

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Harish Tandon

And

The Hon'ble Justice Prasenjit Biswas J.

MAT 1159 of 2024

With

CAN 1 of 2024

Sayantan Mandal

Vs.

The West Bengal University of Health Science & ors.

With

MAT 1336 of 2024

With

CAN 1 of 2024, CAN 2 of 2024, CAN 3 of 2024

Juin Sen & ors.

Vs.

Rajanya Ghosh & ors.

For the appellants in : Mr. Srijib Chakraborty, Adv.
MAT 1159 of 2024 : Mr. R. Chakraborty, Adv.
: Mr. P. Maity, Adv.

For the appellants in : Mr. Soumen Chatterjee, Adv.
MAT 1336 of 2024

For the WBUHS in : Mr. D.N. Maiti, Adv.
MAT 1159 of 2024 : Mr. A. Santra, Adv.
MAT 1336 of 2024

For the respondent : Mr. Mihir Saha, Adv.
Nos. 3 to 9 in
MAT 1159 of 2024

Heard on : 9th July, 2024 & 22nd July, 2024

Judgment on : 8th August, 2024.

Harish Tandon , J:

Both the appeals are taken up together as the identical issues are involved therein.

Both the appeal were substantially heard and concluded on 22.07.2024 and were directed to be listed for Judgment but because of the unavailability of one of us (Prasenjit Biswas , J.) who went to hold the Circuit Bench at Jalpaiguri, the Judgment could not be delivered which would further be reflected when the instant matter was listed on 22nd July, 2024.

The dispute pertains to eligibility of the petitioners to be admitted in the B.Sc. Nursing Course at different colleges within the State despite having failed to secure any position in the competitive examination that is JENPAS-UG, 2023-2024. Still they were admitted in the said course and pursued the same but at the time of the registration with the concerned University, the objection was raised that their registration cannot be effected as they did not qualify in the relevant Competitive Entrance Examination, i.e., JENPAS-UG, 2023-2024. The writ petition is dismissed by the Single Bench with the categorical finding that the appellants being the ineligible candidates, they cannot pursue such course and, therefore, the relief claimed in the writ petition cannot be granted.

The appellants vociferously submit before us that in an identical situation prevalent in the relevant years of 2022-2023, the State Government issued Notification permitting the colleges to conduct the

Institutional Entrance Examination and the candidates who could not qualify in JENPAS-UG, if secured the requisite marks in the said Institutional Examination may be permitted to undergo the said B.Sc. Nursing Course. The said Notification was produced before us which unerringly indicates that it was restricted to the academic session, 2022-2023 and cannot be said to operate in omnibus manner for all future academic sessions. We invited the attention of the appearing counsels to apprise the Court whether the Government has taken any decision in the identical manner for the academic session, 2023-2024 but all the counsels uniformly submit that there is no such Notification issued by the Government.

The moment the college received recognition and affiliation to conduct a course and the admission is restricted through a Competitive Entrance Examination, it is not desirable that the admission in such course would be permitted to any aspirant who either did not participate in the said Entrance Examination nor secured any rank therein. It would invite a backdoor entry and may destroy the healthy education system whose primary object is to impart quality education to the children not as a profit making company or the institution but have the pious and avowed object of educating the children of the country to make them a better citizen in future.

The apex Court has also deprecated the aforesaid action of the educational institutions in permitting the admission of ineligible students. The Government during the academic session, 2022-2023

noticed that the large number of seats remain vacant as the adequate number of candidates could not be found out and devised to permit the initiation to conduct the institutional entrance examination in order to fill up the vacancies. It is within the realm of Government to take decision depending upon the realities and the necessity as a policy. The writ Court should be slow and circumspect in entertaining such issues. Since there was no Notification issued by the Government for the academic session, 2023-2024 in the like manner as that was issued for academic session, 2022-2023, we do not find any infirmity and/or illegality in the order of the Single Bench.

The appeal sans merit.

Accordingly, both the appeals and the connected applications are dismissed without any order as to costs.

However, it is open to the Government to take a conscious decision if they so intent and the dismissal of the writ petition as well as appeal shall not stand in such way.

All parties shall act in terms of the copy of this order downloaded from the official website of High Court, Calcutta.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)