
(2022) 07 OHC CK 0027
In the Orissa High Court
Case No : Writ Petition (C) No.16647 Of 2022

Dr.Ashima Mishra

APPELLANT

Vs

State Of Odisha & Ors

RESPONDENT

Date of Decision : 06-07-2022

Acts Referred:

Citation : (2022) 07 OHC CK 0027

Hon'ble Judges : Dr S.K. Panigrahi, J

Bench : Single Bench

Advocate : Avijit Mishra, D.Mund

Final Decision : Disposed Of

Judgement

Dr. S.K. Panigrahi, J

1. This matter is taken up through hybrid arrangement.
2. Heard.
3. The petitioner has filed this Writ Petition challenging the letter No.14304 dated 29.06.2022 issued by Govt. of Odisha in Health and Family Welfare Department wherein the application of the petitioner for grant of "No Objection Certificate" to appear in the selection test for the post of Senior Resident, conducted by AIIMS, Bhubaneswar, has been rejected on the ground that there is shortage of doctors in the State of Odisha.
4. Learned counsel for the petitioner submits that while the petitioner was continuing in post PG Medical Officer being posted at VIMSAR Burla, she applied for the Senior Resident in the department of Medicine as per advertisement vide Annexure-1, issued by opposite party No.3 for recruitment to the posts of Senior Residents in various department of AIIMS, Bhubaneswar.
5. It is pertinent to mention that as per Clause 12 of the Terms and Conditions mentioned in the advertisement, a candidate has to obtain "No Objection

Certificate” but the competent authority has denied to give NOC vide letter No.14304 dated 29.06.2022 under Annexure-2.

6. It is further submitted that the petitioner at present is continuing as Medical Officer under the post PG bond services and she has the right to seek better opportunities as per her qualification and experience. She wants to appear in the selection test for the post of Senior Resident in the Department of Medicine under AIIMS, Bhubaneswar. That apart, the petitioner, who is continuing her post PG bond services, has already been allowed pursuant to Resolution No.3418 dated 03.02.2017 to go for Senior Residentsip. She will be boiund by the Resolution dated 03.02.2017. Further, it is submitted that similarly situated candidates, who were continuing in the PG Bond services, have also been allowed to join as Senior residents issuing them NOC. Further, the opposite party No.3 has also issued a notification dated 30. 06.2022 publishing the list of eligible candidates who have been asked to appear in the interview scheduled to be held on 07.07.2022 wherein the name of the petitioner finds place at Serial No.27. In the event, she fails to submit NOC from her employer, her candidature will be rejected on the said ground. Being aggrieved by the letter No.14304 dated 29.06.2022, she has approached this Court.

7. Learned counsel for the State submits that vide Resolution dated 09.12.2021 under Anneuxre-3, the P.G Bond doctors shall not be issued NOC from the Department since there is shortage of doctors in the State. The present petitioner has applied for the Senior Resident in the Department of Medicine conducted by AIIMS , Bhubaneswar which is inside the State as per Clause 1(e) of the bond conditions prescribed in the said Resolution but not under the State Government.

8. Learned counsel for the petitioner further submitted the Resolution dated 09.12.2021 as submitted by the learned counsel for the State which is subsequently passed , is governing the field for the current batch whereas the petitioner had signed the Bond as per Resolution No.3418 dated 03.02.2017 under Annexure-3. The petitioner is not covered under the present Resolution as she is bound by the Resolution dated 03.02.2017.

9. It is further submitted that on 09.11.2020 vide Annexure-4 the Joint Secretary to Government has issued NOC in favour of the in-service Medical Officers of OMHS cadre to pursue SR ship at different medical colleges including AIIMS, Bhubaneswar .

10. In view of the above, the petitioner is unnecessarily being harassed by non-issuance of the NOC for SR ship when she has already been selected to face the interview on 07.07.2022.

11. In such view of the matter, the petitioner be allowed to appear in the interview conducted by AIIMS , Bhubaneswar on 07.07.2022 with an undertaking to submit the NOC within a period of one week.

12. In the meantime, the competent authority is directed to issue NOC to the petitioner within a period of five days from today positively. Opposite party No.3 is directed to accept undertaking of the petitioner at the time of interview and if she fails to submit the NOC within the stipulated time, he is free to reject her candidature.

13. With the aforesaid observation, the writ petition is disposed of.

14. Issue urgent certified copy of this order as per Rules.

15. Free copy of the order be given to the learned counsel for the State.

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