

17th January, 2022
(D/L No.08)
(SKB)

W.P.A. 15804 of 2021
(Via Video Conference)

Gita Mahato
Versus
State of West Bengal and others

Mr. Arka Kumar Nag,
Mr. Rahul Kumar Singh,
Mr. Tapajit Das
... for the petitioner.

Mr. Sabyasachi Mukhopadhyay
... for respondent nos.9 & 10.

Mr. Amitava Chaudhuri,
Mr. N. Roy
... for the University.

Mr. Swapan Kumar Datta,
Mr. Tapas Kumar Dey
... for the State.

Affidavit of service filed in Court today is taken on record.

The writ petitioner is the victim of circumstances in which the petitioner had no control whatsoever. The petitioner is Scheduled Tribe candidate and joined Nandalal Ghosh B. T. College, North 24-Parganas for B.Ed. degree in June, 2016. She admittedly completed all four semesters and sat for the required examinations until June, 2018, which is the fourth and final semester of the B.Ed. course. It is also not disputed that the fees given by the petitioner for the final year examination was misappropriated by a person who claimed to be a representative of the College. The petitioner was,

however, allowed to sit for the examination after being issued the admit card. Since the College did not send the petitioner's mark-sheet for the fourth semester, the Controller of Examinations wrote to the Principal of the concerned College on 13th June, 2018 to deposit the examination fees of the petitioner to the West Bengal University of Teachers' Training, Education Planning and Administration (hereinafter referred to as the 'University'). The petitioner thereafter was also permitted to sit for the practical examination held on 21st July, 2018 and the Controller of Examinations wrote another letter to the Principal of the concerned College on 24th July, 2018 to deposit the examination fees of the petitioner to the University.

Resolution of 21st meeting of the Examination Committee of the University of 24th July, 2018 records that the result of the petitioner remains 'incomplete' as the Internal Assessment marks of the petitioner in both theoretical and practical papers were not sent by the Principal of the College.

The failure of the college to send the marks of the petitioner and other requisite formalities to the University is explained by a letter of the Teacher-in-Charge who took charge of the concerned College after suspension of the Principal of the College to whom the letters from the Controller were addressed. The letter of the Teacher-in-Charge is dated 5th February, 2021 and records that the erstwhile Principal of the College had to

be suspended by reason of certain unfortunate events resulting in a Fact Finding Committee being formed by the College. The Fact Finding Committee found that the students, including the petitioner, were not at fault and the fault was of the College . An FIR was lodged by the Principal against the person who accepted the fees of the students including the petitioner. The letter further records mark-sheets of the internal marks of the other two students were submitted but the petitioner did not receive justice. It appears from the letter that the Principal was arrested subsequently and was later suspended.

Learned counsel appearing for the University places Regulations (d) and (m) of the Uniform Curriculum Structure for Two-Year Be.Ed. Programme in West Bengal which states that a candidate shall have to clear the B.Ed. course within six consecutive chances i.e. three year from his/her date of admission. Regulation (m) provides that if it is found that the candidate cannot complete all the semesters within stipulated six chances, immediately the candidate will be declared as 'disqualified' candidate and the candidate shall have to leave or discontinue the course. According to counsel, the hands of the University are tied by reason of these Regulations since the petitioner was not able to complete the course within the stipulated time period i.e. three years.

Learned counsel appearing for the State submits that the petitioner has been the victim of circumstances and has been unfairly treated.

Upon considering all the submissions made on behalf of the parties, this court accepts the submissions of learned counsel appearing for the petitioner that Regulations (d) and (m) necessarily involve candidates who by their own fault or incapacity were unable to complete the B.Ed. course within the stipulated time period. The Regulations certainly do not apply to the petitioner since the petitioner's mark-sheet and fees were not deposited by the concerned College to the University for reasons wholly outside the petitioner's control.

The letter of the Teacher-in-Charge dated 5th February, 2021 bears sufficient testimony to this aspect and the fact that the petitioner's fees were misappropriated and the petitioner fell victim of a scam which led to the arrest and suspension of the person concerned.

It is also unfortunate that a representation made by the petitioner to the Principal Secretary, Tribal Development Department on 17th August, 2021 and response to the same dated 25th August, 2021 directing the Controller of Examinations to send an action taken report to the department who has not been proceeded with. The petitioner has not only suffered mental agony but also lost out all opportunities for employment by

reason of the utter lack of accountability on the part of the concerned College and the Controller of Examinations of the University.

All the respondents who have a part in the resulting injustice to the petitioner must face the consequences of their actions. The Regulations referred to in the report of the University do not apply to the petitioner as the petitioner cannot be treated as a 'disqualified' candidate under any circumstances including those mentioned in the Regulations. The petitioner also cannot be faulted on any of the factual issues which have been considered by the court.

W.P.A. 15804 of 2021 is hence allowed. The concerned College is directed to send the mark-sheet of the Fourth Semester of Bachelor of Education Examination(B.Ed.) together with the internal assessment results to the respondent no.5 being the West Bengal University of Teachers' Training, Education Planning and Administration so that the petitioner can be treated as a candidate who has completed the entire B.Ed. course within the stipulated time-frame under the Regulations. In the event, the documents have already been sent by the concerned College to the University, the University shall publish the B.Ed result of the petitioner within three weeks from the date of receiving the mark-sheet and other documents from the concerned College. In the event, the papers have not been sent, College shall send the documents to the

University within three days from today. The concerned College and the University shall also pay costs reasonably assessed at Rs.10,000/-(rupees ten thousand only) each to petitioner and to Bharat Sevasram Sangha respectively for their failure to take timely action and for causing mental distress to the petitioner. The costs shall be paid within two weeks from date.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Moushumi Bhattacharya, J.)