

22.05.2024  
Sl.No.7  
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IN THE HIGH COURT AT CALCUTTA  
Circuit Bench at Jalpaiguri  
Constitutional Writ Jurisdiction  
Appellate Side

**WPA/1046/2024**

DR. AGNIVO BANDYOPADHYAY  
VS  
THE STATE OF WEST BENGAL & ORS.

Mr. Avishek Singh, Adv.  
Ms. Esha Acharya, Adv.  
. . . for the petitioner.  
Ms. Bedashruti Bose, Adv.  
Mr. Sumit Kumar, Adv.  
. . . for the State.

The petitioner is a qualified doctor holding MBBS degree and is enrolled with the West Bengal Medical Council. The petitioner is presently pursuing his post graduate course in General Surgery from North Bengal Medical College and Hospital under in service category. The petitioner is also a Stipendiary Junior Resident in the department of Gynae and Obstetrics in North Bengal Medical College and Hospital.

On 11<sup>th</sup> March, 2024 a complaint was lodged against the petitioner with the Matigara Police Station under Sections 417/376/506/328 of Indian Penal Code, 1860 (in short IPC). On the basis of such complaint, the Matigara Police Station registered Matigara Police Station Case No.167 of 2024 which subsequently became G. R. Case No.838 of 2024 and

has been registered for investigation. The said G. R. case is currently pending before the Court of the learned ACJM, Siliguri. The petitioner applied for anticipatory bail which was entertained on 24<sup>th</sup> April, 2024 and anticipatory bail was ultimately granted on 1<sup>st</sup> May, 2024. The petitioner says that despite having obtained anticipatory bail, the petitioner is not permitted to attend classes which is causing detriment in pursuing his course as the same is practical based which is likely to cause jeopardy to his career in future.

The petitioner has made several representations to the Principal, North Bengal Medical College and Hospital, the first of which is dated 29<sup>th</sup> April, 2024 and the last whereof is 9<sup>th</sup> May, 2024. The petitioner says that the representations are all in vein as the petitioner has not yet been allowed to attend the classes.

On behalf of the State it is submitted that the petitioner was absent in an unauthorized manner from 15<sup>th</sup> March, 2024 till 1<sup>st</sup> May, 2024. No prior information or notice was given by the petitioner. The petitioner only approached the Principal of North Bengal Medical College and Hospital on 29<sup>th</sup> April, 2024 after his application for anticipatory bail was entertained. The second representation of the petitioner is dated 2<sup>nd</sup> May, 2024, that is a day after

the petitioner was granted anticipatory bail. The petitioner due to his unauthorized absence has disentitled him from attending the classes. The issue regarding the petitioner's unauthorized absence and to condone the same for permitting the petitioner to attend his regular classes have been forwarded by the Principal, North Bengal Medical College and Hospital to the Directorate of Health Services on 14<sup>th</sup> May, 2024. The matter is pending before the Director of Health Services for necessary consideration. A written instruction received by the learned Additional Government Pleader attached to the Jalpaiguri Circuit Bench from the Principal, North Bengal Medical College and Hospital dated 20<sup>th</sup> May, 2024 is placed before the Court and is taken on record.

After hearing the parties and considering the materials on record, I find that the petitioner should be permitted to attend classes until he has been proved guilty of the charges alleged against him in view of the basic principle of criminal jurisprudence that an accused is to be treated as innocent till the charges are proved against him. The investigation is going on. This Court has granted anticipatory bail, the terms whereof are being complied with by the petitioner.

In the aforesaid circumstances, I direct the Principal, North Bengal Medical College and Hospital,

being respondent no.2, to permit the petitioner to attend classes from the date of submitting a server copy of this order without insisting upon production of a certified copy thereof. The issue as to the unauthorized absence of the petitioner between 15<sup>th</sup> March, 2024 and 1<sup>st</sup> May, 2024 shall be dealt with by the Director of Health Services, Government of West Bengal before whom the same is pending as expeditiously as possible but not beyond two months from date. The Director of Health Services, Government of West Bengal and the Principal, North Bengal Medical College and Hospital shall be free to take any disciplinary action in accordance with law if the absence of the petitioner between 15<sup>th</sup> March, 2024 and 1<sup>st</sup> May, 2024 is found unauthorized and not condoned or regularized.

Nothing further remains to be adjudicated in this writ petition.

The writ petition being WPA 1046 of 2024 is, accordingly, disposed of.

Since I have not called for any affidavit, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

**(ARINDAM MUKHERJEE, J.)**