

07.04.2022
sayandeep
Sl. No. 14
Ct. No. 05

WPA 5524 of 2022

Sayon Chakraborty
-Versus-
The State of West Bengal & Ors..

Mr. Srijib Chakraborty
Mr. Pankaj Agarwal
Mr. Surojit Dutta

..... for the petitioner

Mr. Swapan Kr. Datta
Mr. Rejaul Haque

..... for the State

Mr. Amitava Chaudhuri
Mr. N. Roy

..... for the Board

Mr. D. N. Maiti

..... for the respondent No. 3

The petitioner prays for a direction on the West Bengal Joint Entrance Examinations Board for allowing the petitioner to participate in the JENPAS(UG)-2022. The grounds and documents in support of the prayer is that the petitioner was physically unwell and suffered from nausea and pain together with other medical ailments which would be evident from documents of several pathological laboratories and polyclinics annexed to the writ petition.

Learned counsel appearing for the petitioner submits that the writ petition is essentially in the nature of a mercy petition in that the petitioner cannot substantiate the delay

on the part of the petitioner to make the online applications in accordance with the Schedule published by the Board.

Learned counsel appearing for the Board submits that the online system of making applications is closed and there is no remaining route for allowing any further applications. Counsel submits that since the entire procedure was conducted online, it is no longer possible to accommodate the petitioner by way of subsequent intervention. Counsel also takes the point of the medical certificates not proving the petitioner's inability to make the application within the time frame.

Learned counsel appearing for the State submits that the Board is the material respondent and is the proper authority to object to the prayer contained in the writ petition.

Upon hearing learned counsel and treating the present case strictly as one-time situation where the petitioner should deserve some relaxation, this Court is of the view that the Board should allow the petitioner to make an online application for the JENPAS(UG)-2022 Examination.

The reason for this kindness is two-fold. First, the Schedule published by the Board contains the caveat “*All dates are tentative and can be changed in extraordinary circumstances*”. This caveat shows that the timeline cannot be held to be frozen for all times to come. Second, the petitioner filed the writ petition in March, 2022. As in March, 2022, only two stages in the Schedule were completed, namely, (1) Online application with payment of fees and (2) Online corrections and downloading of revised confirmation page. The third stage of the Schedule will only start from this May, 2022; which date has also been described as “*tentative*”. Hence, the petitioner cannot be said to have come at a time when a substantial part of the Schedule has already been completed.

In a recent order passed in *Anjana Chari S N vs. The Medical Counselling Committee((MCC) & Ors.*; Writ Petition (Civil) No. 174/2022, a three-member Bench of the Supreme Court directed a fresh round of counselling as a special case and permitted students to participate in the said counselling without any financial penalties. This Court draws strength from the order of the Supreme Court where a certain leeway was given

to students for participating in a competitive examination for advancing their career prospects. The Court can make special concessions depending on the genuineness of the plea and as an extraordinary measure.

WPA 5524 of 2022 is allowed in view of the above reasons.

The respondent authorities, particularly, the West Bengal Joint Entrance Examinations Board is directed to permit the petitioner to participate in the JENPAS(UG)-2022 and facilitate the said participation by taking required steps and providing all assistance to the petitioner.

The writ petition is disposed of in terms of the above.

(Moushumi Bhattacharya, J.)