

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 21669 of 2022

Dr. Himadri Sekhar Paul

.....

Petitioner

Mr. K.C. Sahu, Advocate

Vs.

State of Odisha and another

.....

Opposite Parties

*Mr. A.K. Mishra, AGA
(O.P.1)*

*Mr. R.C. Mohanty, Adv.
(O.P.2)*

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE G. SATAPATHY

ORDER

24.09.2022

Order No.

06.

This matter is taken up through hybrid mode.

2. Heard Mr. K.C. Sahu, learned counsel for the petitioner and Mr. R.C. Mohanty, learned counsel appearing for opposite party no.2.

3. The Petitioner has filed this writ petition seeking to quash Clause-B(2) of the guideline dated 16.08.2022 under Annexure-4, by which it has been indicated that the candidates, who have done their PG (MD/MS)/ DNB are not eligible to undergo six months training in ultrasonography.

4. Mr. K.C. Sahu, learned Counsel for the Petitioner contended that there is no rationality behind imposition of such restriction, in the guidelines under Annexure-4 to allow the candidates, who have done their PG (MD/MS)/ DNB to go for six months training in ultrasonography. He referred to the guidelines issued in the year 2015, 2018, 2019 and 2020, wherein no such restriction was

imposed in respect of such candidates, who acquired PG (MD/MS)/ DNB. Learned Counsel further referred to the merit list of the candidates, who have selected to undergo six months USG training, wherein the candidates, who had possessed PG qualification, were permitted to undergo training in the year 2020. It is also contended that the petitioner had earlier approached this Court by filing W.P.(C) No. 4948 of 2022 and this Court, vide order dated 07.06.2022, directed for consideration of the grievance of the petitioner. But the Director, Medical Education and Training rejected the grievance made by the petitioner on 10.03.2022. Thereby, it is contended that deliberately and willfully the petitioner has been debarred from undergoing training, which ought to have been allowed, as because he has acquired higher qualification. More so, under Rule-6 (1) of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection)(Six Months Training) Rules, 2014, it has been specifically indicated that any registered medical practitioner shall be eligible for undertaking the said six months training and any registered medical practitioner includes the PG Degree holders. More so, in such rule, no restriction was imposed for PG holders. Thereby, in violation of the above 2014 Rules, such guidelines under Annexure-4 has been issued.

5. While entertaining this writ petition, this Court, vide order dated 25.08.2022, passed an interim order and directed to serve copies on the opposite parties. On 07.09.2022, Mr. R.C. Mohanty, learned counsel stated that he has got instructions to appear on behalf of opposite parties no.1 and 2. It is contended that pursuant to interim order dated 25.08.2022 passed by this Court in I.A. No.

11605 of 2022, the application of the petitioner was entertained and he was called upon to produce the documents on 13.09.2022, as the verification of documents was continued till 15.09.2022. He sought time to file counter affidavit in the matter by the next date. Consequentially, the interim order was allowed to continue till 19.09.2022 and when the matter was listed on 19.09.2022, Director of Medical Education and Training, Odisha filed counter affidavit, wherein it is candidly stated before this Court that Post Graduate students, who are posted in the periphery, do not require any specialized training and, therefore, the writ petition should be dismissed. To ascertain the correct position, this Court called upon the Director Medical Education and Training, Odisha to appear in person before this Court on 21.09.2022 to explain as to why such training is not necessary for the Post Graduate students, who are working in the periphery, particularly when the Government issued guidelines that the Post Graduate students may undertake their training after completion of their course itself. In compliance of the order dated 19.09.2022, Dr. Ramaraman Mohanty, Director of Medical Education and Training, Odisha-opposite party no.2 appeared in person and undertook that they would allow the P.G. students to participate in the process of selection to undergo specialized training along with other M.B.B.S. students and to that extent he would file an affidavit. In compliance of the order dated 21.09.2022, the matter was listed on 23.09.2022, on which date though an affidavit was filed, but the same was not in compliance of the order dated 21.09.2022. Therefore, the matter was listed to today (24.09.2022). When this matter is taken up today, opposite party no.2 filed an affidavit, paragraph-2 whereof states as follows:

“That, I hereby undertake to issue a corrigendum

forthwith to the effect of allowing the candidates/Doctors who have done their PG (MD/MS)/DMB making them eligible to apply for special six months training in Ultrasonography Fundamentals of Abdomino Pelvic Course. Accordingly the prohibitory Clause under B(2) of the guidelines will be replaced by “Candidates who have done their PG (MD/MS)/DMB are also eligible”.

Accordingly, the dates as mentioned in the guidelines dated 16.08.2022 will be rescheduled.”

6. In view of candid statement made by the Director of Medical Education and Training, Odisha-opposite party no.2 in the affidavit dated 24.09.2022 that they have already taken decision to allow the Doctors, who have done their PG (MD/MS)/DMB making eligible to apply for special six months training in Ultrasonography Fundamentals of Abdomino Pelvic Course, and that the prohibitory clause under B(2) of the guidelines will be replaced by “candidates who have done their PG (MD/MS)/DMB are also eligible”.

7. In the above view of the matter, the relief sought having been granted to the petitioner, the writ petition stands disposed of. Personal appearance of the Director of Medical Education and Training, Odisha is dispensed with.

8. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Alok/Subhasmita

(G. SATAPATHY)
JUDGE