

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3434 of 2015

- =====
1. Nilu Bharti daughter of Shri Suresh Kumar Modi, resident of Navratan Hata, Purnea
 2. Rochak Gupta, son of Shri Om Prakash Gupta, resident of Meena Bazar, Raxaul, East Champaran
 3. Akram Zaved son of Shri Anisur Rahman resident of Hospital Road, Bettiah, West Champaran
 4. Ali Khurshid son of Shri Khursheed Aziz, resident of Bhawanipur, Chatauni, East Champaran

.... Petitioner/s

Versus

1. Medical Council of India, through its Secretary, Pocket-14, Sector-8, Dwarka, New Delhi - 110 077
2. Union of India, through Secretary, Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi
3. State of Bihar, through the Chief Secretary, Government of Bihar, Old Secretariat, Patna, Bihar
4. Government of Bihar, Bihar Combined Entrance Competitive Examination Board, 2014 through its Chairman/Secretary, IAS Association Building, Near Patna Airport, Patna-14
5. Lord Buddha Koshi Medical & Hospital, through its Principal, State Highway No.107, Saharsa -852201, Bihar

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 5301 of 2015

=====

1. Rana Pratap Singh. Son of Ram Shanker Singh. Resident of House No.135-E, Ram Nagar Colony Industrial Area Gorakhnath Gorakhpur, U.P.- Pin-273015.
2. Babby. Son of Mr. Chetram Saini. Resident of House No. 90 near New Syndicate Bank Farrukh Nagar, Gurgaon, Haryana.
3. Mohammad Saleem. Son of Mohammad Shakzar. Resident of G-20, Anmol Bed Sheet Center, Tilak Complex, Madanganj, Kishanganj, Ajmer - Rajasthan.
4. Manish Rundla. Son of Roop Narayan Rundla. Resident of village - Tahsil Phulera Patel, Farm House Pin-303398, District - Jaipur, Rajasthan.
5. Chaman Saini. Son of Jaichand. House No. 24/2, Ward-5, Farrukh Nagar, Pin-122506, District - Gurgaon, District - Haryana.
6. Anil Kumar Ojha. Son of Sitaram Ojha. Resident of village and Post - Ranipur, District - Gonda, U.P.- Pin-271202.
7. Sumit Biswas. son of S.K. Biswas. Resident of House No.-199 Prem Nagar-2, Kirari Naugloi Delhi-110086.
8. Ghaiyoor Ahmad. Son of Late Hasibuddin. Resident of village - Kashibari, P.O. and Police Station - Jokihat, District - Araria, Bihar.
9. Abhiraj. Son of Jitendra Kumar Singh. Behind Saharsa College, Pratap Nagar, Saharsa.

.... Petitioner/s

Versus

1. Medical Council of India, through its Secretary, Pocket-14, Sector-8, Dwarka, New Delhi-110077.
2. Union of India, through Secretary, Ministry of Health and Family Welfare, Nirman

- Bhawan, New Delhi.
3. The State of Bihar, through the Principal Secretary, Health Government of Bihar, Old Secretariat, Patna, Bihar.
4. Government of Bihar, Bihar Combined Entrance Competitive Examination Board, 2014, through its Chairman/Secretary, IAS Association Building, Near Patna Airport, Patna-14.
5. Lord Buddha Koshi Medical & Hospital, through its Principal, State Highway No. 107, Saharsa-852201, Bihar.

..... Respondent/s

Appearance :
(In CWJC No. 3434 of 2015)

For the Petitioner/s : Mr. Y. V. Giri, Sr. Advocate
Mr. Nirmal Kumar Tripathi
For the MCI : Mr. K. Brijnandan
For the BCCEB: Mr. Vikes Kumar
For the State Mr. Rajendra Prasad

(In CWJC No. 5301 of 2015)

For the Petitioner/s : Mr. Bindhyachal Rai
For the Respondent/s : Mr. R.N. DUBEY- AAG12

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 06-04-2015

06.04.2015 Heard learned Sr. counsel for petitioners,
counsel for the MCI as well as counsel for the State.

Admissions have been provided to these students by Lord Buddha Koshi Medical College and Hospital, Saharsa, Bihar in M.B.B.S. Course, as a follow up action taken in pursuance to the Orders passed by the Hon'ble Supreme Court in Writ Petition (Civil) No. 469 of 2014. The Orders are dated 18.09.2014 and 25.09.2014, contained in Annexure-2 and 5 of the writ. After admission these students have been pursuing their study, till all of a sudden Annexure-8, dated 30th of December, 2014 came to be passed, removing the

students from the rolls of the college on the ground that admission has been granted to the 19 students in contravention of the Orders of the Hon'ble Apex Court. Petitioners want quashing of this order, i.e., Annexure-8.

In the normal course of things, if the Medical Council of India was of the considered opinion, based on so called legal advise that certain institutions have misread the directive of the Hon'ble Apex Court, contained in Annexure-2 and Annexure-5, in the interest of things the MCI should have approached the Hon'ble Apex Court for guidelines and clarification with regard to such institutions, especially when the main writ is still pending, the two Orders were interim Orders. Without taking such a recourse an unilateral decision without giving any opportunity of hearing to the candidates was taken and their studies stopped due to removal. This was when they had been pursuing their studies and were half way through the academic year. This was an arbitrary and unilateral decision, which does require intervention by this Court.

The explanation given by the MCI in relation to the so called violation could have been very well placed before the Hon'ble Supreme Court and suitable guidelines obtained before such a serious decision,



telling upon the future of the students, was required to be taken.

In the interest of the students as well as keeping the objective behind passing of the two Orders, contained in Annexure-2 and 5, by the Hon'ble Apex Court, this Court quashes Annexure-8, dated 30th of December, 2014.

Let the Medical Council of India seek appropriate direction from the Apex Court before any order in this regard is required to be passed afresh, especially when the Writ Petition (Civil) No. 469 of 2014 is pending.

Writ application is allowed.

Students will be allowed to pursue their study till an appropriate clarification, Order or directive is obtained by the MCI.

SKM/-

(Ajay Kumar Tripathi, J.)

U			
---	--	--	--