

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 7055 of 2022

Medhatithi Paul
Vs.
The State of West Bengal & Ors.

Mr. M.P. Gupta
Mr. D.K. Saila
Mr. Shyamal Mondal
Ms. Antara Panja
... For the petitioner

Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee
... For the State

Mr. D.N. Maiti
.... For the respondent no.5

The petitioner submitted her candidature in the National Eligibility-cum-Entrance Test (UG), 2021 as a general candidate. The petitioner was issued the admit card as a candidate under general category. The score card of the said examination was provided to the petitioner on 1st November, 2021. The candidates on the basis of the score in the subject examination were called for counseling. I am told that the counseling has taken place twice, i.e., first counseling on 1st February, 2022 and the second counseling on 4th March, 2022. After the second counseling was over on the basis of the available vacancies, the mop-up rounds are fixed. At the time when the counseling took place, the petitioner did not have the Scheduled Caste Certificate. So till such stage, the petitioner was required to be considered

as a general candidate against unreserved vacancies and not as a Scheduled Caste candidate against the reserved vacancies for such category. The petitioner says that on 13th March, 2022, the petitioner received a Scheduled Caste Certificate issued by the Competent Authority. The date on which such certificate was applied for is not made known to the Court. The petitioner further says that considering the vacancies remaining after the counseling, the respondents published a schedule for WBUG 2021 Mop Up, Stray Vacancy and College Round Counseling. The petitioner wanted to be considered in the said Mop Up, Stray Vacancy and College Round Counseling as a Scheduled Caste candidate.

In that view of the matter, the petitioner made a representation through her advocate on 7th April, 2022. The petitioner says that the schedule for Mop Up, Stray Vacancy and College Round Counseling was subsequently revised on 11th April, 2022. In terms of the revised schedule, the extended last date of admission of mop-up round 2021 was till 6.00 p.m. of 11th April, 2022 and from 10.00 a.m. to 3.00 p.m. on 12th April, 2022. The petitioner says that although, in the first two rounds of counseling, the petitioner participated as a general candidate but in view of the Scheduled Caste Certificate, the petitioner is entitled to and should be allowed to participate as a Scheduled Caste candidate. The petitioner also says that she could

not avail the opportunity to rectify her application form as at the time when such rectification was allowed, the petitioner did not possess the Scheduled Caste Certificate. The petitioner submits that unless the authorities are directed to take into account the Scheduled Caste Certificate of the petitioner received on 13th March, 2022 and allow the petitioner to participate as a Schedule Caste candidate, the petitioner's interest will be irreparably prejudiced. The petitioner, therefor, has prayed for the representation dated 7th April, 2022 to be considered and be treated as a candidate enrolled under Scheduled Caste category. The petitioner has cited an order dated 8th March, 2022 passed in WPA 4048 of 2022 (Subhasis Maji v. The State of West Bengal & Ors.) in support of her contention.

The petitioner has also filed a supplementary affidavit in which the petitioner has annexed a document dated 20th April, 2022 which is termed as "Urgent Notice cum schedule for WB UG 2021 stray round and college round". The said supplementary affidavit is taken on record.

After considering the revised schedule dated 11th April, 2022 at page 20 of the writ petition and the document dated 20th April, 2022, being the 'urgent notice-cum-schedule', I find that under the revised schedule the publication of vacant seats and eligible candidates for stray round was to be published after

2.00 p.m. on 20th April, 2022. The document verification, fee deposition and allotment-cum-admission at college with vacancy was to be published from 10.00 a.m. to 6.00 p.m. on 21st April, 2022. The publication of vacant seats has been taken place on 20th April, 2022. The document verification, fee deposition and allotment-cum-admission at college with vacancy is to be published on 21st April, 2022. The writ petition has been filed on 19th April, 2022, i.e., much after the revised schedule was published on 11th April, 2022.

The urgent notice-cum-schedule published on 20th April, 2022 relates to those enrolled in Dental and Upgradation. It also appears that the eligible registered candidates who participated in WBMCC UG 2021 counseling and remained not allotted till the stray round are automatically allowed for college round. They are not required to enroll or pay counseling fee or register against college round. With regard to the eligible registered candidates who participated in the WBMCC UG 2021 counseling and remained not reported in round two and have not paid the fee in mop-up round, can participate in college round if willing by payment of counseling fee followed by registration.

The petitioner, therefor, had no difficulty in participating in the revised schedule or even against the

urgent notice. The only point, which the petitioner tries to make out, is participation as a Scheduled Caste candidate. The petitioner applied as a general candidate and, as such, her candidature was considered against the unreserved seats. The petitioner participated in the counseling as a general candidate as she did not have the Scheduled Caste Certificate till then. The petitioner had received the Scheduled Caste Certificate only on 13th March, 2022 when the second round of counseling was over. The petitioner had made the representation only on 7th April, 2022, i.e., after 25 days from receipt of the Scheduled Caste Certificate and has filed the writ petition on 19th April, 2022 after the first day for document verification, fee deposition and admission at allotted institute in stray round was over. The approach to Court is, therefor, at a belated stage.

I am told by the respondents that the petitioner had even participated in the mop-up round as a general candidate which fact is, however, disputed by the petitioner.

Be that as it may, after having participated in the examination as a general candidate and in the counseling rounds as a general candidate, the petitioner cannot be now permitted to participate as a Scheduled Caste candidate in the same examination and/or selection process at the Mop Up, Stray Vacancy and College Round Counseling which is nothing but

continuation of the same selection process. The whole basis on the terms whereof the petitioner participated in the examination will change if the petitioner is now allowed to participate as a Schedule Caste candidate at the stray and college round. The petitioner has also approached the Court at a belated stage which disentitles her to an equitable and discretionary relief. That apart, the vacancy position under the Scheduled Caste category vis-à-vis the vacancy position under the general category, the total number of candidate competing for the same is also not before the Court as allowing the petitioner to be considered as a Schedule Caste candidate at this stage will have an impact on all these facts and figures. Allowing the representation of the petitioner to be considered by the respondents is likely to alter the position in respect of the selection process at the last stage which is likely to give rise to an anomalous situation. Several other candidates may be there similarly placed as of the petitioner who are also likely to suffer discrimination.

The judgment cited by the petitioner is also factually different. In that case, the Scheduled Caste Certificate was received before the counseling took place.

In the aforesaid facts and circumstances, I do not find any merit in the writ petition. The writ petition is, therefor, dismissed without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)