

HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 25233 of 2024

Dr. Sourav Dey

Versus

The State of West Bengal & Ors.

For the petitioner

Mr. Sudipta Dasgupta
Ms. Sinjini Chakraborty

For the State

Sk. Md. Galib
Ms. Sujata Mukherjee

For the Respondent Nos.7&8. Dr. Debu Chowdhury

Heard on

20.11.2024

Judgment on

20.11.2024

JAY SENGUPTA, J:

This is an application praying for direction upon the respondent authorities to allow the petitioner to participate in the merit based counselling to be organised by the West Bengal Medical Counselling Committee for admission to Doctors of Medicines/Masters of Surgery course for NEET-PG 2024 as in service candidates in the Department of Family Welfare, Government of West Bengal or alternatively, to allow the petitioner to participate in the merit based counselling for admission in the Diplomate of National Board under the Board of Examination of Medical Sciences.

Affidavit of service filed in Court is taken on record.

Copies of documents filed by the State are also taken on record. Copy of the same be handed over to learned counsel for the petitioner.

At the outset, learned counsel for the petitioner submits that he would not like to press the prayer for appearing for counselling in the MD/MS course and would instead pray for allowing an opportunity to participate in the counselling for DNB course.

Learned counsel for the petitioner further submits that the State authorities committed an error in not issuing trainee

reserve certificate to the petitioner in time so as to enable him to pursue DNB course. Since the petitioner could not pursue the DNB course last year after applying for, he could be debarred from doing so for three years. However, it is pertinent to mention that the petitioner had done Covid 19 duty for three years. But, he did not apply for any quota for such. Under a mistaken impression, the State kept his application pending citing pendency of a writ petition on such point. As a compensatory measure and a special exception, the State should allow the petitioner to apply for MD/MS course or in the alternative DNB course. Therefore, the ban of three years in applying for the said course should not be applicable to the petitioner.

Learned counsel for the respondent Nos.7 and 8 opposes the prayer and submits that after the tests are done, his clients have hardly anything more to do in this regard.

Learned counsel for the State relies on copies of the documents and submits as follows. The application of the petitioner dated 11.08.2023 would show that he did apply for admission in either MD or MS or DNB course. The initialization letter was also given for Covid 19 duty. However, like in other cases, due to pendency of the writ petition and the order of stay granted therein the issuance of certificate for trainee reserve

was withheld. Once the matter was finally decided, the petitioner was issued such certificate.

After perusing the application of the petitioner, it appears that whether under a mistaken impression or not the petitioner did apply for counselling for either MD or MS or DNB course. At least on this score, the State cannot be faulted for belated issuance of the certificate to the petitioner.

However, even if the issuance of certificate is delayed on the ground of pendency of a writ petition and stay order passed therein, the petitioner cannot be penalised further and perpetually for the same. He has already lost a year for late issuance of certificate for no fault of his own. Therefore, the bar of three years ought not operate against him in applying for the DNB course.

Moreover, the petitioner has clarified that he never intended and does not intend to pursue any other course than the DNB for which no such Covid 19 duty quota is relevant.

In view of the above discussions and in the interest of justice, the respondent authorities shall allow the petitioner to participate in the counselling for DNB course. Therefore, the petitioner shall be entitled to get himself registered for the counselling process, the last date of registration being today i.e., 20.11.2024.

With the aforesaid observations, WPA 25233 of 2024 is disposed of.

Parties shall act on a server copy of this order duly downloaded from the official website of this Court.

(Jay Sengupta, J)

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