

23rd March, 2023
(D/L No.16)
(SKB)

W.P.A. 1954 of 2023

Dr. Krishnendu Saha and another
Versus
State of West Bengal and others

Mr. P. K. Das,
Mr. Kinjal Kr. Boral,
Ms. Damayanti Nandi Kundu
... for the petitioners.

Mr. Nilotpall Chatterjee,
Ms. Adreeka Pandey
... for the State.

The petitioners claim to be registered Ayurvedic Doctors holding requisite degrees in their field of qualification and practice.

The petitioners are aggrieved by memos issued by the Department of Health and Family Welfare Services of the State whereby candidates have been directed to obtain medical fitness certificate in the requisite format only from Registered Allopathic Medical Practitioner for the eligibility for admission in the seat allotted through Council.

Some of these Notifications have been placed before the court and include a Memo of 21st October, 2022 issued by the Directorate of Medical Education requiring candidates to obtain fitness certificates in the prescribed format from a Registered Allopathic Medical Practitioner for being eligible for admission in the seat allotted through Council for the NEET UG 2022. There are similar Notifications including one of 18th August, 2020 which also mentioned certificates of fitness from a Registered Medical Practitioner having at least MBBS degree.

Learned counsel appearing for the State respondents submits that the petitioners may file representation for permitting the State to take requisite steps in that regard.

After hearing learned counsel, it appears that the petitioners are already protected by The Paschim Banga Ayurvedic System of Medicine Act, 1961 whereunder Section 35(b) entails that a registered Ayurvedic Practitioner shall be entitled to grant a medical or physical fitness certificate required by any law or rule to be signed or authenticated by a duly qualified medical practitioner or medical officer.

The decision of the Delhi High Court in *Integrated Medical Association (AYUS) Vs. Government of NCT of Delhi and others* in W.P.(C) 9013 of 2021 has no relevance to the present case as the facts were entirely different.

W.P.A.1954 of 2023 is accordingly disposed of with a direction on the respondent no.1 to forbear from issuing any notifications or any other memos curtailing or diluting the effect of Section 35(b) of The Paschim Banga Ayurvedic System of Medicine Act, 1961 in any manner.

(Moushumi Bhattacharya, J.)