

05.10.2023
SL No.18
Court No.8
(gc)

**MAT 768 of 2023
CAN 1 of 2023**

**Arijit Dey & Ors.
Vs.
The State of West Bengal & Ors.**

Ms. Rita Patra,
Ms. Pusmita Das,
...for the Appellants.
Mr. Debdas Khanna,
Mr. Himadri Shekhar Chakraborty,
...for the Burdwan University.

1. The appellants are aggrieved by the order dated 2nd May, 2023 by which the writ application was dismissed on the ground that they did not have the required qualification to appear for the 5th Semester in Bachelor of Engineering (Civil). Admittedly, the petitioners did not sit in the Joint Entrance Examination to qualify for admission to an engineering course under the State. The petitioners submit that in terms of the Memo dated 29th October, 2021 issued by the Deputy Secretary, Department of Higher Education, Technical Branch, Government of West Bengal, they were entitled to take admission in the engineering course without qualifying in the Joint Entrance Examination.

2. The University has filed its report. The relevant part of the report is quoted below:-

“7. That as per the Memo being no. 323-Edn(T)/10M-86/15 dated 29.10.2021 The Deputy Secretary, Department of Higher Education, Technical Branch, Government of West Bengal issued guideline for admission to vacant seats in degree level engineering, technology, architecture and pharmacy courses after the e-counselling in 2021 through decentralized counselling (Institution level) and also for admission under Management Quota seats and other relevant issues for the academic year 2021-22. Therefore the petitioner who were taken admission for the academic year 2020-21 can't claim benefits of the memo dated 29.10.2021 which was specially for the academic year 2021-22. It is also pertinent to mentioned here that in the memo dated 29.10.2021 some norms and guidelines were specified for admission to vacant seats of degree level engineering/ echnology/ architecture/ pharmacy programs through decentralized Counselling and allotment process in 2021-22.”

3. This report was considered by the learned Single Judge and it has been rightly observed that the said circular dated 29th October, 2021 was issued only for the academic year 2020-21 keeping in mind the pandemic situation prevailing across

the country. It does not, however, dilute the fact that the eligibility criterion was waived. The petitioners admittedly were not eligible for the admission to engineering degree course without qualifying in the Joint Entrance Examination.

4. In view thereof, the decision of the learned Single Judge that the petitioners were not entitled to take the benefit of the said circular for the academic year 2021-22 and take admission without being qualified in Joint Entrance Examination stands.
5. It is submitted on behalf of the appellant that the registration number has been issued by the University in favour of the appellants. This fact has been disputed by the University.
6. Be that as it may, we do not find any reason to interfere with the order passed by the learned Single Judge.
7. The appeal fails.
8. Accordingly, the appeal and the application stand dismissed.
9. However, there shall be no order as to costs.

10. The affidavit-in-opposition and the affidavit-in-reply filed by the University and the appellant are taken on record.
11. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)