

(2011) 09 GAU CK 0089
In the Gauhati High Court
Case No : Writ Petition No. 361 of 2011

Miss Antarleena Bhattacharjee, represented by her natural guardian and next friend father Sri Ashok Bhattacharjee

APPELLANT

Vs

The State of Tripura and Others

RESPONDENT

Date of Decision : 07-09-2011

Acts Referred:

Citation : (2011) 09 GAU CK 0089

Hon'ble Judges : Arun Chandra Upadhyay, J

Bench : Single Bench

Advocate : K.N. Bhattacharjee, S. Acharjee, P.S. Roy, B.B. Das, Kohinoor N. Bhattacharjee and R.C. Deb, for the Appellant; D.P. Kundu, General, R. Guha, S.M. Chakraborty, A. Sengupta and D. Das, for the Respondent

Final Decision : Allowed

Judgement

A.C. Upadhyay, J.—The Petitioner is aggrieved, for not allowing her to participate in the counseling process, for admission into the first year MBBS, in Tripura Medical College and Dr. B.R. Ambedkar Memorial Teaching Hospital.

2. I have heard Mr. K.N. Bhattacharjee, learned senior counsel, assisted by Mr. S. Acharjee, learned Counsel appearing for the Petitioner and Mr. D.P. Kundu, learned Advocate General, Tripura, assisted by Ms. R. Guha, leaned counsel representing the State-Respondent as well as Mr. S.M. Chakraborty, learned senior counsel assisted by Mr. A. Sengupta, learned Counsel appearing for the Respondents-colleges.

3. The facts, leading to filing of this writ petition, may be summarized, in brief, as follows:

The Petitioner appeared in the common entrance test conducted by the Tripura Medical College and Dr. B.R. Ambedkar Memorial Teaching Hospital for admission in the MBBS course for the academic session 2011-12 under the Tripura domicile quota. She obtained 73 marks out of 100 in the common Entrance Test and was

placed in 16th position of the UR merit list of Tripura domicile candidates and thus became entitled to one UR seat in 1st year MBBS Course, for the academic Sessions 2011-12. The Petitioner was called for counseling on 18.07.2011, but counseling was not done for want of time. She met the Chairman, Admission Committee on 19.07.2011 and the Chairman advised her in writing to get her admitted on 22.07.2011 before 5:00 PM. As luck would have it, she had a sudden attack of loose motion and vomiting on 22.07.2011 requiring urgent medical attention. Dr. S.C. Chakraborty, a medical practitioner, was consulted on that day and the doctor examined her and prescribed medicines and advised her to take rest for the whole day. She had to take rest for whole day for the ailment. However, when her physical condition was slightly improved after taking medicine as prescribed by the doctor, she rushed to the college, but failed to reach before 5:00 PM. She reached there at 5:15 PM and found the college door closed. She met the Principal-in-Charge at about 5:20 PM, but she was refused admission and she was informed that her name has already been deleted from the list.

4. Learned senior counsel for the Petitioner submitted that it was in such unavoidable and exceptional circumstances, the Petitioner got delayed by half an hour, to reach the college as per schedule. Learned senior counsel for the Petitioner further submitted that according to the educational Notification dated 10.06.2011, it has been specifically stated that "date of admission from first merit list of Common Entrance Examination will be commenced from 18th to 22nd July and from the waiting merit list, if any resultant vacancy arises from 25th to 30th July, 2011". Nowhere, it has ever been mentioned in the prospectus or notice board that the process of admission of the eligible, qualified and merit listed candidates will be closed at 5:00 PM on 22.07.2011 and their names would be delisted from the merit list. Learned Counsel for the Petitioner pointed out that neither it was indicated in the brochure of the college, nor in the admission notice calling for interview that in the event of failure to take admission on the date fixed, the medical seat meant for the selected candidates will be made available to any other candidate.

5. Learned senior counsel by referring to the case of one Sri Preetam Baidya, a similarly situated candidate selected for admission, submitted that though he was late in reaching the admission office, his case was considered favourably and later on he was allowed to be admitted in the first year MBBS course.

6. Mr. SM Chakraborty, learned senior counsel for the Respondents-College has submitted that since the Petitioner failed to reach in time, her name was off listed from the select list in terms of the guidelines and rules.

7. Considering the above submission made on behalf of the parties, it appears that even if counseling of the candidates was over but other formalities were yet to be taken up and the process of admission was not concluded by the Respondent authorities. As a matter of fact, the Respondent authorities also apparently failed to stick to their schedule for admission of the selected

candidates and admittedly took time till 22.07.2011 for admission of the Petitioner. Had the Petitioner been admitted within the time schedule by the Respondent authorities, there would not have been any occasion to file this writ petition. In such a situation the Respondent authorities must share the responsibilities for having failed to stick to their schedule for which, counseling of the Petitioner had to be fixed on a different date. On the date so fixed, the Petitioner, for justified cause could not appear before the Respondent authorities, for the purpose of counseling and admission. As a matter of fact, a candidate before his/her selection in the medical college undergoes a rigorous selection process. The candidate undertakes various written test and oral interviews, medical tests, etc. before being selected for admission. Apparently, the best of the best candidates are selected for admission in the medical colleges. After all, the process of admission in the medical colleges cannot be compared with others. Therefore, after having been selected in merit list the name of the candidates should not have been off listed without notice. A merit listed candidate should not have been ignored because of her failure to reach in time. Admittedly, such a notice of delisting the name of the Petitioner was not issued.

8. The Respondent authorities ought to have considered the facts and circumstances of the case to accommodate the Petitioner, for admission in the first year MBBS course, since the failure of the Petitioner to appear on the date fixed for counseling process was for genuine and justified reason.

9. Considering the above, I am of the view that delisting the name of the Petitioner, who was a merit listed candidate, without notice is not reasonable and justified action on the part of the Respondent authorities. If, it was so intended, the Respondent authorities ought to have specified it in the prospectus. In case the Respondents consider it necessary, it should be so made in the prospectus to be issued in future.

10. Accordingly, in view of the above discussions, the writ petition is allowed. The Respondent authorities are hereby directed to permit the Petitioner to participate in the next counseling within a week from today and accordingly admit the Petitioner in the first year MBBS course, in the vacant seat reserved in connection with this case.

11. With the aforesaid observations and directions, this writ petition is allowed. No. costs.