

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble SAYEED AHMED BABA, Member (A)

Case No. – OA-680 of 2022

Serial No. and Date of order	Dr. Ratan Sasmal For the Applicant	:	Mr. M. Dasgupta, Mrs. Kabita Mukherjee, Mr. G. Halder, Mr. S. Halder, Learned Advocates
<u>02</u> 09.11.2022			
	For the State Respondents	:	Mr. G.P. Banerjee, Learned Advocate. .

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 536-WBAT/2J-15/2016 dated 26th August, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

Learned counsel for the applicant submits supplementary affidavit informing that WPST 83 of 2022 has been withdrawn from the Hon'ble High Court. Learned counsel for the applicant submits that grant of TR facility has no relationship with vigilance clearance. The TR rules do not spell any condition that grant of TR is subject to vigilance clearance.

Refuting the allegations from the state respondents that the applicant had on his own volition paid this huge fees of Rs. 27.75 lakhs, learned counsel submits that such payment was made in terms of Government Order as directed to the successful candidates to pay the fees as per Notification dated 25.01.2022 appearing at page 26. Relevant portion is as under :-

“The allotted candidates need to physically report to

the concerned colleges within stipulated time with original credentials and college fee for admission as stated above.”

The learned counsel for the applicant also submits that as per Notification dated 29.04.2022 the applicant was compelled to pay the fees as required by the said Notification dated 29.04.2022 in which para 4 makes it clear :-

“The willing and eligible candidates may attend any one single college of his/her choice personally physically with all relevant original documents as required along with one set self attested photo copy and requisite college fee within the reporting time.”

The counsel for the applicant concluding his submissions prays for an interim order directing the Respondent to consider his prayer (a) or (b) appearing at page 29 of the application within the stipulated period of time i.e. before 30.11.2022. The TR application is pending since 05.05.2022 with the respondent..

Mr. Banerjee in his submission refers to para 7 (ii), (vi) & (XVI) page 56 of the supplementary affidavit which makes vigilance clearance obligatory. Submission of Mr. Banerjee is that in this case, the vigilance clearance is awaited for the applicant for issue of TR. Mr. Banerjee also refers page 136 of the reasoned order passed by the respondent on 29.09.2022 in which allegations of financial irregularities have been mentioned against the applicant when he was Superintendent of Katwa Sub Divisional Hospital. Mr. Banerjee submits that as mentioned, grant of TR is

the sole discretion of the govt. Since the applicant's vigilance case has not been cleared due to allegations of financial irregularities during 2019-20 when he was posted at Katwa S.D. Hospital, therefore, the issue of TR is still kept in abeyance.

Mr. Banerjee prays for time to examine the supplementary affidavit filed today by the learned advocate for the applicant as well as consult his client before filing his reply. Mr. Banerjee is also opposing any interim order at this stage.

Interim order as prayed for by the applicant is not allowed at present as the Court feels the Reply to Show Cause issued to the applicant be submitted first.

Let the matter appear under the heading "Hearing" on **28.11.2022.**

SAYEED AHMED BABA
MEMBER (A)