

MAT 1858 of 2022
with
IA No. CAN 1 of 2022

Moutusi Mal
Vs.
The State of West Bengal & Ors.

Mr. Dilip Kumar Maiti
.....for the Appellant
Mr. Nilotpal Chatterjee
.....for the respondent No. 12

Mr. Bhaskar Prasad Vaisya
Mr. Arindam Chattopadhyay
.....for the State

Mr. Amitava Chaudhuri
Mr. N. Roy
.....for the Board

Party/Parties is/are represented in the order of
their name/names as printed above in the cause-title.

Under challenge in this appeal is the order dated 22nd November, 2022 passed in CAN 1 of 2022 arising out of WPA 22182 of 2022 by the Hon'ble Single Bench. The Hon'ble Single Bench refused the interim relief claimed by the writ petitioner, who is the present appellant, seeking permission to join classes in the three years Diploma Course for Nursing to which the appellant/the writ petitioner had got admission for the Academic Session 2022.

The Hon'ble Single Bench was of the view that grant of relief to the appellant/the writ petitioner at

the interim stage would amount to granting the final relief.

Mr. Maiti, learned Counsel appearing for the appellant, takes this Court to the first order of the Hon'ble Single Bench dated 26th September, 2022, from where it transpires that although the appellant/the writ petitioner was originally granted admission to the Nursing Course on 7th September, 2022, subsequently on 9th September, 2022 she received a mobile call from a particular number informing her that she had withdrawn her candidature during the counselling process.

The appellant/writ petitioner strongly denies that she has committed any act withdrawing herself from the counselling process.

The issue of the unsolicited mobile call has been noticed by the Hon'ble Single Bench *vide* a subsequent order dated 28th September, 2022 on the basis of registration of a FIR under the relevant provisions of the Information Technology Act read with the Indian Penal Code before the appropriate police station.

By the order impugned dated 22nd November, 2022 the Hon'ble Single Bench was of the view that

since the main writ petition in which the police investigation is to be presented before the Court is scheduled to be taken up for consideration, there is no scope for passing any interim order which may amount to granting the final relief.

Having heard the parties including Mr. Chatterjee, learned Counsel appearing for the Indian Nursing Council, Mr. Chattopadhyay, learned Counsel appearing for the State and Mr. Chaudhuri, learned Counsel for the West Bengal Joint Entrance Examination Board (for short, the Board), this Court is of the view that each day that the appellant/the writ petitioner misses her classes, adds to her prejudice.

Accordingly, having regard to the particular facts of this case, this Court finds it appropriate to modify the order dated 22nd November, 2022 only to the extent of permitting the writ petitioner to join her classes. Other points in the impugned order of the Hon'ble Single Bench remain untouched.

The appearing respondents shall take steps without delay in terms of this order.

Steps taken shall be, however, subject to the result of the writ petition.

Since no further or other orders are called for in this appeal, both **MAT 1858 of 2022 with CAN 1 of 2022** stand accordingly **disposed of**.

Since affidavits are not invited, allegations made in the appeal are deemed not to have been admitted.

All parties to act on a server copy of this order downloaded from the official website of the Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Supratim Bhattacharya, J.)
J)

(Subrata Talukdar,