mentioned that without Indian Nursing Council recognition, students under the institutions who do not have INC affiliation will not be included in the extended MOP-up round counseling in the academic session 2021-2022 for GNM/ANM nursing course to be conducted by the Central Selection Committee Nursing.

It appears that the aforesaid order was under challenge in several writ petitions and orders were passed therein.

A co-ordinate Bench of this Court in WPA 21509 of 2021 (Teressa Memorial Hospital LLP & Ors.

– vs – The State of West Bengal & Ors.) on 30th December, 2021 passed order relying upon order passed in WPA 21211 of 2021 wherein the Court restrained the respondent authorities from taking any steps in terms of the impugned order dated 30th November, 2021.

The Indian Nursing Council was granted liberty to proceed with the inspection as mandated under the Indian Nursing Council Act, 1947.

According to the provisions of law there is no requirement of receiving affiliation by the Indian Nursing Council. Section 10 of the Nursing Council Act, 1947 provides for recognition of qualifications by the Indian Nursing Council of any authority which is recognised by the State Government. Section 10 and the sub-Sections provides for application to the Council for recognition of qualification of the courses. Indian Nursing Council does not have any authority to grant recognition to the institutions imparting nursing courses.

The petitioner submits that the institute has been recognised by the State and the essentiality certificate and no-objection certificate has been issued in favour of the institute.

As the order dated 30th November, 2021 requiring affiliation by the Indian Nursing Council is

contrary to the provision of law and has no legs to stand upon, the same is set aside and quashed.

The Chairperson of the Central Selection Committee (Nursing) will be at leave to take necessary step(s) to permit the recognised body of the nursing school and colleges to participate in the extended MOP up round counselling for GNM/ANM nursing course for the academic Session 2021-2022. The Indian Nursing Council shall be at liberty to proceed with the inspection as mandated under the Act.

The State respondents are directed to take consequential steps pursuant to the setting aside of the impugned order dated 30th November, 2021.

The writ petition is disposed of.

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

(Amrita Sinha, J.)