

(2024) 01 OHC CK 0150

In the Orissa High Court

Case No : Writ Petition (C) No.39868 Of 2023

GKF Nursing Institute, Khurda Vs State Of Odisha & Ors ?

Date of Decision : 17-01-2024

Acts Referred:

Citation : (2024) 01 OHC CK 0150

Hon'ble Judges : Dr. B.R. Sarangi, ACJ; M.S. Raman, J

Bench : Division Bench

Advocate : Pami Rath, S. Gumansingh, R.N. Mishra, R.C. Mohanty, P.K. Parhi, D.R. Bhokta

Final Decision : Disposed Of

Judgement

1. This matter is taken up through hybrid mode.
2. Heard Mrs. Pami Rath, learned Senior Counsel along with Ms. S. Gumansingh, learned counsel appearing for the petitioner; Mr. R.N. Mishra, learned Additional Government Advocate appearing for the State-opposite parties no.1 & 4; Mr. R.C. Mohanty, learned counsel appearing for opposite parties no.2 & 3 and Mr. P.K. Parhi, learned Deputy Solicitor General of India along with Mr. D.R. Bhokta, learned Central Government Counsel appearing for opposite party no.5.
3. Mrs. Pami Rath, learned Senior Counsel appearing for the petitioner contended that the petitioner-institution after getting affiliation on 22.11.2023, issued prospectus for admission of the students into different Nursing Courses. It is contended that Sub-clause (5) of Clause-A of the General Information of Annexure-9, the Prospectus for admission into different Nursing Courses in Government and ONMRC recognized Private Nursing Institutions of Odisha, states that the counseling and admission shall be done centrally by the State Nursing Selection committee for all the seats of Government Institutions and 85% of the seats of Govt. recognized private institutions. If any seats from 85% remain unfilled during the central counseling, it shall be deemed to be surrendered to the respective private institutions. The private institutions shall fill up the 15% seats of the management seats and balance seats deemed to be

surrendered to them by the cutoff date for such admission. Clause-C of the said prospectus deals with Basic B.Sc., which prescribes minimum criteria for admission into the said Course. Learned Senior Counsel appearing for the petitioner also relies upon Clause-1 of the Important Information for all the Institutions of the prospectus, which states that the Private Institutions will fill the vacant seats of 85% Govt. quota seats from the common merit list, following eligibility criteria of admission process. If still vacancy remains then the rest vacant seats may be filled up at their own level by following the eligibility criteria as fixed by the State Government. This being the position, now opposite party no.2-DMET has issued notice on 19.06.2023 under Annexure-10 for admission into basic B.Sc. Nursing course through entrance examination, wherein it is stated that if any candidate will not qualify the entrance examination, then the concerned candidate shall not be allowed to take admission into Basic B.Sc. Nursing course for the academic session 2023-24 in Govt. counseling/ Management Quota. Thereby, the authority has put restriction on the admission into Basic B.Sc. Nursing course in the private institutions. It is further contended that earlier similar cause was assailed before this Court in W.P.(C) Nos.16020, 13405, 15326, 15328 and 15329 of 2015 and this Court, vide order dated 15.12.2016, disposed of the said writ petitions with a direction that in case the opposite parties are unable to provide 85% students through counseling, the managements of the institutions shall be permitted to fill up of the remaining seats from unfilled 85% quota in terms of the condition laid down in paragraph-15 of the affidavit filed in the aforesaid case. It is contended that what the opposite party-authority cannot achieve directly, want to achieve indirectly by putting restrictions, which causes hardships to the institutions to get admission of the students into B.Sc. Nursing course.

4. Issue notice to the opposite parties.

5. Since Mr. R.N. Mishra, learned Additional Government Advocate accepts notice on behalf of opposite parties no.1 & 4, two extra copies of the writ petition be served on him within three days to enable him to obtain instructions or file counter affidavit.

6. Since Mr. R.C. Mohanty, learned counsel accepts notice on behalf of opposite parties no.2 & 3, two extra copies of the writ petition be served on him within three days to enable him to obtain instructions or file counter affidavit.

7. Since Mr. P.K. Parhi, learned Deputy Solicitor General of India accepts notice on behalf of opposite party no.5, let an extra copy of the writ petition be served on him within three days to enable him to obtain instructions or file counter affidavit.

8. Put up this matter after one week.

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