

08.03.2022
sayandeep
Sl. No. 09
Ct. No. 05

WPA 4049 of 2022

[Via Video Conference]

Anirban Jana
-Versus-
The State of West Bengal & Ors.

Mr. Pankaj Agarwal
Mr. J. Dan Roy
Ms. Paramita Maiti

..... for the petitioner

Mr. Supriya Chattopadhyay
Mr. Shamim-ul-Bari

..... for the State

Mr. U.S. Menon
Mr. Abhirup Chakraborty

... for the respondents

Mr. D.N. Maiti

.... for the respondent No. 5

The petitioner prays for a direction on the respondent authorities to permit the writ petitioner to change the caste category from General (EWS) to Scheduled Caste category. The writ petitioner relies on a document which shows that an application was made for being certified as Schedule Caste on 25th February, 2022 and the date of issue of such Certificate also indicates 25th February, 2022. The Examination in question is NEET-UG and the round of counselling held thereafter.

After considering the submissions made on behalf of the writ petitioner, State and the National Medical Agency, this Court is of the view that the writ petition has been filed after an inordinate and unexplained delay. This would be evident from the fact that the NEET-UG Examination was held on 12th September, 2021 and a window for correction was given to the candidates by a Notice dated 21st February, 2022 by which candidates who had wrongly enrolled themselves in round-1 were given a one-time option of re-enrollment.

The writ petitioner in the present case applied for and was issued the Scheduled Caste Certificate on 25th February, 2022. The Certificate is not on record.

The registration for the 2nd round of counselling is due to start today, i.e., on 8th March, 2022. The petitioner has fallen short on prompt action since the Scheduled Caste Certificate is of 25th February, 2022 and the petitioner came before this Court on 4th March, 2022. The petitioner's urgency in having the matter heard is hence not supported by the action taken in that regard.

The present case should be distinguished with an earlier order passed by this Court in WPA No. 2060 of 2022 (*Sudeepa Bhaumik vs. The State of West Bengal & Ors.*) wherein the writ petitioner was allowed to appear for the particular stage of the counselling process. The petitioner in that case had approached the Court during the first round of counselling. This Court had therefore exercised its discretion in favour of the petitioner in permitting the petitioner to participate in the on-going round as a Scheduled Caste candidate.

The present petitioner appears to have, in contrast, waited till the last moment to approach the Court for relief. It is expected that a writ petitioner who approaches the Court for relief should also be prompt and vigilant.

In view of the above reasons, the discretion cannot be exercised in the present case in favour of the petitioner. The petitioner, at best, would be entitled to a consideration by the respondent No. 2, being the Director, Department of Health and Family Welfare, who shall take into account the documents produced by the petitioner for appearing as a candidate in the Scheduled Caste category in the on-going counselling process. The petitioner will be at liberty of approaching the

respondent No. 2 within 24 hrs. and the respondent No. 2 is requested to reach a decision as expeditiously as possible given the urgency of the situation. The respondents may take a sympathetic view of the petitioner's case since the status of the petitioner would have a bearing on his future.

The decision of the respondent No. 2 shall be in the form of a reasoned order.

WPA 4049 of 2022 is accordingly disposed of in terms of the above.

It is made clear that this Court has not gone into merits of the matter.

(Moushumi Bhattacharya, J.)