

**IN THE HIGH COURT AT CALCUTTA**  
**Civil Writ Jurisdiction**  
**Appellate Side**

**Present: - Hon'ble Mr. Justice Subhendu Samanta.**

**W.P.A. No. – 11543 of 2022**

**IN THE MATTER OF**

**Rahit Kundu**

**Vs.**

**The Union of India & Ors.**

**For the Petitioners : Mr. Partha Sarathi Bhattacharya , Adv.,  
 Mr. Md. Alauddin Mondal, Adv.,  
 Mr. Raju Bhattacharya, Adv.,  
 Mr. Arunava Matiy, Adv.,  
 Ms. Debjani Sengupta**

**For the Union of India : Mr. Kumar Jyoti Tewari, Adv.  
 Mr. Somntah Ghosal, Adv.  
 Mr. Subha Senapati Adv.**

**For the WBUHS : DN Maiti**

**For National Medical Commission : Mr. Indranil Roy, Adv.,  
 Mr. Sumit Kumar Roy Adv.**

**Heard on : 20.09.2023**

**Judgment on : 12.02.2024**

**Subhendu Samanta, J.**

The present writ petitioner participated in the National Eligibility- Cum Entrance Test (UG) 2021 ( in short NEET) under the general category and sub-category of persons with disability (in Short PHD) category. The NEET Test (UG 21) held on 12.09.2021.

He obtained 170 marks out of 720 marks. He appeared in the examination with the disability certificate issued by the

Burdwan Medical College Hospital on 22.01.2020. wherein the petitioners percentage of disability was mentioned as 50%.

The petitioner was ranked in the merit list under the PHD category as “1806” in such Test.

Thereafter, the petitioner appeared on 1<sup>st</sup> February 2022 before the Medical Board of IPGMER SSKM hospital for assessment of her disability. The said board of IPGMER issued disability certificate to the petitioner wherein the percentage of disability was stated to be 11% as loco- motor disability and he became not qualified. Challenging the said certificate the instant writ petition was preferred.

Learned Advocate for the petitioner submits that the medical board of IPGMER SSKM Hospital has wrongly assessed the disability of the present petitioner. The petitioner was treated in Burdwan Medical college and Hospital thereafter the authorities of the said Burdwan medical College Hospital gave the disability certificate to the petitioner stating his percentage of disability to be 50%. The medical board of IPGMER has wrongly assessed the disability of the present petitioner and come to an erroneous conclusion. Learned Advocate for the petitioner submits that the present petitioner is a successful candidate in NEET (UG 21) examination. So, the necessary direction may given to continue his study in the medical course.

Learned Advocate Mr. Indranil Roy appearing for the National Medical Commission submits that the prayer of the present petitioner cannot be considered at this stage. The Hon'ble Apex Court has already decided the issue of last date of admission of the students in NEET 2021. By virtue of its decision of **Ashish Ranjan And Ors Vs. Union of India (2016) 11 SCC 225** the Hon'ble Apex Court has held that "30st August 2022" would be the last date for admission of students in NEET 2021. Thereafter the said order was modified by the Hon'ble Apex Court on the prayer of the Union of India vide Miscellaneous application No. 1822 of 2022 in WP (c) No. 76/2015.

Time for completion of admission process for NEET (UG) 2022-23 was mentioned as 20<sup>th</sup> December 2022. It is further directed that the date of commencement of Academic sessions for UG course was on 15<sup>th</sup> November 2022.

Thus the present petitioner has lost his chance and his prayer cannot be entertained at this stage. Mr. Roy cited a decision upon Hon'ble Apex Court in **Dr. Asha Goyel and Ors vs. Medical Counselling Committee & Ors. reported in 2022 SCC Online SC 734.**

Wherein the Hon'ble Apex Court has held that

***24. The Process of admission and that too in the medical education cannot be endless. It must end at a particular point of time. The time schedule has to be adhered to, otherwise, ultimately, it may affect the medical education and the public health.***

Learned Advocate appearing on behalf of Union of India submits that the Honble Apex Court in **Purswani Asutosh Vs. Union of India (2019) 14 SCC 422** has held that :

*Candidates who considered themselves eligible for this category are advised to ensure their eligibility by getting themselves examined at any Government Medical College/ District Hospital /Government Hospital. However, candidates may kindly note that in case of selection under PH category, they will be required to produce disability certificate from one of the disability assessment boards, constituted at the four metro cities, mentioned below, before their scheduled date of counselling:*

- i) Vardhman Mahavir Medical College and Safdarjung Hospital, Ansari Nagar, Ring Road, New Delhi 110 029(Tel No. 011-26190763 & 26163072)*
- ii) All India Institute of Physical Medicine and Rehabilitation, Haji Ali Park, K. Khadya Marg, Mahalaxmi, Mumbai 400 034 (Tel No. 022-23544341)*
- iii) Institute of Post Graduate Medical Education & Research, 244, Acharya J.C. Bose Maarg, Kolkata 20 (Tel No. 033-22235181)*
- iv) Madras ZMedical College, Park Town, Chennai 600003 (Tel No. 044-25305301)*

IPGMER SSKM Hospital is the statutory authority to determine the eligibility criteria of the candidates to determine their disability. He submits that the disability certificate obtained by the present petitioner from the Burdwan Medical College and Hospital is irrelevant for the purpose of his admission in NEET (PG 21).

Heard the Learned Advocate. Perused the observation of the Hon'ble Apex Court.

In this writ petition the petitioner has challenged the certificate of disability issued by the medical board IPGMER SSKM Hospital dated 01.02.2022. The medical board of IPGMER is the authority to determine or assessed the disability for the candidates regarding their percentage of disability before entering into the medical course. The Hon'ble Apex Court also affirmed the validity and supremacy of the board. by this writ petition certificate issued by the medical board cannot be challenged. The certificate of disability issued by the Burdwan Medical college and Hospital in favour of the petitioner cannot be the basis of his admission in the medical course. Moreover, today we are running in the year 2024. Process of admission for NEET (UG) 2021 has been closed. The students of NEET (UG) 2021, are about to conclude their course.

Thus, I find no justification to entertain the prayer of the present petitioner; accordingly, the instant writ petition is disposed of.

Parties to act upon the server copy and urgent certified copy of the judgment be received from the concerned Dept. on usual terms and conditions.

**(Subhendu Samanta, J.)**