

16.10.2023

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WPA 20611 of 2023

Md. Sharique

Vs.

State of West Bengal & Ors.

Ms. Soma Chowdhury (Bandhu)
... For the petitioner.

Mr. Bipul Kumar Mandal
Mr. Pradip Paul
... For respondent no. 4.

Mr. Arindam Ghosh
... For the State.

Let the affidavit-in-opposition filed by the State be kept with the record.

The petitioner intends to participate in counselling process for NEET (UG) - 2023 conducted by the State for undergraduate medical courses.

Learned advocate appearing for the petitioner submits that despite possessing an “Economically Weaker Sections” certificate, the petitioner has not been treated under the said category by the Director of Medical Education, West Bengal. According to the learned advocate for the petitioner, the last date of submission of such certificate was extended by an order dated August 09, 2023 issued by the Director of Medical Education, West Bengal till 4 p.m. of August 10, 2023. The petitioner deposited the said certificate only a few minutes after that.

I am of the view that the prayer of the petitioner to treat him as an “Economically Weaker Sections”

candidate cannot be entertained. The petitioner had obtained the “Economically Weaker Sections” certificate after the last date of filling of application form for NEET (UG) – 2023 counselling. The certificate was issued to the petitioner only on August 10, 2023.

The order dated August 09, 2023 issued by the Director of Medical Education, West Bengal is not applicable to the petitioner. The said memorandum is applicable to the candidates who mentioned their caste/category wrongly at the time of filling the form of counselling. The certificate was issued to the petitioner only on August 10, 2023. Therefore, it is not a case of wrong mentioning of category at the time of filing the application form.

Therefore, the petitioner cannot obtain the benefit of a certificate which was issued in his favour in the midst of counselling process.

The petitioner’s eligibility should be determined as on the date mentioned in the relevant advertisement [See: **(1997) 4 SCC 185 (Ashok Kumar Sharma Vs. Chander Shekar)**]. The petitioner has a right to be considered as a “EWS” candidate only from the date when the certificate in this regard has been issued in his favour. [See also: **(2023) SCC OnLine SC 662 (Sakshi Arha Vs. Rajasthan High Court)**]

Accordingly, **WPA 20611 of 2023** is dismissed.

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

(Kausik Chanda, J.)