

01.03.2024
Item No. 33&34
Ct. No. 238
AKG

WPA 26505 of 2023
Anuradha Das
Vs.
The Union of India & Ors.
With
WPA 27836 of 2023
Ayushi Sakhari
Vs.
The State of West Bengal & Ors.

Mr. Amritam Mandal,
Mrs. Ananya Chakraborty,
Ms. Shipra Naskar
...for the Petitioner in WPA 26505/2023
Mr. Suman Banerjee,
Mr. Sudarshan Ghosh
...for the Petitioner in WPA 27836/2023
Mr. Gourav Das,
Mr. Hemanta Kr. Das
...for the State in WPA 26505/2023
Mr. Gourav Das,
Ms. R. Mukherjee
...for the State in WPA 27836/2023
Mr. Pramod Kr. Drolia,
Mr. Sachit Talukdar
...for Respondent No. 1 in WPA 26505/2023
Mr. Indranil Roy,
Mr. Sunit Kumar Roy
...for National Medical Commission in WPA
26505/2023
Mr. D. N. Maity,
Ms. Akshita Singh
...for W.B.U.H.S.
Mr. Sirsanya Bandopadhyay,
Mr. Arka Kumar Nag,
Ms. Deboleena Ghosh
...for W.B.M.C.C. in WPA 26505/2023
Mr. A. Santra
...for Jagannath Gupta Medical College

In view of the shared facts and common issues involved, these two writ petitions are taken up for hearing together and disposed of by this common judgment and order.

Both the petitioners were allotted seats in “Stray Vacancy Round” counseling of National Eligibility cum Entrance Test (UG) held in the year 2023. They, however, did not take admission following such allotment of seats.

The petitioners apprehend that because of the notifications dated September 20, 2023 issued by the Director of Medical Education, Govt. of West Bengal, notification dated October 31, 2023 issued by the Directorate General of Health Services, Ministry of Health and Family Welfare, Govt. of India and another notification dated November 3, 2023 issued by the Director of Medical Education through West Bengal Medical Counseling Committee, Govt. of West Bengal, they will not be allowed to participate in the upcoming National Eligibility cum Entrance Test (UG), 2024.

The relevant notifications have been issued to ensure that a medical seat is not blocked due to the refusal of a student to admit himself against a allotted seat.

The authorities thought it fit to prohibit such a student from participating in the next round of counseling.

The relevant part of the notification dated October 31, 2023 is quoted below:

“The Security Deposit of candidates who do not join their allotted seat in Special Stray

vacancy Round will be forfeited and such candidates will be debarred from taking NEET exam for the next year.”

It clearly appears that such notification does not apply to the petitioners as the notification applies to “Special Stray Vacancy Round” not to “Stray Vacancy Round”.

The apprehension of petitioner in WPA 26505/2023 is based on the notification dated September 20, 2023 issued by the Director of Medical Education, Govt. of West Bengal. The relevant part reads:

“In pursuance to the bulletin published by Medical Counseling Committee, DGHS, Govt. of India in website www.mcc.nic.in in page 35, if a candidate gets allotted in online stray vacancy round, then he/she has to join such allotted seat. If such allotted candidate remains not reported in online stray vacancy round, then information of such candidate shall be shared with MCC, National Medical Commission (NMC) and National Testing Agency (NTA) to bar the candidate from appearing in NEET UG 2024 exam. This step is taken to minimize seat blocking and seat loss as no further rounds of counseling is possible for MBBS seats as the last date for admission as per NMC is 30th September 2023 for the academic session 2023-24.”

The “Special Stray Vacancy Round” was conducted following an order dated October 31, 2023

passed by the Supreme Court in Diary No. 45004 of 2023 in W.P. (C) No. 76 of 2015 on November 2, 2023.

Mr. Indranil Roy, learned advocate appearing for the National Medical Commission has rightly pointed out that after the order of the Supreme Court, the aforesaid notification dated September 20, 2023, in fact, had been modified by the subsequent notification dated November 3, 2023 as follows:

“Candidates who are not holding any seat either in All India Quota UG Medical and Dental Counseling 2023 or in any other State/UT including West Bengal State UG Medical and Dental counseling 2023, are eligible to participate in Special Stray Vacancy Round. However, candidates who did not join their seats allotted through WB State UG Medical and/or Dental Counseling 2023 in Round-3 onwards are ‘Not Eligible’ to participate.”

The petitioner in WPA 27836/2023 is not affected by the notification dated November 3, 2023. She was allotted a seat in the “Stray Vacancy Round”.

It is certified that both the petitioners are eligible to participate in the upcoming National Eligibility cum Entrance Test (UG), 2024 subject to fulfillment of other applicable conditions.

Accordingly, **WPA 26505 of 2023** and **WPA 27836 of 2023** are disposed of

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)