

Ct. 05
Item No.10
08.03.2022
(suvendu)

WPA 4057 of 2022

[Via Video Conference]

Anamika Singh & Anr.

Vs.

The Union of India & Ors.

Mr. Subhojit Ghosh

Ms. Rupa Singh

....for the petitioners

Mr. Samrat Sen

Mr. Nilotpal Chatterjee

.....for the State

Mr. U.S.Menon

Mr. Abhirup Chakraborty

.....for the respondent no.5

Mr. Indranil Roy

Mr. Sunit Kumar Roy

...for the National Medical Commission

The writ petition has been filed pursuant to an order passed by this Court on 24th February, 2022 in WPA 2918 of 2022 (Amamika Singh Vs. The Union of India & Ors.) wherein the respondent no.9, being the Medical Board of Institute of Post-Graduate Medical Education and Research (IPGMER), Kolkata, was directed to issue an appropriate Certificate to the petitioner in accordance with a Gazette Notification dated 13th May, 2019 for admission in Medical Courses in All India Quota upon conducting an appropriate Medical Examination on the petitioner, if not already conducted. The Gazette

Notification of 13th May, 2019 deals with persons with disabilities.

Learned counsel appearing for the petitioners submits that pursuant to the direction of this Court, the respondent no.9 issued a Certificate dated 2nd February, 2022 but communicated the same to the petitioner on 25th February, 2022. It is also submitted that the Medical Examination was not properly conducted on the petitioner.

After hearing learned counsel appearing for the petitioner and the National Medical Commission as well as the respondent no.9, this Court is of the view that the writ petition should be dismissed.

The reasons for this view should be indicated.

First, the correspondence on record does not indicate anywhere that there was any actual delay on the part of the respondent no.9 in giving the Certificate to the petitioner. Second, even if it is accepted that there was any delay on the part of the respondent no.9 to communicate the result of the Medical Examination, the actual Certificate which certifies that the petitioner has “0 % Mental Illness” cannot be the subject matter of a judicial review under Article 226 of the Constitution. The Certificate indicates that at least two highly qualified doctors in the respective fields were conducted the examination

on the petitioner and thought it fit to certify that the petitioner does not suffer from any mental or physical disabilities. The conclusion in the Certificate states and correctly that the petitioner is not eligible for admission in Medical/Dental Courses under the MCI Gazette Notification as a person with disability.

Hence, this Court finds no infirmity in the Certificate and is also not equipped to come to a conclusion that the findings of the doctors are incorrect. The petitioner is free to participate in the counselling as a General Candidate and the repeated prayer for intervention of the writ court in a field where the writ court is not equipped to go into should be strictly dealt with.

Since the concerned writ petitioner is a student, this Court refrains from imposing costs on the petitioners.

WPA 4057 of 2022 is accordingly dismissed without any costs.

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

(Moushumi Bhattacharya, J.)