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WPA 25554 2023

**Indrani Adak & Ors.
Vs.
The State of West Bengal & Ors.**

Mr. Biswaroop Bhattacharya
Mr. Subhankar Chakraborty
Mr. Saptarshi Bhattacharjee
Ms. Sayani Gupta
... For the petitioners.

Mr. Debaki Nandan Maiti
Ms. Akshita Singh
... For respondent no. 8.

Mr. Nilotpal Chatterjee
... For the INC.

Mr. Amitava Chaudhuri
Mr. N. Roy
... For the Board.

Mr. Arindam Ghosh
... For the State.

These twenty-two writ petitioners have approached this Court with a similar grievance that though they opted for upgradation in the counseling for M. Sc. Nursing and Post Basic B.Sc. (Nursing) for the academic session 2023-24, the selecting authority illegally deprived of their right to upgradation.

By drawing attention of this Court to page 245 of the writ petition it is argued that in stray round of counselling many seats were shown vacant in the medical colleges opted by the petitioners.

Since the cases of the petitioners differ from each other based on their category, rank and choice, this

Court does not approve the clubbing their cases in a single writ petition.

However, this Court proceeds to examination the case of writ petitioner no.1, a candidate for M. SC. Nursing in Community Health Nursing.

Petitioner no.1 does not dispute the fact that after first round of counseling she was allotted a seat at Bankura Sammilani Medical College and Hospital, Bankura.

Petitioner no.1 had opted for upgradation in Nilratan Sarkar Medical College and Hospital. In the second round, the upgradation was not allowed. Accordingly, she took admission at Bankura Sammilani Medical College.

Respondents have produced the documents to show that only one seat remained vacant under the unreserved category at Nil Ratan Sircar Medical College and Hospital. The said vacancy occurred since one of the selected candidates did not join the said Medical College, despite allotment of a seat in her favour.

The relevant part of the circular dated September 07, 2023 issued by West Bengal Joint Entrance Board is quoted below: -

	“Document verification can have following outcomes: a) If the verification is successful, the candidate will give his/her upgradation choice as YES or NO. i) If the candidate has been allotted a seat of his/her first choice, then
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	after successful document verification, he/she must opt for NO upgradation and complete all admission formalities (PI reporting) of the respective institute and collect signed Physical Reporting Receipt. Of course, such candidates CAN NOT participate in any further round. On the other hand, if the candidate does not complete admission formalities (PI reporting), he/she will be debarred from any seat allotment in any future round (EXIT). ii) If the candidate has been allotted a seat of his/her second or later choices, then after successful document verification, he/she can opt for NO upgradation, if he/she wishes and complete admission procedures. But if the candidate opts for NO upgradation and then does not complete admission procedure, he/she will be debarred from any seat allotment in any future round (EXIT). iii) If the candidate has been allotted a seat of his/her second or later choices, then after successful document verification, he/she can also opt for YES upgradation and do not take admission in the 1st round, such candidates will be considered for possible up-gradation in 2nd round. b) After successful document verification, if the candidate neither opt for YES upgradation or NO upgradation, he/she will be considered not interested in admission and will be debarred from any seat allotment in any future round (EXIT). c) Present allotment may be cancelled, if it is found that the candidate is not eligible for the present allotment due to his/her actual academic scores, category certificates, etc. Such candidates will be automatically considered in next round with their revised academic scores/category etc.
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6.0	Round- 2: Up-gradation a) Following groups of candidates who have already successfully registered in Round-1 will be considered in Round-2 namely, i) Those who did not get any allotment in Round-1. ii) Those who paid seat acceptance fee, completed document verification, and opted for YES-upgradation in Round-1. iii) Those who paid seat acceptance fee, completed document verification but allotment in Round-1 was cancelled due to various valid reasons, other than academic eligibility. b) The allotment will be declared on the prescheduled date. c) All candidate must note his/her Unique Allotment ID (from candidate's login), which he/she will need to disclose to the concerned admission officer of the allotted Institute for confirming his/her admission. Candidates are advised not to disclose the Unique Allotment ID to any other person except the admission officer of the allotted Institute. d) It is essential to note that if the seat is upgraded, the earlier allotment will be cancelled, and the seat will be allotted to other deserving candidates as per merit. As such, the candidate cannot reverse the upgradation, i.e., he/she cannot claim his/her earlier allotment back. On the other hand, if the seat is not upgraded, the earlier seat would remain reserved/retained.
6.1	Outcomes of Round-2 Allotment: There can be following outcomes of round -2 allotment: A. Allotment is up-graded to candidate's 1st choice: The candidate need not pay seat acceptance fee again, but he/she must download new allotment letter and report to the newly allotted institute

	and complete all admission formalities (PI reporting). On the other hand, if the candidate does not complete admission formalities, he/she will be debarred from any seat allotment (EXIT). B. Allotment is up-graded but to candidate's 2nd or later choice: (a) Such candidates may decide to join the institute of upgraded allotment and complete all admission formalities (PI reporting) for which he/she must download new allotment letter and report to the newly allotted institute. (b) On the other hand, they may decide not to join the institute of upgraded allotment. In such case, the earlier seat will be forfeited (EXIT). iii) Allotment is not up-graded at all: (a) Such candidates may decide to join the institute of earlier allotment and complete all admission formalities (PI reporting). (b) On the other hand, they may decide not to join the institute of earlier allotment. In such cases, the earlier seat will be forfeited (EXIT)."
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The aforesaid regulations make it clear that after taking part in the second round of counseling with an option for upgradation, a candidate will not be allowed for any further upgradation. He or she must take admission as per the allotment. Therefore, it is clear that as per applicable regulation petitioner no.1 was not entitled to opt for further upgradation.

Mr. Bhattacharya, learned advocate appearing for the petitioners, however, argues that the Director of Health Services, Government of West Bengal in terms of an order dated June 09, 2023 declared that after the second round of counseling, there would be a mop up

round of counseling. There was, however, no mop up round of counselling for allotment of seats.

Mr. Bhattacharjee contends that petitioner no.1 had a further choice to opt for upgradation in the mop up round of counselling, but since the State decided to omit the mop up round of counseling, the petitioner could not avail the benefit of further upgradation.

First of all, it is to be noted that said submission is bereft of the pleadings made in the writ petition. It cannot be said that by not conducting the mop up round of counseling, petitioner no.1 has been discriminated with. The policy was applied equally to all the candidates. I am also unable to accept the contention of petitioner no. 1 that she had a right to participate in the mop up round of counseling for exercising the upgradation option.

A plain reading of the relevant part of the circular dated June 09, 2023, which is quoted below: -

“ Mop up Round:

The following candidates are allowed in the mop up round: -

- a) Registered Candidate who did not participate in any of the rounds – till Round 2*
- b) The registered candidate who has not reported for document verification in any of the round till Round 2*
- c) Fresh candidate (i.e. not yet registered) is allowed to participate in the mop up round straight way.*

- d) *Already registered candidate who did not get any allotment both in round 1 and round 2 can come for mop up round without fresh registration.*
- e) *Already registered candidate, who got allotted in round 2 but failed during document verification but remained eligible for participation in mop up round with changed criteria during document verification, can also come for mop up round without payment of fresh registration.”*

As per the aforesaid circulars, the candidates who had already taken admission in the second round of counseling were not entitled to take part in the mop up round of counseling.

In that view of the matter, I do not find any merit in this case.

Accordingly, **WPA 25554 of 2023** is dismissed.

Interim order, if any, stands vacated.

As prayed for by the petitioner, the operation of the judgment shall remain stayed for a period of 30 days from date.

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

(Kausik Chanda, J.)