

HIGH COURT OF SIKKIM
Record of Proceedings

I.A. No.01 of 2025 and I.A. No.02 of 2025
in WP(C) No.27 of 2025

NILESH TIWARI

PETITIONER

VERSUS

UNION OF INDIA AND OTHERS

RESPONDENTS

CORAM : **THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE**

For Petitioner	Mr. Nirankush Dahal, Advocate. Mr. Arun Rai, Advocate.
For Respondents	
R-1	Ms. Sangita Pradhan, Deputy Solicitor General of India.
R-2	Mr. T. R. Barfungpa, Advocate. Ms. Pravin Manger, Advocate.
R-3	Mr. Yadev Sharma, Government Advocate. Ms. Pema Bhutia, Assistant Government Advocate.
R-4	None present.
R-5	None present.

Date of Hearing	:	05-11-2025
Date of Pronouncement	:	05-11-2025
Date of Uploading	:	06-11-2025

ORDER (ORAL)

1. The Petitioner is before this Court in I.A. No.01 of 2025, seeking appropriate directions to the Respondent No.2, to permit him to appear in the regular first examination, for the 3rd year MBBS course, scheduled to be held in the second week of November, 2025. Should permission not be granted, it would cause severe prejudice and irreparable hardship to his academic career and future prospects.

2. In I.A. No.02 of 2025, the Petitioner seeks to file additional documents to fortify his averments made in the I.A. (*supra*). Both Petitions are being taken up for consideration. As there are no specific objections to the documents submitted in I.A. No.02 of 2025, the documents are taken on record and the I.A. disposed of.

3. It is submitted by Learned Counsel for the Petitioner, that, the Petitioner had appeared in the supplementary examination for the

HIGH COURT OF SIKKIM
Record of Proceedings

2nd year MBBS course. The results of the said examinations were declared on 12-03-2025. The results of the Petitioner were unfortunately withheld on grounds of non-payment of requisite fees by the Petitioner. Learned Counsel has drawn the attention of this Court to Annexure R-10, document filed by the Respondent No.2, in its response to the Petitioner's I.A. No.01 of 2025, which is an Order dated 09-09-2021, of the Respondent No.2 University, which, it is urged, indicates that results of any student will be withheld if fees are not paid. Pausing here momentarily, in my considered view this document is of no assistance to the plea put forth by the Petitioner. The Petitioner had deposited an amount of ₹ 11,18,571/-, on 30-10-2023 (Annexure A-2 at Page 12 of I.A. No.02 of 2025), to the Respondent No.2 as second instalment fees for 2022-23. It is further submitted by Learned Counsel for the Petitioner that, the above instalment of 2022-23 was followed by deposit of a sum of ₹ 3,61,429/-, on 16-11-2023. That, the Petitioner had difficulty in paying fees from the third instalment of 2023-24. The third instalment of fees, for the year 2023-24 amounting to ₹ 18,33,000/- for which the due date was 01-09-2023 and the last date for payment was 31-01-2024 was not deposited by him neither was the fourth instalment of fees for the same amount, for the year 2024-25, deposited by him. This was the reason for withholding of his results by the Respondent No.2.

(i) It is admitted by Learned Counsel for the Petitioner that in the second year supplementary examination held in February and March 2025, he cleared only the paper on Pharmacology but failed both in Microbiology and Pathology papers. Learned Counsel however canvassed the point that, such failure is attributable to discrepancies in

HIGH COURT OF SIKKIM
Record of Proceedings

the corrections of his examination papers in which he was deprived of the requisite pass percentage. The inability to pay the fees was for the reason that consequent upon the withholding of the results, the Bank refused to grant further loan to him of more than ₹ 11,18,571/-. Had his results been released, he would have been able to obtain the required loan amount and paid the fees. On this count Learned Counsel has placed reliance on Annexure A-3 of I.A. No.02 to indicate that he had applied for a loan of ₹ 40,00,000/- (Rupees forty lakhs) only, but only ₹ 11,00,000/- (Rupees eleven lakhs) only, was disbursed to him. This amount was paid by the Petitioner to the Respondent No.2, on 31-10-2023. It is also the admission of the Petitioner that there are no averments in this context in the Writ Petition. Hence, in light of the foregoing difficulties faced by the Petitioner he may be allowed to appear in the first phase examination of the 3rd year to be held on 10-11-2025 and the Respondent No.2 be directed accordingly.

3. Repelling the arguments advanced by Learned Counsel for the Petitioner, Learned Counsel for the Respondent No.2 submits that, in the first instance there are no averments in the Writ Petition with regard to withholding of the results of the Petitioner and denial of permission to him, to appear in the examination. These facts have only been averred for the first time in I.A. No.01 of 2025, which is not permissible. Learned Counsel pointed to the fact that the Petitioner has relied on the Office Order of the Respondent No.2, dated 09-09-2021, which at Clause 2 specifies that, should any student, under genuine ground or consideration, be allowed to write the examinations while still having outstanding financial dues, the results of such a student shall be mandatorily withheld. It is further cautioned therein that, results would

HIGH COURT OF SIKKIM
Record of Proceedings

be processed and released upon the Institution confirming in writing, that all fee dues have been fully cleared and remitted by the concerned student. The Petitioner was well aware of this condition. Learned Counsel for the Respondent No.2 sought to clarify that in the examination held in December, 2023 – January, 2024, which was the first regular examination for the second year, the Petitioner failed to clear the internal examinations. His attendance also fell short of the bar set by the National Medical Council (NMC). In February – March, 2025, he was allowed to take the supplementary examination, despite not having taken the regular examinations in December, 2023 – January, 2024 and not having cleared his fee dues. That, the permission granted to him to sit for the examination despite non-payment of fees is revealed in Annexure R-1. On 05-03-2025, a reminder was sent to him for payment of fees as duly reflected in Annexure R-2. However, he failed to make the necessary payments, therefore when the results were declared on 12-03-2025, his results were withheld.

4. Learned Deputy Solicitor General of India for the Respondent No.1 and Learned Government Advocate for the Respondent No.3 had no submissions to advance.

5. I have heard the rival contentions advanced by Learned Counsel for the parties at length and perused the pleadings, including the I.A's and documents relied on by the Petitioner and Respondent No.2.

6. The following facts can be culled out from the pleadings and submissions advanced by Learned Counsel for the parties;

- (a) *The Petitioner belongs to the 2021 MBBS batch. On account of the COVID-19 Pandemic, the batch joined the course only in March, 2022.*

HIGH COURT OF SIKKIM
Record of Proceedings

- (b) *In January – February, 2023, the regular first year examination for the said batch (supra) was held. He was unsuccessful in the said examination.*
- (c) *In March-April, 2023, supplementary examinations were held. The Petitioner did not clear two subjects initially, but on re-evaluation he was declared to have passed in two subjects. He remained unsuccessful in one subject.*
- (d) *As he failed in the said supplementary examination, the Petitioner had to repeat the first year MBBS course.*
- (e) *The first regular examination for the batch of the 2022 was held in November – December, 2023. He passed in the first regular examination. He was promoted to the second year.*
- (f) *The first regular examination of the second year for his batch was held in December, 2024 – January, 2025. He was ineligible to appear in this examination as he did not clear the internal examinations. He also fell short of the attendance norms.*
- (g) *Despite these circumstances, in February – March, 2025, after due consideration by the Respondent No.2, he was permitted to take the supplementary examination, although he had not paid the fees, on his undertaking to make good the shortfall in payment of the fees. He failed to clear the examination.*
- (h) *The records relied on by the Respondent No.2 which are not denied by the Petitioner, indicate that the third instalment of fees for 2023-24 amounting to ₹ 18,33,000/- for which the due date for payment was 01-09-2023 and the last date was 31-01-2024 was not paid by the Petitioner as also the fourth instalment for the year 2024-25 for the same amount, for which the due date for payment was 01-09-2024 and the last date was 31-01-2025. The non-payment of the fees it may be recapitulated is an admitted position.*
- (i) *It is also apparent that there were no averments in the Writ Petition with regard to withholding of the result and not being allowed to appear in the examination. This is a new averment appearing only in I.A. No.01 of 2025 which he seeks to buttress by filing I.A. No.02 of 2025.*
- (j) *Annexure R-10 of the Respondent No.2, relied on by the Petitioner, being an Office Order dated 09-09-2021 lays down that on non-payment of fees, the results would be withheld. The Petitioner having relied on this document was evidently well aware of such condition. Apart from which it is an admitted*

HIGH COURT OF SIKKIM
Record of Proceedings

position that he failed to clear the examination of the 2nd year held in February – March, 2025.

7. In the teeth of the foregoing facts and circumstances and the discussions that have emanated therefrom, I am of the considered view that the prayers made by the Petitioner cannot sustain and consequently cannot be granted.

8. I.A. No.01 of 2025 deserves to be and is accordingly dismissed as rejected.

Judge
05.11.2025

ds/sdl