

18.02.2026
Item No.07
Court No.11
KCP

**MAT 2215 of 2025
with
IA No.CAN 1 of 2026**

**The Vice Chancellor, West Bengal University of Health
Sciences & ors.**

**- Versus -
Hrithik Chandra Sarkar & ors.**

Mr. R. Chowdhury,
Mr. D. Maity,
Mr. A Santra
....for the appellants

Mr. Swapan Kr. Datta, Ld. A.G.P.,
Mr. Rajat Datta
.....for the State

Mr. Sirsanya Bandyopadhyay,
Mr. Arka Nag,
Ms. Deboleena Ghosh
....for the WBMCC

Mr. Partha Pratim Roy,
Mr. Santanu Das,
....for the writ petitioner/respondent no.1

Mr. Tanmoy Mukherjee
Mr. Rudranil Das
....for the respondent no.9

Mr. Debapriya Gupta
....for the National Commission for
Homoeopathy

The present appeal has been preferred challenging an order dated 27th November, 2025 passed by the learned single Judge in a writ petition being WPA 18346 of 2025. By the said order the parties in the writ petition were directed to exchange their affidavits and the West Bengal University of Health Sciences (in

short, the said University) was directed to register the writ petitioner provisionally in the Bachelor of Homeopathic Medicine and Surgeon (BHMS) course with an observation that such registration shall abide by the result of the writ petition.

Records reveal that in course of hearing of the writ petition, Burdwan Homeopathy Medical College and Hospital (in short, the said College) and the West Bengal Medical Counselling Committee were impleaded as party respondents.

At the inception, Mr. Mukherjee, learned advocate appearing for the said College submits that the present appeal is not maintainable since the interim order dated 27th November, 2025 stood vacated with the dismissal of the writ petition for default and considering an application for restoration, the learned single Judge passed an order on 11th February, 2026 allowed the restoration application and reinstated the interim order. In view thereof, the present appeal against the order dated 27th November, 2025 is not maintainable. Such argument is not acceptable to us since by the order dated 11th February, 2026, the earlier interim order passed on 27th November, 2025 has been reinstated and challenge against the parent order survives in the present appeal.

Mr. Chowdhury, learned advocate appearing for the appellants being the functionaries of the said University submits that on the face of the records, the writ petitioner was not entitled to admission in the said College since he has not passed the National Eligibility cum Entrance Test (UG) 2023 (in short, NEET (UG) - 2023) which is a mandatory precondition towards admission. In support of such contention, he has drawn our attention to Clause 16.1 of the Information Bulletin which categorically provides that admissions to all Undergraduate Ayurveda, Siddha, Unani and Homeopathy courses will be done through NEET (UG) – 2023. Such argument, as advanced, was glossed over by the learned single Judge and the interim order was passed on an erroneous premise that as the entrance examination has not been conducted by the National Commission for Homeopathy (in short, the said Commission), the failure of the writ petitioner in the said examination has no consequence and his registration in the course cannot be denied.

He submits that admission and enrolment can be allowed only after the candidate passes in the Joint Entrance Examination held for the said purpose. In support of such contention, reliance has been placed upon the provisions of the statutes framed under the

West Bengal University of Health Sciences Act, 2002 (hereinafter referred to as the 2002 Act).

Drawing our attention to the provisions of the Section 2(d), Section 3 and Section 14 of the National Commission for Homeopathy Act, 2020 (hereinafter referred to as the 2020 Act), Mr. Roy, learned advocate appearing for the writ petitioner submits that the Commission as defined is the National Commission for Homeopathy. The said Commission and the National Testing Agency are not the same body and no entrance test has been conducted by the said Commission and as such for the failure of the candidate to pass the NEET (UG) - 2023, his admission and registration in a Homeopathy course cannot be refused. In support of such contention reliance has been placed upon a judgment delivered by the Hon'ble Delhi High Court in the case of *Priyanshu Undaviya -vs- Union of India*.

Mr. Gupta, learned advocate appearing for the said Commission submits that the rigors of the provisions of the 2020 Act cannot be avoided by a candidate, who had failed to qualify in NEET (UG) - 2023, for admission in a Homoeopathy course and for registration under the said University and he cannot claim equity moreso when from the preamble of the 2020 Act it would be explicit that the object of the Act

is to provide for high quality Homoeopathy medical professionals in all parts of the country. In support of such contention reliance has been placed upon the judgments delivered in the cases of *Siddhant Mahajan and Ors. -vs- The State of Rajasthan and Ors.*, *Naminath Homeopathic Medical College Hospital and Research Centre -vs- A.K. Singh and Ors.* and *NRI Institute of Ayurvedic Medical Sciences & Ors. -vs- Union of India & Ors.*

Mr. Mukherjee and Mr. Roy, learned advocates appearing for the said College and the writ petitioner jointly submits that in the earlier session also provisional registration has been granted to students similarly situated with the writ petitioner, however, such contention has been disputed by Mr. Chowdhury.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

The mandate of Section 14 of the 2020 Act is that the NEET examination is to be conducted by the Homeopathy commission as defined under Section 2(d). It appears that no entrance test was conducted by the said Commission, as defined under the provisions of the 2020 Act for admission in Homeopathy courses. A composite perusal of Section

2(d), 3 and 14 of the 2020 Act would reveal that the Commission referred to in the Act is the National Commission for Homeopathy. Though a common entrance examination has been conducted by the National Testing Agency pertaining to MBBS/BDS/BHMS courses, the failure of a candidate to pass the said examination or to secure the percentile prescribed *prima facie* cannot debar his admission in a college to pursue a Homeopathy course since there is no specific precondition to that effect.

In the case of *Naminath Homeopathic Medical College Hospital and Research Centre (supra)*, the issues urged are yet to be decided finally. In the case of *NRI Institute of Ayurvedic Medical Sciences (supra)* the dispute was pertaining to reduction of percentile and in the case of *Siddhant Mahajan (supra)* equity claimed was denied as the Court arrived at a finding that the relevant regulations have been flouted.

Prima facie the issues urged in the writ petition require closer examination upon exchange of affidavits and in view thereof, the learned single Judge has rightly called for affidavits from the parties and has directed for grant of provisional registration to the writ petitioner with a further observation that

such registration shall abide by the result of the writ petition.

We do not find any infirmity in the order impugned and that as such no interference is called for in the present appeal.

Accordingly, the appeal and its connected application are dismissed.

It is, however, made clear that the learned single Judge shall decide the writ petition on merits without being influenced by any of the observations made in this order.

As the time to file the affidavits-in-opposition has already expired due to pendency of the present appeal, the respondents would be at liberty to file such affidavits-in-opposition within a period of four weeks from date. Reply thereto, if any be filed within two weeks thereafter.

Upon such exchange of affidavits, the parties would be at liberty to mention the matter before the learned single Judge for enlistment and expeditious disposal.

There shall, however, be no order as to costs.

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

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)