

01 **11.02.**
2026

Ct. No. 24

Ab

WPA 18346 of 2025
CAN 1 of 2026

Hrithik Chandra Sarkar
Vs.
The Union of India and others.

Mr. Partha Pratim Roy,
Mr. Santanu De.

... for the petitioner.

Mr. Anil Kumar Gupta.

... for the Union of India.

Ms. Deboleena Ghosh,
Mr. S. Bandopadhyay,
Mr. A.K. Nag.

... for the WBMCC.

Mr. R. Chowdhury,
Mr. D.N. Maity,
Mr. A. Santra.

... for the WBUHS.

Mr. Debapriya Gupta.

... for the Commission.

Mr. Swapan Kumar Datgta,
Mr. Rajat Datta,
Mr. Tapas Kumar Roy.

... for the State.

Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. Rudranil Das.

... for the respondent no. 11.

1. The petitioner, a student of the Bachelor of Homeopathic Medicine and Surgery (BHMS) course for the academic session 2023-24 at Burdwan Homeopathy Medical College and Hospital, had participated in the NEETUG-2023, but had failed to qualify. In spite thereof, he was admitted to the college and has been permitted to pursue the

course.

2. The grievance of the petitioner is that the authority empowered to conduct the NEETUG-2023 had not done so and therefore, the petitioner's inability to qualify was inconsequential. The petitioner has moved the writ petition on this ground and had obtained an interim order dated November 27, 2025. The interim protection in the afore-stated order is set out hereinafter:

"The West Bengal University of Health Sciences is directed to register the petitioner provisionally for the aforesaid Course.

The said registration shall abide by the result of the writ petition".

3. The writ petition had thereafter appeared on February 3, 2026 when Mr. Roy, learned Advocate appearing for the petitioner, due to his personal reasons was unable to attend and the matter was dismissed for default.
4. In the meanwhile, the University had preferred an appeal from the said order of November 27, 2025, which is pending adjudication and has been fixed for hearing on February 17, 2026.
5. I have gone through the grounds in CAN 1 of 2026 seeking recalling of the order of dismissal. Sufficient grounds have been made out, on account whereof, the order dated February 3, 2026 is recalled and the WPA 18346 of 2025 is restored to its original file and number.

6. This is precisely where the dispute arises. Mr. Gupta, learned Advocate appearing for the National Commission for Homeopathy, has not opposed the prayer for restoration of the writ petition, but has vociferously opposed the reimplementation of the interim order of November 27, 2025.
7. Mr. Roy has relied upon the decisions of the Hon'ble Supreme Court reported in 2002 Supreme (SC) 791, (2004) 6 SCC 378 and 2015 (1) CHN 221 of this Hon'ble Court, to urge that once a matter is restored, it has to be restored with all subsisting orders as on the date of dismissal.
8. Mr. Gupta, on the other hand, has argued that the interim order as on date does not subsist and it is a fresh interim order, which has to be passed.
9. It is on this issue of passing a fresh interim order that he relies on a decision of the Hon'ble Supreme Court of India passed in Writ petition (Civil) No. 72 of 2026 dated February 23, 2026, in which the Hon'ble Supreme Court of India has declined to give any interim protection to the petitioners therein and it is, according to him, constitutes a changed circumstance, on account whereof the interim order passed in this matter should not be reinstated.
10. I have considered the arguments of the parties as well as the decisions relied upon by them.
11. The interim order was passed on November 27,

2025 and had been passed upon due consideration of the facts and circumstances in the matter.

12. The changed circumstance, if one assumes the order of the Hon'ble Supreme Court to be the same, had not been brought to the notice of this Court on an earlier occasion. In fact, parties appearing on February 3, 2026 had not brought to the notice of this Court that an appeal had been filed and was pending adjudication from the interim order of November 27, 2025.
13. At this stage, when the matter is merely for restoration of the writ petition, which had been dismissed for default, in terms of the dictum of the Hon'ble Supreme Court of India, the interim order should automatically be reinstated as mere restoration of the writ petition would mean a reappraisal of the facts of the matter on the date of restoration, of the facts and circumstances, which had already been considered on November 27, 2025 while passing the interim order.
14. Since the respondents have not opposed restoration of the writ petition, an oral objection that facts have been altered since passing of the interim order, without any application to that effect nor any appraisal to this Court, that facts had been altered in the interregnum period, cannot be taken into consideration to refuse reinstatement of the interim

order. In fact, reinstatement of the interim order, upon restoration of the writ petition would have to necessarily imply restoration of the status of the parties on the date of dismissal.

15. In view of the afore-stated, the interim order of November 27, 2025 is restored and reinstated.

16. CAN 1 of 2026 is disposed of.

17. Since the appeal is fixed on February 17, 2026, parties are at liberty to mention the matter after the appeal has been heard and disposed of by the appeal Court.

(Reetobroto Kumar Mitra, J.)