

Court No. 22
06.02.2023
(Item No. 19)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 22182 of 2022
+
CAN 1 of 2022

Moutusi Mal
VS
The State of West Bengal & Ors.

Mr. Dilip Kumar Maiti
.... For the petitioner
Mr. Nilotpal Chatterjee
..... For INC
Mr. Swapan Kumar Dutta
Mr. Dipankar Das Gupta
.... For the State
Mr. Amitava Chaudhuri
Mr. N. Roy
.... For WBJEEB
Mr. Kalidas Saha
..... for respondent No. 11

The writ petitioner was an intending candidate seeking admission in the ***General Nursing and Midwifery (GNM)*** course through the Joint Entrance Examination for the year 2022. The petitioner successfully secured an admission. She was allotted a seat for admission at the respondent No. 5. She received the provisional admission.

Subsequently, on September 9, 2022 the petitioner received a phone call informing her that she had withdrawn herself from the process of procedure for counseling. The facts and situation would be available in detail from the order dated September 26, 2022 passed by this Court.

Considering the facts and situation this Court passed an interim order directing the respondent Nos. 5 and 6 to keep one seat reserved for the time being on account of the petitioner. Necessary police case was initiated and this Court by a subsequent order directed the said enquiry for its logical conclusion.

Meanwhile an interlocutory application was moved being **CAN 1 of 2022** which was not entertained by this Court by its order dated November 22, 2022. The said order dated November 22, 2022 was carried into an appeal being **MAT 1858 of 2022** before a Division Bench. The Hon'ble Division Bench by its order dated December 8, 2022 had observed as follows:

“Having heard the parties including Mr. Chatterjee, learned counsel appearing for the Indian Nursing Council, Mr. Chottopadhyay, learned Counsel appearing for the State and Mr. Chaudhuri, leaned counsel for the West Bengal Joint Entrance Examination Board (for short, the Board), this Court is of the view that each day that the appellant/the writ petitioner misses her classes, adds to her prejudice.

Accordingly, having regard to the particular facts of this case, this Court finds it appropriate to modify the order dated 22nd November, 2022 only to the extent of permitting the writ petitioner to join her classes. Other points in the impugned order of the Hon'ble Single Bench remain untouched.

The appearing respondents shall take steps without delay in terms of this order.

Steps taken shall be, however, subject to the result of the writ petition.”

Today when the matter was taken up for consideration Mr. Swapan Kumar Datta, learned senior Counsel and the Additional Government Pleader for the State place a police enquiry report ***dated February 6, 2023*** prepared by ***the Additional Officer-in-Charge, Maniktala Police Station***, the same is taken on record. From a close perusal of the police report it appeared that, the *prima facie*, finding of the police authority is that the alleged mischief was committed from the mobile phone of one ***Monalisha Kundu***, a resident of Coochbehar.

Mr. Datta further informed that, the accused is now in police custody. The relevant memo of arrest is also attached with the said police report which is already taken on record. The police report further depicts that, the petitioner, namely, ***Smt. Moutusi Mal*** did not withdraw her candidature from the portal of the relevant Joint Entrance Board.

This Court has further been informed by Mr. Dilip Kumar Maiti, learned advocate for the petitioner that, pursuant to the observation made by the Hon’ble Division Bench as quoted above the petitioner has been admitted and pursuing her class at Nursing Training Center, ESI Hospital, Maniktala, Kolkata, she has been regularly attending the classes.

Mr. Nilotpall Chatterjee, learned advocate appeared for the added respondent i.e. Indian Nursing Council submitted that, the entire admission process has already been closed on and from **December 31, 2022**. He has also handed over the relevant notification **dated December 1, 2022** issued by the **Indian Nursing Council** in this regard, a copy is taken on record.

Considering the submissions made on behalf of the appearing parties as recorded above, and following the observation made by the Hon'ble Division Bench since the petitioner has already been pursuing her Nursing course, this Court for the ends of justice, directs the **West Bengal Nursing Council** and/or its **relevant authorities and the relevant Nursing Training Center, ESI, Maniktala** to carry out all the formalities for registration of the candidature and regularization of the admission of the petitioner for the said course with effect from the order dated **September 26, 2022** when the interim order was passed by this Court.

It is hoped that, the criminal proceeding shall arrive at its logical conclusion by completion of the necessary trial as expeditiously as possible strictly in accordance with law.

On the above terms, this writ petition being **WPA 22182 of 2022** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)