

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 3469 of 2017

Tapan Kumar Tripathy and others

.....

Petitioners

Mr. K. Mohanty, Adv.

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. S. Nayak, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE S.K. MISHRA

ORDER

18.07.2022

Order No.

07.

This matter is taken up through hybrid mode.

2. Heard Mr. K. Mohanty, learned Counsel for the Petitioners and Mr. S. Nayak, learned Addl. Standing Counsel appearing for the State-Opposite Parties.

3. The Petitioners have filed this Writ Petition seeking direction to the Opposite Parties to issue qualifying certificate and also grant registration certificate in their favour within a stipulated time.

4. Mr. K. Mohanty, learned Counsel for the Petitioners contended that similar matter had come up for consideration before this Court in W.P.(C) No. 22668 of 2010, which was disposed of by this Court, vide Order dated 19.01.2011, directing Opposite Parties No.1 and 2 therein to expedite conducting of qualifying examination of the Petitioner-students', who obtained their diploma from Sathya Sai Medical College and Hospital and Research Centre, Bhubaneswar, as one time measure, and that the entire exercise shall be completed by the end of May, 2011. Against the said order, though review petition bearing RVWPET No. 132 of 2011 was preferred by the State, the same was

dismissed, vide Order dated 08.02.2022. It is contended that against the Order passed by this Court in the review petition, though State preferred SLP (C) No. 24292-24293 of 2012 before the apex Court, the same was also dismissed vide Order dated 21.01.2014. It is thus contended that direction may be given to consider the case of the Petitioners to grant certificate in their favour for the examination conducted in the year 2015.

5. Mr. S. Nayak, learned Addl. Standing Counsel appearing for the State-Opposite Parties contended that unrecognized institutions had given admission to the students and by virtue of the interim Order passed by this Court, they were permitted to appear in the examination. Consequentially, now they want to get the certificate by way of filing the present Writ Petition, which is not permissible under law, as they were prosecuting their studies in unrecognized private institutions. So far as the order passed by this Court on 19.01.2011 in W.P.(C) No. 22668 of 2010 is concerned, perusal of the said order would evident that this Court had passed the order as one time measure. Consequentially, though Review Petition as well as the SLP filed against the said Order was dismissed, that does not confer a right in favour of the Petitioners to allow them to appear in the examination and grant certificate in their favour.

6. Having heard learned Counsel for the parties and after going through the records, this Court finds that the Petitioners had appeared in the examination through an unrecognized private institution. But the Supreme Court has deprecated the practice of allowing such students to appear by virtue of the Court Order and ultimately directed for publication of their result. Thereby, this

Court is not inclined to issue such direction in contravention of the direction of the apex Court.

7. In view of such position, the relief sought by the Petitioners cannot be granted at this stage. The Order dated 19.01.2011 passed in W.P.(C) No. 22668 of 2010 on which reliance was placed by the Petitioners, clearly indicates that this Court directed Opposite Parties No.1 and 2 therein to expedite conducting of qualifying examination of the petitioner-students', who obtained their diploma from Sathya Sai Medical College and Hospital and Research Centre, Bhubaneswar, as one time measure. But that does not mean, in each and every case one time measure will apply by allowing the students to appear in the examination. There must be some end to it and, as such, this Court is not inclined to issue any such direction, as was directed by this Court by passing interim order in the earlier Writ Petition. Resultantly, since the Petitioners are prosecuting their studies in an unrecognized and private institution, this Court is not inclined to issue any direction to the Authorities to issue certificate in their favour.

8. Accordingly, the Writ Petition merits no consideration and the same is hereby dismissed.

(DR. B.R. SARANGI)
JUDGE

(S.K. MISHRA)
JUDGE