

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

**The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Dr. Subesh Kumar Das**

Case No – **MA 57 OF 2018 [OA 260 OF 2018]**

Dr. Soumya Kundu & Others Vs **The State of West Bengal & Ors.**

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
01 24.04.2018	<p>For the Applicants : Mr. Indranil Roy, Mr. Kartik Kumar Roy, Mr. S.K. Das, Learned Advocates.</p> <p>For the Respondents : Mr. Goutam Pathak Banerjee, Learned Advocate.</p> <p>For the Respondent No.7 : Mr. Saugata Bhattacharyya, Mr. Sumit Kumar Roy, Learned Advocates.</p> <p>Liberty is given to the applicants to file supplementary application enclosing copy of relevant documents after service of copy of the same on the other side by tomorrow.</p> <p>The applicants have prayed for stay of operation of the notice dated April 21, 2018 issued by the Controller of Examinations, West Bengal University of Health Sciences, by which the respondent no. 6 gave direction for surrender of seats within 23rd April, 2018 if sponsorship is not obtained by the in-service candidates and for opting out of counselling by the candidates who have not been allotted any seat in first counselling if sponsorship is not obtained by the in-service candidates.</p> <p>The contention of the applicants is that out of total 717 seats for Post Graduate Course in the</p>	

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<p>University, 280 seats are reserved for in-service candidates subject to increase of the number depending on the result of counselling at all India level. The further contention of the applicants is that the number of Trainee Reserve was fixed at 180 by order dated April 12, 2018 of respondent no. 3, but the same has been increased to 194 by order dated April 20, 2018 of the said respondent no. 3 and again the number is increased to 196 by order dated April 21, 2018 passed by the respondent no. 3. Learned Counsel for the applicants argues that the number of Trainee Reserve is increased from 180 to 196 by the respondent no. 3 within a span of 9 (nine) days in an arbitrary and whimsical manner. Learned Counsel contends that the respondent no. 6 has issued the notice dated April 21, 2018 directing the applicants who already got admission in PG Course or got allotment of the seats in the first counselling to surrender the said seats, unless sponsorship certificate is issued, which has caused prejudice to the said applicants. Learned Counsel further contends that the impugned notice dated April 21, 2018 has debarred the applicants from participating in the second counselling which has not commended till date and thereby they have been highly prejudice in spite of being included in the merit list on the basis of result of PG NEET Examination of 2018-19.</p>	
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Learned Counsel representing the respondent no. 7 submits that the Medical Council of India will have to

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adhere to the time schedule for admission in PG Course as directed by the Hon'ble Supreme Court of India.

Mr. Banerjee, Learned Counsel representing the state respondents, contends that the number of Trainee Reserve is fixed on the basis of 10% of permanent duty posts of existing strength of the service. He further submits that the respondents have the discretion to fix the number of Trainee Reserve on the basis of the existing strength of permanent duty posts of the service from time to time. Mr. Banerjee further contends that the notice dated April 21, 2018 has been rightly issued by the respondent no. 6 as the present applicants who have not been issued sponsorship certificate have no right to retain the seats allotted by the University as Trainee Reserve candidates.

Having heard Learned Counsel representing all the parties, we are of the view that the applicants should be given the liberty to participate in the second round or further counselling for admission in PG Course, as they have been given no objection certificate for appearing in the PG NEET Examination. The way in which the number of Trainee Reserve is increased from 180 to 196 by issuing 3 (three) separate orders by the respondent no. 3 within a span of 9 (nine) days indicates that respondent no. 3 has not properly assessed the figures of permanent duty posts of existing strength of service for determination of number of

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Trainee Reserve for the year 2018.

Under the above circumstances, the notice dated April 21, 2018 issued by the respondent no. 6 has definitely caused prejudice to the applicants. Accordingly, the operation of notice dated April 21, 2018 issued by the respondent no. 6 is stayed till the disposal of the Original Application. The applicants are at liberty to participate in the second round or further counselling for admission to PG Course, subject to final decision of the Original Application. The admission of the applicants in PG Course without obtaining sponsorship certificate will also be subject to the final outcome of this Original Application.

With the above interim order, Miscellaneous Application No. 57 of 2018 stands **disposed of**.

Let urgent plain copy of this order be supplied to all the parties.

An urgent xerox certified copy of the order, if applied for, be given to the parties on priority basis on compliance of necessary formalities.

Sanjib

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)