

HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:
THE HON'BLE JUSTICE JAY SENGUPTA

WPA 26998 of 2024

Aparna Das (Dutta)
Vs.
The State of West Bengal & Ors.

For the Petitioner	:	Mr. Dipayan Kundu, Mr. Supratic Ray.
For the State	:	Mr. Sirsanya Bandopadhyay, Mr. Ritesh Kr. Ganguly.
For the INC	:	Mr. Nilotpal Chatterjee.
For the WBCHSE	:	Mr. Santanu Kumar Mitra.
Heard on	:	02.12.2024
Judgment on	:	02.12.2024

JAY SENGUPTA, J:

1. This is an application praying a direction upon the respondent authorities, particularly the respondent nos.3 to 5, to allow the petitioner to complete the

General Nursing Midwifery (3 years) Course as a regular candidate and to act in accordance with law.

2. Report filed on behalf of the West Bengal Council of Higher Secondary Education is taken on record.
3. Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner had taken admission in a nursing course after satisfying all relevant formalities. The petitioner had passed the examination in 2009. The requirement at that time was that she had obtained 40% marks in Higher Secondary Examination. At present, the first examination for the Course is to commence. But, the petitioner is not being allowed to fill up the form online. This was possibly because of a Memorandum dated 29.11.2017 of the West Bengal Council of Higher Secondary Education, which specified that for examinees who passed the Higher Secondary Examination between 2008 to 2011, the grand total will be calculated out of 500 marks upon considering the marks awarded in two language subjects and three compulsory elective subjects. However, all the subjects have to be passed. If these five subjects were considered, then the petitioner's marks falls below 40%, which is the minimum requirement for the present course. This notification of the Council was not widely publicised. So the same could not be challenged.
4. Learned counsel appearing on behalf of the State denies the allegations made in the writ petition and submits as follows. As would be evident from the report filed, the candidates who passed the Higher Secondary Examination during 2008 to 2011 faced difficulties when they applied for jobs at various offices and institutions because their marksheets were without percentage of marks and

grand total out of full marks in their respective marksheets. This prompted the Council to come up with the notification as to how the total marks was to be calculated. However, this notification has not been challenged by anyone, far less the petitioner. At present, it would not be open to anyone to calculate such marks in any other manner.

5. Learned counsel appearing on behalf of the INC submits that the petitioner has to comply with the eligibility criteria for sitting in the examination or for getting registered, for that matter.
6. Although it appears from a copy of the marksheet that individual marks were also given besides the grades, there may be some substance in the explanation provided in the report by the Higher Secondary Council that because of the grades, there might have been some confusion in calculating the total marks or percentage of marks. It is also a fact that no gradation was given for the total marks obtained.
7. Be that as it may, there was a notification published in 2017 by the Council setting out the manner in which the total marks was to be calculated. The percentage of aggregate marks was being calculated for a student for examinations which took place between 2008 and 2011. In fact, the petitioner had passed the examination in 2009. No one, far less the petitioner has challenged the notification.
8. Thus, it shall not be open to any authority to calculate the marks in any other manner than as provided in the said notification.
9. Therefore, I do not find any merit in the application.

10. Accordingly, the same is dismissed, however without any order as to costs.

11. Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J)

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