

HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 27797 of 2024

Yagnabalkya Sengupta

versus

The State of West Bengal and others

For the petitioner

Mr. Srijib Chakraborty
Mr. Rittik Chowdhury
Mr. Mihir Saha

For the State

Mr. Rajat Dutta
Ms. Tuli Sinha

For the WBMCC

Mr. Sirsanya Bandopadhyay
Mr. Arka Kumar Nag
Ms. Deboleena Ghosh

For the WBUHS

Mr. D.N. Maity
Mr. Asumdipta Santra

For the NMC

Mr. Sunit Kumar Roy

For the respdt. No.7

Mr. Pankoj Agarwal
Ms. Champa Pal

Heard on 26.11.2024

Judgment on 26.11.2024

JAY SENGUPTA, J:

This is an application praying for direction upon the respondent authorities to allow the petitioner's admission in the Jagannath Gupta Institute of Medical Science & Hospital for MBBS course.

Learned counsel appearing on behalf of the petitioner submits as follows upon instruction. At the outset, the petitioner withdraws the prayer for getting admission in the College in question on the basis of the provisional allotment letter issued earlier. The petitioner now wants to participate in the special stray round of counselling that has been notified. In fact, a notice dated 22.11.2024 provides that by 6 pm of 26.11.2024, online registration of the candidate has to be done for the NEET UG 2024. In the present case, in the stray round of counselling the petitioner was allotted a seat at the Jagannath Gupta Institute of Medical Science & Hospital for pursuing MBBS course. He was to conclude the registration process by 4 pm on 04.11.2024. He paid to the College a total sum of Rs. 20 lakhs, out of which Rs.15 lakhs was paid by RTGS in advance on 02.11.2024. The fees for the first semester is around Rs.15 lakhs. In such circumstance, if the petitioner

could not report to the College in time for completing the admission process, the College should have blocked the seat and not kept it vacant. He was a few minutes late in reporting. There was intervening Sunday as well. However, the petitioner is not insisting upon admission in that seat in particular. He is merely praying for participating in the special stray round of counselling. Notifications were issued on 22.11.2024 and 25.11.2024 in this regard. Reliance is placed on the decisions passed by this Court in the case of *Rajdeep Mishra (WPA 26900 of 2024)* and in the case of *Sanjana Samanta (WPA 25897 of 2023)*.

Learned counsel for the College denies the allegations and submits as follows. The petitioner did report to the College on 04.11.2024 at 4 pm. But, by the time the process could be initiated for granting admission, 4 pm was over and there were some glitches in the website concerned.

Learned counsels for the WBMCC and the NMC oppose the application. They submit that after expiry of the last date and time for taking admission, the petitioner ought not be allowed to participate in the online counselling process. If this is allowed, the other candidates would be prejudiced because they would be applying for a particular seat matrix along with an extra candidate. Admission for allotted candidate is not allowed after a point.

It is true that the petitioner was to take admission in the College on 04.11.2024 at 4 pm. But, it is also apparent that the first semester fees was paid by the petitioner in advance to the College by RTGS on 02.11.2024.

It is also admitted by the College that the petitioner came to the College at about 4 pm on 04.11.2024 and there were some technical issues in the website in question at that time.

This is, indeed, a case where there was hardly any laches on the part of the petitioner. Moreover, the petitioner would not have paid the 1st semester fees had he not been serious.

In similar circumstances, a Coordinate Bench of this Court had granted benefits to a student in *Sanjana Samanta* (supra). This Court also took a similar view in the case of *Rajdeep Mishra* (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.”

It appears that the special stray round of online counselling ends today i.e., 26.11.2024 at 6 pm and the petitioner does not claim anything except for participation in the counselling process. He is not claiming to get admission in the seat that had been allotted earlier. This would not create problem in the available seat matrix, except for the fact that the petitioner becomes another candidate. The rule of merit would also not get adversely affected.

In view of the above discussions, let the petitioner be allowed to participate in the ongoing special stray round of online counselling for the NEET UG Special Round, 2024. The petitioner is directed to approach the respondent authorities immediately. The respondent authorities shall take appropriate steps for the petitioner to register for counselling and allow him to participate in the same at the earliest.

Accordingly, the writ petition is disposed of.

Parties shall act on a letter of communication issued by the learned Advocate on Record of the petitioner.

(Jay Sengupta, J.)