

17.02.2022
sayandeep
Sl. No. 11
Ct. No. 05

WPA 876 of 2022
[Via Video Conference]

Dr. Atanu Biswas
-Versus-
The State of West Bengal & Ors.

Mr. Shyamal Roy
..... for the petitioner
Mr. Swapan Kr. Datta
Mr. Tapas Kr. Dey
.... for the State
Mr. D. N. Maiti
.... For the respondent No. 4

The petitioner prays for a direction on the respondents not to cancel the admission of the petitioner at Command Hospital, Kolkata as per the result in the first round of counseling. The petitioner also seeks a direction for setting aside a Notification dated 6th July, 2020 passed by the Director of Medical Education, Department of Health and Family Welfare. The next prayer is for a direction on the respondents to consider the case of the petitioner and pass a special order against the Notification dated 6th July, 2020. Learned counsel appearing for the State takes a point of maintainability on the abuse of process by placing an order of a Division Bench of this Court dated 24th March, 2021 arising out of WPA 5935 of 2020.

Upon hearing learned counsel and upon considering the order of the Division Bench passed

in WP.ST 76 of 2020 (*Dr. Atanu Biswas –vs- The State of West Bengal & Ors. and Dr. S.K. Safikul Hasan & Ors. –vs- The State of West Bengal & Ors.*), it appears that the prayers in WPA 5935 of 2020 being the earlier writ petition, are identical to those of the present writ petition. The prayers in the earlier writ petition have been set out in paragraph 15 of the order of the Division Bench and shown that in the earlier writ petition, the present petitioner was a party, had also challenged the Memo dated 6th July, 2020 and prayed for a direction on the respondents not to cancel the admission in the first round of counseling of the petitioners. The Division Bench order also sets out in detail as to the parallel proceedings filed by the petitioners including the present petitioner for the same relief which was sought for in the earlier writ petition filed in this Court. Since the relief claimed in the earlier proceedings and the present proceedings are identical, the contention that the cause of action in both the matters is different as appears to be untenable.

Since this Court is not inclined to consider present writ petition on the above ground, the decision relied on by learned counsel appearing for the State namely *Hastings Mills Ltd. vs. Hira Singh &*

Ors. (1978 CHN 64), on criminal contempt arising out of abuse of process is not being gone into.

WPA 876 of 2022 is accordingly dismissed without any order as to costs.

(Moushumi Bhattacharya, J.)