

Supple 1
SK
Ct. 05
04.02.2022

**W.P.A. No. 2060 of 2022
(Via Video Conference)**

**Sudeepa Bhaumik
Vs.
The State of West Bengal & Ors.**

Mr. Sudvasatva Banerjee,
Mr. Bikash Kumar Roy ... For the petitioner.

Mr. Indranil Roy,
Mr. Sunil Kumar Ray
... For the National Medial Commission.

Mr. Supriyo Chattopadhyay,
Mr. Suman Sengupta ... For the State.

The writ petitioner prays for permission to change her candidature from “GEN-EWS” to “SC” (Scheduled Caste). The urgency is a Memo dated 1st February, 2022 setting out the schedule for counseling which indicates that candidates would have to complete Online enrolment by midnight of 5th February, 2022, which is tomorrow.

The examination in question is the NEET UG 2021 for seats in medical colleges in West Bengal.

The case made out by the petitioner is that the petitioner filled in the Online Form for counselling as a general candidate. In the second phase of registration before the National Testing Agency, the petitioner intended to change the category from General to Scheduled Caste but opted for EWS category by mistake.

Learned counsel for the petitioner submits that the petitioner discovered the mistake after the publication of results. Counsel further submits that the petitioner now seeks permission to manually change the category from EWS to SC. Counsel places Clause 4 of the Memo dated 1st February, 2022 read with the Online counselling steps contained in the said Memo which requires candidates to state their caste status during the counseling process.

Learned counsel for the State and the National Medical Commission points to the delay on the part of the petitioner in filing of the writ petition. Counsel further submits that the petitioner's SC Certificate was only issued on 18th November, 2021, hence the petitioner could not have filled in her Category as an SC candidate as in October 2021 when the details were required to be put in by candidates. It is also submitted that the petitioner has lost the window for making corrections as published by a Notice dated 21st October, 2021.

After hearing counsel, the larger question of the petitioner's future should be borne in mind. Admittedly, the petitioner is an SC candidate. The petitioner also has to follow the counseling schedule published on 1st February, 2022 under which required steps must be taken by 5th February, 2022, which is

tomorrow. Since the relevant Memos/Notifications do not indicate what is to be done in the event of a mistake, and the mistake is discovered after the window provided by the public notice of 21st October, 2021, the petitioner must be given the benefit of the lack of clarity. The petitioner's academic credentials will be at stake if she is not allowed to correct the mistake. It is also significant that the petitioner will not be automatically selected if granted the relief since she will have to clear the eligibility criteria even as an SC Candidate.

It has been submitted on behalf of the National Medical Commission that the proper authorities who can make the necessary correction are the respondent no. 5, i.e., The Medical Counseling Committee and the respondent no. 2, i.e., the Director of Medical Education, Health and Family Welfare Department, Government of West Bengal.

Having considered the facts urged, this Court is of the view that the petitioner should be allowed to appear for the particular stage of the counseling process. The concerned respondents are accordingly directed to assess the petitioner's case at the time of Step 1 "Online enrolment fee payment etc." and make the necessary correction if the records of the petitioner are otherwise found to be in order.

W.P.A. 2060 of 2022 is disposed of in terms of the above order.

All parties are directed to act on the server copy of this order.

(Moushumi Bhattacharya, J.)