

HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 26900 of 2024

Rajdeep Mishra

Versus

The State of West Bengal & Ors.

For the petitioner

Mr. Biswaroop Bhattacharyya
Mr. Anindya Bose
Mr. Golam Mahiuddin
Mr. Mridul Biswas

For the NMC

Mr. Sunit Kr. Roy

For the respondent nos. 7 & 8

Mr. Srijib Chakraborty
Mr. Subhradeep Chakraborty

For the WBMCC

Mr. Arka Kumar Nag
Mr. S. Banerjee
Ms. Deboleena Ghosh

For the WBUHS

Mr. D. N. Maiti
Mr. A. Santra

For the State

Mr. Biswabrata Basu Mallick
Mr. Shayak Chakraborty

Heard on : 21.11.2024

Judgment on : 21.11.2024

JAY SENGUPTA, J:

This is an application praying for a direction upon the respondent authorities to admit the petitioner for pursuing MBBS course at Krishnanagar Institute of Medical Science Private Limited, Krishnanagar, Nadia.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner appeared in National Eligibility Entrance Test (Under Graduate) 2024 and scored as NEET All India Rank 228049. He was called for counselling and deposited the requisite fees for the same. His documents were verified. The Department of Health and Family Welfare, Government of West Bengal issued a notice on 04.11.2024 for conducting of online extended stray vacancy round of WB-NEET UG Medical Dental Counselling. A provisional allotment letter was issued by the counselling committee during the online extended stray vacancy round whereby the petitioner was allocated a seat under the EWS category for pursuing MBBS course at Krishnanagar Institute of Medical Science Pvt. Limited. According to the notification, admission was to be taken up on the very same day i.e., on 05.11.2024 when the

stray round counselling took place. Results came out after 2 PM. So, it was only after 2 PM that a candidate would know in which college he is to take admission. Due to technical difficulties, the petitioner could download the relevant documents only at about 3:39 PM. Immediately thereafter he took steps to prepare a bank draft to pay the requisite fees to the College that was assigned to him. But the process could not be completed by 6 PM on that day. On the very next day, the petitioner went to the college with the bank draft. But, he was denied admission. Incidentally the document i.e., the provisional allotment letter that was issued online on 05.11.2024 by the counselling committee had a clause which provided that the candidate was advised to report and joined the allotted medical college/institute as early as possible and that in some of the allotted colleges/universities 1-2 days' time is required to complete admission formalities. Therefore, the process had taken into consideration the time that might be taken to conclude the admission formalities. In view of the short time that was provided to the candidates, the time taken by the petitioner to obtain a bank draft should also have been accommodated within the whole time that could be taken to complete the admission formalities as per the allotment letter. But the same was not done. However, on 08.11.2024, a notification was published by the National Medical Commission that the last date to fill up online details of the first year MBBS

Course admitted for academic year 2024-2025 was extended from 8th November, 2024 to 23rd November, 2024. In fact, the last date of joining in respect of State counselling was also extended to till 5th December, 2024. In view of the above, the petitioner may be allowed to take admission in the respondent college. Reliance is placed on a decision of a Co-ordinate Bench of this Court in Sanjana Samanta –vs- The Union of India & ors., WPA 25897 of 2023 where in similar circumstances, a student was allowed to take admission in a college, once the date for counselling was extended. Reliance is also placed on a decision of the Hon'ble Apex Court in case of S. Krishna Sradha –vs- State of Andhra Pradesh and ors. reported in AIR 2020 SC 47 and it is submitted that meritorious students could not be made to suffer for no fault of theirs.

Learned counsel appearing on behalf the respondent college submits that as the petitioner was able to take admission within the time stipulated, only if this Court directs the respondent college to grant admission to the petitioner, the same could be done by the college.

Learned counsel appearing on behalf of the WBMCC opposes the prayer and submits that the seat has remained vacant as the petitioner was unable to take admission in time.

Learned counsel appearing on behalf of the NMC also opposes the prayer.

It is true that the notification of 04.11.2024 required an individual to take admission to a college by 6 PM on 5.11.2024 when the results were to be out only by 2 PM on 5.11.2024. On the other hand, the provisional allotment letter itself stipulates that there could be one or two days' time taken to complete admission formalities. Therefore, the time required for the students to download the result of the stray round counselling, prepare the demand draft, then go to the college, which may be some distance away, with necessary documents and complete the formalities on his or her part may be considered as a part of the process of completing admission formalities, in appropriate cases.

It does not appear that there were any laches on the part of the petitioner in trying to fulfil the requirements after getting a copy of the provisional allotment letter downloaded. The petitioner immediately approached the bank for preparation of draft. The same could be made ready only on the next date when the petitioner immediately rushed to the college to complete the formalities.

In quite similar circumstances, in such case on the ground of illness, a Co-ordinate Bench of this Court granted benefit to a

student by allowing her to take admission once the date for taking admission was extended. Reliance may be placed on Sanjana Samanta (supra).

In S. Krishna Sradha (supra), the Hon'ble Apex Court, *inter alia*, held as under:

“ The aforesaid question is required to be considered only to the cases where (i) no fault is attributable to the candidate; (ii) the candidate has pursued her rights and legal remedies expeditiously and without delay; (iii) where there is fault on the part of the authorities and apparent breach of rules and regulations; and (iv) candidate is found to be more meritorious than the last candidate who has been given admission.”

As the date for taking admission has also been extended in the instant case and it is amply clear that the petitioner could not take admission within the short time stipulated for no fault of his own, let the petitioner be allowed to take admission in the said college under the said EWS category against the allotted seat. Let the respondent authorities take appropriate steps in this regard. The petitioner is directed to approach the respondent authorities positively by 22.11.2024 for such purpose. Needless to mention that the college will be at liberty to admit the petitioner subject to compliance of all formalities.

With these observations, the writ petition is disposed of.

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

(Jay Sengupta, J)