

08.09.2020
SL-02
Ct.11
(S.R.)
via video
conference

W. P.A. No.6615 of 2020
with
CAN 1 of 2020 (old no. CAN No.5432 of 2020)

Sanaka Educational Trust's Group of Institution
v.
State of West Bengal & Ors.

Mr. Subir Sanyal
Mr. Supratic Roy
Mr. D.N. Maiti ... for the petitioner.

Mr. Tapan Mukherjee
Mr. Shamim ul Bari ... for the State.

In view of the express undertaking of the petitioner to comply with all formalities regarding filing including stamping and punching of the petition immediately upon resumption of normal court business and in view of the urgency involved, the application being CAN 1 of 2020 (old no. CAN No.5432 of 2020) is allowed and the writ petition is taken up for hearing.

The present writ petition has been preferred primarily praying for the following relief: -

“A Writ of and/or in the nature of mandamus, directing the respondent no.1 to forthwith issue no objection certificate/approval of the state government in favour of the petitioner for starting a B Pharm Course.”

Mr. Sanyal, learned advocate appearing for the petitioner submits that the petitioner is an educational institution and to start a new course namely Bachelor of

Pharmacy (in short, B. Pharm) necessary approval was sought for from the Pharmacy Council of India (in short, PCI). Such approval was granted by PCI on 14th June, 2019 on the basis of affiliation granted by the Maulana Abul Kalam Azad University of Technology, West Bengal (in short, said University) for the academic Session 2019-2020. On the basis of such approval and affiliation B. Pharm Course was started in the academic session 2019-2020 with an intake of sixty seats. The said seats were filled up through the West Bengal Joint Entrance Board (in short, the said Board). Subsequently, the petitioner applied for grant of approval for the session 2020-2021. Upon considering such application, PCI withheld the decision towards such approval for want of No Objection Certificate (in short, NOC) of the State Government for the B. Pharm Course.

Drawing the attention of this Court to the annexure at page 4 of the supplementary affidavit, Mr. Sanyal submits that the All India Council of Technical Education (in short, AICTE) had already granted extension of such approval for the academic year 2020-2021. The issuance of NOC by the State authorities is a mere formality but the same has been withheld for unknown reasons. In the midst thereof, the schedule for counseling for West Bengal Joint Entrance Examination – 2020 has been published on 7th August, 2020 but the name of the petitioner has not been included in the list of participating institutions.

As a consequence thereof, the petitioner is not in a position to avail candidates to fill up the seats in the academic session 2020-2021.

Mr. Mukherjee, learned Additional Government Pleader has not been able to apprise this Court as to why the State authorities have withheld NOC when the AICTE has already granted extension of such approval for the academic session 2020-21. He, however, submits that in the event the matter is relegated to the Director of Technical Education, the petitioner's claim for NOC would be duly considered.

Indisputably, the petitioner was granted approval to conduct the B. Pharm Course in the academic session 2019-2020 by PCI. Necessary affiliation was also granted by the said University. On the basis thereof, the students were admitted. No instruction is forthcoming as to why the State authorities have withheld such NOC though AICTE had granted extension of approval in terms of the (Grant of Approvals for Technical Institutions) Regulations, 2020. Counselling process has already been commenced and unless the name of the petitioner is included in the list of participating colleges, no candidate can apply for the said course in the petitioner's college. The second round of registration is due to commence on and from 11th September, 2020. Records do not reveal that the petitioner's college suffers from any deficiency. Applications have been submitted by the petitioner's

college within due time and its action appears to be *bona fide*.

In view thereof, the name of the petitioner's college needs to be included in the list of participating institutions so that candidates can opt for the petitioner's college and the college can avail students to fill up the seats.

Accordingly, this Court directs the respondents to include the name of the petitioner in the list of participating colleges and to upload the same in the *website* with a mention that admission would be done subject to issuance of NOC by the State.

This Court further directs the Director of Technical Education, Directorate of Technical Education, Higher Education Department, Government of West Bengal to consider the representation submitted by the petitioner as annexed at page 8 of the supplementary affidavit and to take a decision as regards grant of NOC to the petitioner and to communicate such decision to the petitioner positively within a period of seven days from the date of communication of this order.

The petitioner is directed to serve copies of the writ petition, the supplementary affidavit and this order to the Director of Technical Education by tomorrow.

With the above observations and directions, the writ application is disposed of.

The petitioner is also directed to upload this order

in the college *website*.

There shall, however, be no order as to costs.

All parties are to act on a server copy of this order on the usual undertakings.

(Tapabrata Chakraborty, J.)