

August 22, 2022
S.L. Item No. 1-4
Court No.1
PA(RB)

WPA (P) 325 of 2022

Badrul Karim

vs.

The State of West Bengal and Ors.

With

WPA 16725 of 2022

Tora Haldar and Anr.

vs.

The State of West Bengal and Ors.

With

WPA 17027 of 2022

Sulagna Das and Ors.

vs.

The State of West Bengal and Ors.

With

WPA (P) 357 of 2022

Lokenath Ghosh and Ors.

vs.

The State of West Bengal and Ors.

Mr. Sabyasachi Chatterjee,
Mr. Sayan Banerjee, Advocate

... for the petitioner in
WPA (P) 325 of 2022

Mr. Tarunjyoti Tewari,
Mr. Aniruddha Tewari, Advocates

... for the petitioners in
WPA 16725 of 2022

Mr. J. Ganguly,
Mr. D. Mitra,
Mr. S. Banerjee, Advocates

...for the petitioners in
WPA 17027 of 2022

Mr. Pintu Karar,
Mr. Akashdeep Mukherjee,
Ms. Sayani Manna, Advocates

...for the petitioners in
WPA (P) 357 of 2022

Mr. Swapan Kumar Datta,
Mr. Rajat Datta, Advocates

... for the State in
WPA (P) 325 of 2022

Mr. Tapan Kumar Mukherjee, Id. AGP
Ms. Saheli Mukherjee, Advocates

... for the State in
WPA 16725 of 2022

Mr. Swapan Kumar Datta,
Mr. Subhabrata Das, Advocates

... for the State in
WPA 17027 of 2022

Mr. Samrat Sen, Id. AAAG
Mr. Nilotpal Chatterjee,
Ms. Manali Ali, Advocates

... for the State in
WPA (P) 357 of 2022

Mr. Abhratosh Majumdar, Sr. Advocate
Mr. Jishnu Chowdhury,
Mr. Nilotpal Chatterjee,
Mr. Sandip Dasgupta,
Mr. Saaqib Siddiqui,
Mr. Aviroop Mitra, Advocates

... for the University of Calcutta

In these public interest petitions, the main prayer of the petitioners is to conduct the entrance examination for B.A. L.L.B. 5-years course for this academic session.

The University of Calcutta, Faculty of Law has issued the notice inviting applications for admission to the semester of 5-years B.A. L.L.B. Course for the academic session 2022-23 for admission in the different institutions mentioned therein. The said notice states that no entrance test will be conducted and merit list will be prepared on the basis of the marks obtained in best 4 subjects of 10+2 examination.

Submission of learned counsels for the petitioners is that in the year 2021, no examinations have been taken

by the Boards and that the students from local Board, CBSE and ISC are to take admission in the 5-year B.A. L.L.B. Course and these examinations have different standards and the students of different streams will also take admission in B.A. L.L.B. Course, therefore, entrance examination will provide a level playing field to all the candidates. It has been further submitted that now the covid situation has improved, therefore, entrance examination can be conducted. It has also been submitted that in the entrance examination, there is logic and reasoning paper which is necessary for judging the merit for admission in B.A. L.L.B. Course and that no normalisation formula has been applied.

Learned counsels for the respondents have opposed the writ petition and have submitted that on account of covid-19 pandemic, the entrance examination has not been held in the previous year and for this year. He has submitted that previous year, a writ petition on the same issue was filed which was dismissed and that it is the uniform decision of the University for all the courses and that there is no statutory bar to give admission on the basis of the marks obtained in the qualifying examination. He has further submitted that subject to covid situation, the respondents will revert back to the entrance examination in the next academic year.

We have heard the learned counsels for the parties and perused the record. The same issue had come up in

the previous academic year 2021-22, wherein, WPA (P) 240 of 2021 was filed questioning the notification issued by the respondent University to grant admission on the basis of marks in the qualifying examination instead of entrance test. The Division Bench of this Court had considered the issue raised in those petitions and by order dated 13th of September, 2021 while dismissing WPA (P) 240 of 2021 in the matter of Subhasis Dey vs. The State of West Bengal and Ors, had held as under:

“The respondent No.2 University issued notification dated 23rd August, 2021 whereby it invited applications for admission in the aforesaid course. It was indicated in the said notification that no Entrance exam will be conducted and a merit list would be prepared on the basis of marks obtained in the best 4 subjects of 10+2 level examination of any board. It is important to note that the petitioners have not challenged or objected to the above-mentioned notification in any manner.

The petitioner also contends that the students were granted marks on the basis of an overall estimation of their performance and not by evaluation of their merit by way of an actual examination. Such a procedure had created a scenario, whereby some schools have awarded higher scores than others. Furthermore, it is contended that the 10+2 marks are not academic stream neutral since students of science stream tend to get scores higher than those studying social sciences and humanities.

Hence, establishing equivalence among these boards and their grading criteria and patterns is not possible to achieve. The marks obtained in the best 4 subjects of 10+2 level examinations would vary for different streams, boards and schools and as such it would not be possible for respondent No. 2 University to assess the skills and aptitude of all candidates with the same yardstick.

The contention that the method opted by the respondent No.2 creates a different class of candidates (since they come from different boards, streams and schools) and hence violates fundamental rights of the candidates under Article 14 of the Constitution of India, is not convincing. Since the marks being awarded to a student in various schools and boards involves a streamlined process and is subjected to the public scrutiny of such selection criteria or method. The argument that the marks were granted by the whims and fancies of various schools and boards does not hold much ground.

Similarly, the contention that the admission procedure adopted, would lower the standard of legal education the respondent No.2 University is without any merit as it is the Bar Council of India, which is entrusted with responsibility of maintaining the quality of legal education. To the extent that the Universities comply with the minimum eligibility requirements set by the Bar Council, they are the most competent authority to decide on their admission criteria.

The method of admissions was changed for this year because of Covid-19 Pandemic and as all other Universities throughout the State of West Bengal are following the merit based marks system, the writ petition being WPA (P) 240 of 2021 is dismissed.”

Thus in the previous year similar grievance raised in the writ petition has already been rejected by the earlier Division Bench of this Court.

Learned counsel for the respondent University has produced a copy of Rules of Legal Education, 2008 made by the Bar Council of India in consultation with the Universities and State Board Councils under the provisions of the Advocates Act, 1961. Referring to Rule 7, he has submitted that the institutions and the Government concerned are empowered to evolve a

criteria for admission and there is no statutory bar to grant admission on the basis of the marks obtained in 10+2 Examination. This legal position has not been disputed by the learned counsel for the petitioners.

That apart, it is also noticed that the last date of completion of the application in the online portal in pursuance to the notification dated 30th of June, 2022 for admission to the Under-Graduate (Honours and General) and Post-Graduate Courses in the State funded Higher Educational Institutions in the State of West Bengal for the academic session, 2022-23, was 5th of August, 2022. The date of publication of merit list for Under-Graduate Courses was on 16th of August, 2022, therefore, merit list has already been published. The admission notice issued by the University of Calcutta further reveals that the counselling will be done considering the merit list and college preference given at the time of application form submission.

Learned counsel for the respondent no. 3 has also referred to annexure R-3 filed alongwith affidavit-in-opposition to show that a decision has been taken to waive the application fee as notified in the B.A. L.L.B. admission notice and those who have already paid the application fee will be refunded.

The process of admission in B.A. L.L.B. Course in pursuance to the impugned admission notice has already reached to the advanced stage and merit list has been

published. Any interference at this stage will cause serious prejudice to the candidates. That apart, if at this stage, any direction is issued to hold the entrance examination, then that will require restarting of complete process right from the stage of issuance of advertisement, conducting test, evaluation, declaration of result, admission, etc. which will take substantial time and which will delay the academic session which may not be in the interest of the students.

For the next academic year, it has been fairly stated by the learned counsel for the State and the University that entrance examination will be held subject to covid situation. Learned counsels for the respondents have not disputed the fact that entrance examination provides level playing field to all.

In the aforesaid circumstances, we decline to interfere in the impugned admission notice for B.A. L.L.B. 5-years Course for the academic session 2022-23. However, we direct the respondents to hold entrance examinations for the next academic session if no justifiable reason for deviating exists.

The writ petitions are accordingly dismissed.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]