

(2006) 02 CAL CK 0063

In the Calcutta High Court

Case No : AST No. 2123 of 2005 and 2127 of 2005

President, W.B.C.H.S.E. and Others

APPELLANT

Vs

Aditi Bose

RESPONDENT

Date of Decision : 07-02-2006

Acts Referred:

West Bengal Council of Higher Secondary Education (Admission and Allied Matters) Regulation, 1987 — Regulation 10, 2, 2(10), 2(22), 2(26)
West Bengal Council of Higher Secondary Education Act, 1975 — Section 21, 21(2), 21(3), 3, 40

Citation : (2006) 4 CHN 12

Hon'ble Judges : V.S. Sirpurkar, C.J.; Arun Kumar Mitra, J

Bench : Division Bench

Advocate : Bimal Chatterjee and R. Chatterjee, for the Appellant; K.K. Dasgupta and Sujit Sankar Koley, in AST Nos. 2123 and 2124 of 2005, Kamlesh Bhattacharjee in MAT No. 7 of 2006, Tanmay Kr. Ghosh, Shampa Ghosh and Arindam Sen, in MAT 8 of 2006 and Asim Kr. Das, Kamal Kr. Banerjee and Sanjay Saha, in MAT 142 of 2006, for the Respondent

Judgement

V.S. Sirpurkar, C.J.—This judgment will dispose of all the above appeals. All these appeals are filed on behalf of the West Bengal Council of Higher Secondary Education (hereinafter referred to as Council) challenging the interim/final orders of the learned Single Judges passed in the writ petitions, petitioners whereof are either the students or their parents. Basic facts and the question involved being all common in nature we are disposing of the appeals by this common order though we propose to deal with each appeal after the common points are dealt with.

2. All the writ petitioners are the students, or as the case may be, the wards of the writ petitioners, are desirous of appearing in the Higher Secondary Education Examination alleged to be held in March, 2006. All of them were late in filling up their enrolment forms for the examination and therefore the same were not accepted by the Council. Hence, all the petitioners rushed to this Court

whereupon the learned Single Judge have passed interim/final orders directing the Council to accept their enrolment form along with late fees and other fees and to permit them to appear for the Higher Secondary Examination, 2006. Mainly stated, all the writ petitioners pleaded that they had some genuine difficulties and hence they could not fill up the form in time. The learned Single Judge has accepted the cases pleaded by the writ petitioners and has permitted them to appear in the Higher Secondary Examination, 2006. These orders have been challenged herein by the Council.

3. The learned Counsel for the appellant Mr. Bimal Chatterjee assisted by Mr. R. Chatterjee, urged before us that the relevant regulations did not permit any condonation of delay in tendering the enrolment forms along with the fees. According to the learned Counsel the language of Regulation 6(3) of Examination Regulations was clear and mandatory in nature. The learned Counsel further argued that even if such powers were to be found that the Council to ignore the delay, even then on facts the petitioners were not able to give any convincing reason as regards they delay. The learned Counsel was at pains to point out that in terms of the Supreme Court decision in the case of Mridul Dhar (Minor) and Another Vs. Union of India (UOI) and Others, , it is imperative for the Council to declare the results of the Higher Secondary Examination before 10th June of every year and, therefore, it may not be possible for the Council to accommodate the petitioners as the Council has to make a huge preparations for the examination wherein about 5 lakh students appear every year.

4. As against this learned Counsel appearing for the respondent writ petitioners urged that the students could not fill up the enrolment form for the reasons beyond their control and thus they deserve sympathetic approach from the Court which was rightly shown by the learned Single Judge.

5. On these rival contentions it would have to be decided as to whether the learned Single Judge was right in passing the interim orders.

6. However, before proceeding with the matter it will be better to see the relevant regulations admitting the students to the examination. The subject of Higher Secondary Education is controlled by the Act called West Bengal Council of Higher Secondary Education Act, 1975 W.B. Act 8 of 1975 (hereinafter referred to as Act). Section 21(3) of the Act empowers the State Government to frame regulations on various subjects mentioned in Regulation 2. The State Government accordingly by notification No. L/Secy/7399 dated 18th June, 1999 framed such regulations called West Bengal Council of Higher Secondary Education (Examination) Regulations, 1999 (hereinafter referred to as Examination Regulations). These regulations were passed under Clauses (g), (h), (i), (j) and (k) of Sub-section (2) of Section 21. Regulation 2 provides for the definition. Few definitions would be necessary to be considered.

7. Regulation 2(x) defines "continuing candidate" as under:

"Continuing candidate" means a candidate who was enrolled for any previous

examination but did not appear or got plucked in more than two compulsory subjects, and who may appear within five consecutive years from the year of his/her enrolment, and may interchange compulsory elective subjects with optional elective subject, if offered.

7.1. Regulation 2(xxii) defines "regular candidate" as under:

"Regular candidate" means any student who, after passing the Madhyamik Pariksha conducted by the West Bengal Board of Secondary Education or any equivalent examination recognized as such by the Council, got himself/herself admitted to Class XI in an institution recognized by the Council within three years from the year of passing the Madhyamik level examination (counting the year of passing as the first year), and prosecuted regular course of study in that institution for two academic years upon getting himself/herself duly registered with the Council, and has been duly sent up his/her institution for appearing at the examination, having satisfied the institution with his/her class attendance and performance in the test conducted by institution.

7.2 Regulation 2(xxvi) defines "special candidate" as under:

"Special candidate" means a candidate who was enrolled for any previous examination but did not appear at most two subjects or got plucked in one or two compulsory subject(s), and is again sent up through the same institution, within 5 consecutive years from the year of his/her first appearance or enrolment, for appearing any subsequent examination in the same one or two compulsory subjects (s) only.

Explanation.?A candidate not appearing or getting plucked in one or two practical paper(s) of practical-based compulsory elective subject(s) at the examination and set up, shall be deemed to be a "special candidate".

8. None of the petitioners is a regular student, they are either continuing candidate or special candidate meaning that they has appeared for the Higher Secondary Examination held in 2005 but were not successful. Under Examination Regulation 3, the Council has the power to refuse or withdraw the permission. Examination Regulation 6 is the provision for enrolment. Though the caption of the Regulation suggests that it is for enrolment of regular candidates, the rule generally provides for enrolment of not only regular candidates but also special, continuing and external candidates. We must hasten to add that none of the petitioners is an external candidates. The Regulation is as follows:

6. Enrolment of regular candidates.?(1) The institution shall verify with its records the required particulars in respect of a registered regular candidate in the prescribed enrolment form supplied by the Council, and sent it back to the Council with the signature of the candidate under endorsement/certification as to his/her eligibility and seal of the Head of the institution or, in his absence, the Teacher-in-charge along with the third copy of pay-in-slip received from the listed branch of the State Bank of India after depositing the prescribed

examination fees, and other related papers within the last date announced by the Council through circular, notification or otherwise.

(2) A regular candidate registered with four elective subjects may interchange the fourth elective subject with any one of the rest at the time of enrolment without seeking Council's permission.

(3) No candidate, regular, special, continuing or external, will be admitted to the examination unless he/she submits application for enrolment and pays fees through his/her institution on or before the last date as may be announced by the Council from time to time.

(4) Names of Paper Setters, Moderators, Examiners, Head Examiners, Scrutinizers, Tabulators, Coordinators and other authorities concerned with the examination as well as members of the Committee shall be kept secret and no candidate and no school authority or any other authority shall be entitled to demand publication of their names or other particulars under any circumstances whatsoever.

9. A glance at the regulations suggests that every candidate who intends to appear for the examination has to fill up a form/application and in case of regular student, continuing candidate or special candidate and the said form has to be obtained from the same school of which they were the students. Thus in cases of continuing and special candidates they have to maintain contact with the school though they are no more continuing to be the student of that school from where they appeared in the Higher Secondary Examination for the first-time. Sub-regulation (3) of Regulation 6 of Examination Regulations suggests that no candidate regular, special, continuing or external could be admitted to the examination unless he/she submits the application for enrolment and pays fees through his/her institution on or before the last date. Therefore, it is obvious that the Council does not directly accept the enrolment form. We had occasion to consider the provision of other regulations called West Bengal Council of Higher Secondary Education (Admission and Allied Matters) Regulation, 1987. Regulation 10 thereof suggests that every student who is admitted to Class XI of a recognized institution has to register himself through the Council and unless the registration is done he cannot be sent up for the examination as the regular student. Thus in the matters of registration as well as enrolment the school where such regular candidate studies or where the special continuing or external candidates had studied becomes an extremely important factor. All the candidates have to depend upon the school for getting the prescribed form of the application and forwarding the same to the Council through such school. Thus the candidate has no connection with the Council whatsoever and he has to entirely depend upon the school and for that purpose and even when he is not a regular candidate has to maintain contact with the school. Under the procedure the student cannot have the application for enrolment directly from the Council and it is only his school which has to requisition such forms not only for its regular students but also for such failure candidates like continuing, special or

external candidates. It is obvious that the Council fixes the last date for submission of application for enrolment, which the Council is required to "announce". Thus, the Council is duty-bound to announce such last date or, as the case may be, publish the same so that such students who have no contact with the school should at least have a proper notice of such last date.

10. A circular dated 20th May, 2005 was issued by the Council to all the Heads of the recognized Higher Secondary Institutions (schools). As regards enrolment Clause B of the Accompaniment of the Circular suggests that the enrolment form should be collected by the school from the regional offices of the Council on payment of @ Rs. 10/- per candidate through their authorized representative. The school is required to send requisitions showing the actual number of candidates for each category that is regular, continuing, special or external candidates. A note appended to Clause B of this circular reads as under:

(a) Enrolment forms for special or continuing candidates of 2006 will be in ordinary form without the name, subject combination, etc. One form is meant for one candidate. The forms are to be filled in by the individual candidate, duly checked with the office records and to be endorsed by the Head of the Institution. Those who has not appeared in the H.S. Examination, 2005 as continuing or special candidates should affix passport size black and white photograph in the space provided for the same.

(b) Enrolment forms for regular candidates for 2006 will be in ordinary form without the name, subject combination etc. One form is meant for one candidate. The forms are to be filled in by the individual candidate duly checked with the office records and to be endorsed by the head of the institutions. Old enrolment forms will not be accepted (excepting last years" computerized format supplied by the Council).

* * * * *

11. It is, therefore, obvious from Clause B of the circular and the notes appended thereto that the forms also have to be requisitioned by the school for each category of students and every student has to fill in the forms individually and that is required to be checked by the office records and also has to be endorsed by the Head of the institution. There is also a requirement of photograph being attached where the student had not appeared in the last examination held in 2005. All these obviously require the student to be in constant touch with the school otherwise there is no question of him or her getting information with regard to the last date fixed for submission of the application form which he/she has to submit only in the school and not to the Council directly. Further, he/she has to also go to the school to enable the school to call his form from the Council because every form costs Rs. 10/- and unless the student has paid the said fees of Rs. 10/- for the form the school obviously would not call for the form for him/her from the Council. All these, therefore, suggests an active involvement of the student in the whole process that is calling the form, submitting it to the school,

filling up the same in presence of the head of the institution along with necessary fees and sending the same to the Council. It is obvious that a head of the institution, who has to send several of forms for the regular and other students, Cannot vouch for the correctness of the forms or the identity of the student unless the student in present before him. If the form is required to be filled up by the individual candidate, it would mean that the candidate himself has to fill up the whole form and not merely put his signature thereto. This would, therefore, certainly require the actual presence of the student in the school.

12. On this backdrop it has to be seen the true import of Regulation 6(3) of the Examination Regulations. It was argued by Mr. Chatterjee that the very language suggests that it is in mandatory terms and therefore a student who pays his fees and submits the application for enrolment after the last date cannot under any circumstances be allowed to appear for the examination.

13. It will be proper to see as to whether the Council is absolutely powerless in the matter. It is true that the language suggests that a defaulting candidate will not be admitted to the examination. So far as the candidate is concerned, there would be no question of claiming anything rightfully if he is a defaulter. However, the wording of the regulations is very peculiar. The wording is more or less in the nature of notice to the candidate who is a defaulter. It cannot, however, be said that it controls the power of the Council in any manner. The language is not an injunction against the Council. This we say because of the words "no candidate...will be admitted to the Examination.... For this purpose it will be interesting to see some of the provisions of the Act from which the Examination Regulations emanate. The Council is a product of the Act via Section 3, Section 21(2) provides:

21. Functions of the Council.?(1) * * * * *

(2) Subject to any general or special order of the State Government, the provisions of this Act and any rules made thereunder, the Council shall have generally the power to direct, supervise and control Higher Secondary Education and in particular, the power?

* * * * * (g) to institute Higher Secondary Examination for the purpose of this Act and such other examinations as it may think fit and to make regulations in this behalf;

(h) to make regulations regarding the conditions to be fulfilled by candidates presenting themselves for examinations instituted by the Council;

(k) to grant permission to candidates to appear at examinations instituted by the Council and to refuse or withdraw such permission if it thinks fit in accordance with such regulations as may be made in this behalf.

* * * * *

14. Section 21(2)(k) appears to be in two parts. Firstly, it speaks of the power of

the Council to grant permission to candidates to appear at the examination. The second part of the Sub-section speaks in terms of the power of the Council to refuse or withdraw such permission if the Council so thinks fit in accordance with the regulations. While the first part creates an independent power in the Council to grant permission to candidates to appear, the second part that is refusal or withdrawal of such permission is alone controlled by the Examination Regulations which emanate from the Act. Regulation 3 of the Examination Regulations specifically provides the grounds on account of which the permission to appear in the examination could be refused to be granted or withdrawn if it is already granted. This Regulation 3 of Examination Regulations is referable to the later part of Section 21(2)(k). Applying the principle of interpretation of statutes, a regulations which is the child of a particular provision of the Act cannot control that provision so as to diminish its effectiveness and indeed Regulation 3 of the Examination Regulations speaks only of the power of refusal and withdrawal of permission. It does not affect in any manner the earlier part of Section 21(2)(k) which speaks of the general powers in the Council to grant permission.

15. Regulation 6 of the Examination Regulations operates in the narrow area of enrolment of the regular candidates and suggests that the enrolment in time is a necessary step for a candidate to be able to appear in the examination. This Regulation 6 of Examination Regulations does not say anything about the general power of the Council to grant permission to candidates for the examination. The control of that power is to be seen only via Section 21(2) which suggests that the general power to direct, supervise and control Higher Secondary Education would be subject to any general or special order of the Government, the provisions of this Act and any rules made thereunder. While Section 21 speaks about the power of the Council to make regulations, Section 40 of the Act specifically refers to the rule making power of the State Government. We are not here dealing with the rules. It is not the case that any rules are made under this Act pertaining to the present subject, therefore, we have to consider only the regulations made u/s 21. It is, therefore, obvious that the power to grant permission to appear for the examination would remain unaffected by any regulations because in reality there is no such regulations limiting such power.

16. It would be interesting to see even u/s 21(2)(h) the Council has the power to make regulations regarding the conditions to be fulfilled by the candidates presenting themselves for the examinations. When we compare the languages of the two clauses namely Section 21(2)(k) and (h) it is apparent that the power to grant permission to appear in the examination provided in Section 21(2)(k) is independent of the regulations as under that Section the regulations could be made only for the guidance of the Council while refusing or withdrawing permission to appear for the examination. We must note that there is no comma after the words "if it thinks fit" in Section 21. A conjoint reading of Sections 21(2) (h) and (k) and Regulation 6 of Examination Regulations would, therefore, suggest that though there is a specific restraint against the candidates provided via Regulation 6(3) of the Examination Regulations, there is no fetter anywhere

to be found on the power of the Council to grant permission to the candidates to appear at the examination. In our opinion, therefore, though at the first blush the language of Regulation 6(3) of the Examination Regulations appears to be strong and mandatory in nature, it only gives a notice to the candidate that they shall not be admitted to the examination unless they submit the application for enrolment and pay fees through the institutions and nothing more.

17. There is one more feature of the language of Section 21(2)(k). It speaks about the power of the Council to grant permission to candidate to appear at the examination. This terminology "to grant permission" would have to be read in contradistinction with the terminology used in Regulation 6(3) of the Examination Regulations which is "no candidate...will be admitted to the examination". The two concepts (1) to grant permission, and (2) to admit to the examinations are distinct and operate in different spheres. Now, if it is the Council's power u/s 21(2)(k) of the Act to grant permission, then in our opinion, the learned Single Judge had the power to grant interim relief/final relief as the learned Single Judge could by way of directing the Council to exercise that power in the appropriate individual fit cases to pass the direction.

18. Therefore, it is clear that in spite of a strong language of Regulation 6(3) of Examination Regulations, the Council has the independent power u/s 21(2)(k) to grant permission. That power could certainly be exercised in appropriate cases only and not arbitrarily. There would have to strong reasons for such a candidate being permitted to appear in the examination. Once that position is clear it would have to be seen as to whether the learned Single Judge was right in disposing of the writ petition holding that the petitioner was not in a position to fill up the form on account of the reasons beyond her control.

Re: AST No. 2123 of 2005

19. It is suggested in the writ petition that the petitioner was suffering from viral hepatitis with jaundice from 25.8.2005 to 26.10.2005 and was bed ridden. There is a doctor's certificate, which was filed along with the writ petition which suggests that she was advised bed rest. Obviously, because of this she could not have made herself available before the Headmaster before whom she was required to fill up the form individually as required by the circular issued by the Council. However, strangely enough in the writ petition it was suggested by her in paragraph 8 that she approached the school for the first time on 7th November, 2005 and thereafter on 11th November, 2005 and lastly she approached only on 17th November, 2005. There is no explanation as to what the petitioner was doing right from 26th October, 2005 till 7th November, 2005. Even if we take a liberal view of the matter there is no explanation as to why petitioner did not approach the school immediately after she got well. The learned Single Judge, however, has merely relied on this medical certificate, but there is absolutely no explanation for the period between 27.10.2005 to 17.11.2005 when she ultimately approached the Council. We do not think, therefore, that this was a fit case to show any discretion in her favour merely because the

examination was scheduled to commence from 17th March, 2006. The petitioner cannot choose to approach the Council in such a casual manner. The petitioner is a special candidate, she had failed in the year 2005 examination. Therefore, the petitioner was not approaching the examination for the first time, she sufficiently knew that there is always a last date for filling up the forms. She had already once filled up the form, when she appeared in 2005 examination. There is no justification for the delay. We also do not find any explanation in the order of the learned Single Judge whereby the aforementioned period of 22 days has been explained in any manner whatsoever. We, therefore, do not think that this was a fit case where the Council could have considered the matter in her favour. We, accordingly, allow the appeal and set aside the order of the learned Single Judge and order dismissal of the writ petition with no order as to costs.

Re: AST No. 2124 of 2005

20. Here also the situation is no different. In this case also the petitioner was a special candidate having failed in English in 2005 examination. She also claimed to be ill. Again suffering from infective hepatitis with generalized weakness from 25.8.2005 to 26.9.2005. There appears to be a certificate which suggests that she was ill and was advised bed rest. In her writ petition the petitioner has not even bothered to state as to when she approached her institution or for that matter when she actually approached the Council. Vide Annexure P-3 there appears to be an application by the father of the petitioner, which appears to have been made to the school only on 16.11.2005. There is nothing on record to show that she had ever approached the Council. Under such circumstances it is difficult to understand as to how the discretion has been used in her favour by the learned Single Judge. There is no explanation whatsoever as to what the student was doing for a full period of 20 days. It is undoubtedly true that the Council has the power, as we have held above, however, such, power obviously cannot be exercised in her favour considering the casual manner in which the student has wasted her time. The order of the learned Single Judge nowhere considered the wastage of time at the instance of the student for a substantial period of 20 days. In our opinion, therefore, the Council in this case could not have used the discretion in her favour. In that view we allow this appeal by the Council and set aside the order of the learned Single Judge.

Re: MAT No. 7 of 2006

21. In this case the learned Single Judge has used the discretion in passing interim orders in favour of the student. However, the writ petition has been kept pending. We will not, therefore, go, at this stage, into the merits of the matter. This writ petitioner fractured his leg while appearing for the Higher Secondary Examination, 2005 after appearing for some subjects and this petitioner can be described as continuing student. However, considering the fact that the petitioner herein was suffering from fractured leg and that his plaster was removed on 29.9.2005 and he approached the school on 4.10.2006. We feel that the learned Single Judge was justified in using the discretion in his favour. At any rate our

expressions only are of prima facie nature as the writ petition is still pending and the learned Single Judge has observed that the result of the petitioner would abide by the result of the writ petition. We, therefore, request the learned Single Judge to dispose of the writ petition within eight weeks from today. We, accordingly, dismiss the appeal.

Re: MAT No. 8 of 2006

22. This writ petitioner is a most unfortunate one. She failed in 2005 examination and therefore again joined the school. She kept on attending the school as regular candidate, but the school did not bother to send her form in her capacity as a continuing student. The fault laid altogether on the part of the school that it did not forward the name of the petitioner. The school was represented before the learned Single Judge and school admitted the fault on its part. Therefore, in our opinion, the learned Single Judge was right in using the discretion in favour of the student allowing the student to appear for the examination. Of course, the learned Single Judge has observed the issuance of the admit card in favour of the petitioner as a continuing candidate would be ultimately governed by the result of the writ petition. We agree with the learned Single Judge on this count. Hence, we dismiss the appeal. We make it clear that our observations are of prima facie in nature and should not be held binding on the learned Single Judge when the learned Single Judge decides the matter on merits. However, the learned Single Judge is requested to dispose of the writ petition within two months from today.

Re: MAT No. 142 of 2006

23. This is a peculiar case where the petitioner who is a continuing student claimed that she did not know the last date for filing up the form. The petitioner candidly admits in paragraph 4 of her petition that she visited the school in the third week of August, 2005 to get information about the availability of form. She then asserts that no information could be gathered from the school and she was asked to come in the next month. She further claimed that she visited the school again on 8th August, 2005 when she was told by the school that no information with regard to the notification was received from the Council and therefore the petitioner was directed to come in the second week of September, 2005. Very strangely, the petitioner never bothered to visit the school in the whole month of September and for the first time chose to go to the school only on 5th October, 2005. She has pleaded that there was a practice in the earlier years that last date for filling the forms used to be fixed in the month of November and therefore she approached the school on 5th October, 2005. It seems that thereafter she approached the Council on 8th October, 2005 but to no effect. She then made representations on 17th and 31st October, 2005, however, without any result and as such had approached this Court by way of writ petition. It is clear from the order of the learned Single Judge that the school was represented by a Counsel. The learned Single Judge took notice of the fact that the circular dated 20.5.2005 by which the last date was fixed was neither published in the daily

newspaper nor even the journal published by the Council was forwarded to the school sufficiently in advance so that the petitioner could take steps for filling up the forms and hence allowed the petitioner to appear in the examination by passing interim order in her favour. The peculiarity of this appeal is that during the pendency of the appeal the headmaster of the school filed an affidavit before us wherein in paragraph thereof the headmaster asserts that the school did not have the knowledge about the newspaper publication or any knowledge about fixing of last date by the Council. The Headmaster goes on to assert that the school did not receive any circular dated 20th May, 2005. This assertion was made probably because it was contended by the Council that a circular dated 20 May, 2005 was sent by the Council to all the schools wherein the last date for filling up the form was duly notified. The Council also pointed it out that the circular dated 19.8.2005 published in Sansad Pariciti was also collected by the school from the Council's office upon payment as per usual practice. The headmaster in his affidavit says that they collected this Sansad Pariciti only on 15/16th September, 2005 and therefore the school did not have any knowledge about the last dates. We are not at all impressed by this affidavit which suggests that the school did not know the dates at all. In the first place the school was bound to receive the circular dated 20th May, 2005 because along with this circular even the mark sheets of the Higher Secondary Examination, 2005 were sent. We are not prepared to believe that only to this particular school the circular dated 20th May 2005 was not sent with marksheet. Very strangely the affidavit of the headmaster does not say that the school did not receive the marksheets of 2005 Higher Secondary Examination. The headmaster only refers to the circular dated 20th May, 2005, this, in our opinion, is impossible. We cannot visualize a school itself not knowing the last date for the submission of forms and payment of fees.

24. This is apart from the fact that the student in this case was specifically asked to come in the week of September, 2005. In the affidavit of the headmaster it is admitted that the petitioner was told to visit the school in the second week of September. If this was done, there as no explanation on the part of the petitioner as to what the petitioner was doing for the whole month of September, 2005 and why the petitioner chose to visit the school only on 5.10.2005. There is nothing in the affidavit of the headmaster to suggest as to when the school for the first time came to know the last dates. We, therefore, reject the affidavit of the headmaster. We, therefore, do not agree with the learned Single Judge that the petitioner was not at fault and that the petitioner never knew or never had information about the last date for submission of forms and payment of fees. Accordingly, in our opinion, the learned Single Judge should not have used the discretion in favour of this writ petitioner. Of course, we are aware that the learned Single Judge has not the final order. However, we cannot persuade ourselves to accept a fantastic claim by the school and the petitioner that they never knew the dates. We, therefore, set aside the interim order, is no far as it pertains to the direction to the Council to allow the petitioner to appear for the

examination. However, the learned Single Judge is requested to dispose of the writ petition within two months from today.

25. All the applications connected with these appeals are also disposed of accordingly.

26. Xerox plain copy of this order, duly countersigned by the Assistant Court Officer, may be supplied to the parties.

Arun Kumar Mitra, J.

27. I agree.