

Court No. - 16

Case :- WRIT - C No. - 11765 of 2023

Petitioner :- Adarsh Tiwari And 73 Others

Respondent :- State Of U.P Thru. Prin. Secy. Deptt. Of
Technical Education Lko. And 3 Others

Counsel for Petitioner :- Ajay Pratap Singh

Counsel for Respondent :- C.S.C.,D.K. Singh Chauhan,Ravi
Singh

Hon'ble Subhash Vidyarthi,J.

1. The matter has been placed before this specially constituted bench during on going winter vacation under an order passed by the Hon'ble Chief Justice.

2. Heard Sri Ajay Pratap Singh, the learned counsel for the petitioners and Sri Shailendra Singh, the learned Chief Standing Counsel, Sri Anirudh Singh, the learned Standing Counsel for the State respondent and Sri D.K. Singh Chauhan, the learned counsel for the opposite party no. 3- Joint Entrance Examination Council and Sri Ravi Singh, the learned counsel for opposite party no. 4-Pharmacy Council of India.

3. By means of the instant writ petition, the petitioners, who are 74 students seeking admission to D. Pharma Courses, have sought issuance of a writ of mandamus commanding the opposite party nos. 2 & 3, namely, Board of Technical Education, U.P. and Joint Entrance Examination Council, U.P. respectively, to permit them to deposit the balance amount of fee by online mode through the portal of the opposite party no. 3-Joint Entrance Examination Council, for first year of D. Pharma Course for academic session 2023-2024.

4. Briefly stated, facts pleaded by the petitioners are that the institutions, in which they are seeking admission and the names whereof are mentioned in para 4 of the writ petition, have been granted approval by the Pharmacy Council of India. The petitioners had appeared in the Joint Entrance Examination for admission to the diploma course and have been found to be eligible to D. Pharma courses. The counseling schedule was published on 16.09.2023, as per which the counseling for D. Pharma courses was scheduled to be held between 25.09.2023 and 19.10.2023.

5. The learned counsel for the petitioners has submitted that the

issue involved in the present writ petition has been decided by this court in the judgment dated 27.09.2023 passed by a coordinate bench of this court in a bunch of writ petitions, the leading case being Writ-C No. 8389 of 2023 in Re: H.M.S College of Pharmacy, Bulandshar Thru. President Himanshu Sharma and Another Vs. State of U.P through Additional Chief Secretary, Department of Technical Education, Lucknow and three others, wherein this court has issued a direction to grant affiliation to the institutions, which have fulfilled the criteria fixed by the Pharmacy Council of India (hereinafter referred as 'P.C.I.') and have obtained approval, unless the State Government, on the basis of cogent material, approaches the P.C.I. for revoking the approval in terms of Section 13 of the Pharmacy Council of India Act.

6. Thereafter a fresh counseling schedule was published, as per which the balance fee was required to be deposited from 20.12.2023 till 26.12.2023 and classes are to commence w.e.f. 01.01.2024.

7. 25.12.2023 was a holiday due to Christmas.

8. The petitioners claim that some of them could not arrange money within the aforesaid period and they have requested for permission to deposit the balance fee today itself.

9. Sri D.K. Singh Chauhan, the learned counsel for the opposite party no. 3 has stated that the date fixed for deposit of balance fee has already expired and the petitioner have not deposited the balance fee within the prescribed period and they have no right to seek extension of period for deposit of fee.

10. The learned counsel for the opposite parties have opposed the writ petition and they have submitted that as per the order dated 06.09.2023 passed by the Hon'ble Supreme Court in Misc. Application No. 1927 of 2023 in Civil Appeal N. 9048 of 2012, Parshwa Nath Charitable Trust v. All India Council for Technical Education and others, the counseling has to be completed by 30.12.2023.

11. The learned counsel for the respondents have submitted that in case the counseling schedule is disturbed at this stage and counseling is ordered for admissions to the petitioners' institutions, it will be in violations of the aforesaid order passed by the Hon'ble Supreme Court.

12. The learned counsel for the parties have expressed their consent for final disposal of the writ petition at this stage.

13. What appears from the material placed before the Court at this stage is that the petitioners had applied for admission to D. Pharma courses in the academic session 2023-24 through the Joint Entrance Examination which was advertised in March, 2023. Some disputes occurred regarding recognition and affiliation of some institutions regarding which numerous writ petitions were filed in this Court and the same were decided by means of a judgment and order dated 27.09.2023 passed in leading writ petition being Writ C No. 8389 of 2023. The respondents have filed a special appeal against the aforesaid order bearing Special Appeal No. 504 of 2023, which is pending consideration before a Division Bench of this Court in which no inter order has been passed. Thereafter, numerous other writ petitions have been disposed of granting provisional affiliation to the institutions and admission of their students.

14. The time provided for deposit of balance fee as per the revised counseling schedule was from 23.12.2023 to 26.12.2023. 25.12.2023 was a holiday. the petitioners claim that the time provided was short and although they deserve to be admitted to D. Pharma courses, some of them could not arrange the amount of balance fee within the short period. Seats are lying vacant, which are to be filled by the petitioners upon their being allowed to deposit the balance fee.

15. In case the petitioners are not granted permission to deposit the balance fee, it would result in denial of education to them, inspite of they having qualified Joint Entrance Examination and their right to education will be violated for no fault of theirs.

16. In view of the aforesaid discussion, this Court is of considered view that it would be in the interest of justice to allow the petitioners to deposit the balance fee by the end of 31.12.2023 itself.

17. The opposite parties shall make necessary arrangements to enable the petitioners to deposit the balance fee.

18. In view of the aforesaid terms, the writ petition stands ***decided*** finally.

19. It is further provided that in case the seats have been filled up in the institutions concerned in the meantime, the opposite party no. 3 shall accommodate the candidates in some other institutions in which the seat is available.

Order Date :- 31.12.2023

Pradeep/-