

10.01.2023

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WPA 702 of 2023

Dr. Oindrilla Ganguly
Vs.
Union of India & Ors.

Mr. Ekramul Bari
Mr. D.K. Sengupta
Ms. Sweta Saha
... For the petitioner.

Mr. Kumar Jyoti Tewari
Mr. Somnath Adhikary
... For the respondent nos. 1-3.

Mr. Indranil Roy
Mr. Sunit Kumar Roy
... For National Medical Commission.

The petitioner is a successful candidate of NEET-PG-2022 examination. Her rank was 97048 in the all India selection list under the General (E.W.S.) category.

On the basis of her rank in the merit list, she was called for 4th round of counselling and was given a seat at Alipurduar District Hospital, Alipurduar, in “NBEMS-DIPLOMA Otorhinolaryn (ENT).”

Mr. Bari, learned advocate appearing for the petitioner submits that the last date of depositing fees through online mode was 3rd December 2022. Due to some technical problems of the server, the petitioner could not deposit the fees within the stipulated period

of time. The petitioner was ultimately able to deposit the fees on 6th December 2022. Though the prayer made in the writ petition suggests that the petitioner is willing to participate in the next round of counselling, Mr. Bari submits that the petitioner is not inclined to participate in any further counselling. The petitioner seeks her admission in the said College on the basis of the 4th round counselling.

Mr. Kumar Jyoti Tewari, learned advocate representing the respondent nos.1, 2 and 3, and Mr. Indranil Roy, learned advocate representing the National Medical Commission submit that they are not in a position to intimate the Court whether the said seat has been allotted to any successful candidate or not.

I am of the view that since the result of the Special Stray Vacancy round counselling is going on and is scheduled to be concluded today, the seat in question cannot be filled up as apprehended by the learned advocates appearing for the respondents.

The petitioner should not suffer for technical problems as urged by Mr. Bari.

The fact remains that she secured the seat on the basis of merit. Simply, due to the delay of two days in depositing the fees, the petitioner should not be deprived from her right of higher education.

The relevant Medical College shall admit the petitioner as early as possible on the basis of recommendation made by the Medical Counselling Committee in the 4th round of counselling.

In that view of the matter, **WPA 702 of 2023 is allowed.**

There will be no order as to costs.

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

(Kausik Chanda, J.)