

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16182 of 2016

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Ankit Raj, S/o Amresh Kumar, R/o House No.2062, Janta Flats, GTB Enclave, Nandnagari, North East Delhi- 110093 through his Guardian Amresh Kumar Resident of C/o Dr Ram Sharan Prasad Singh, Gaya Sadan, Behind Jamuna Apartment, North S.K.Puri, Patna- 800 001

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Department of Health and Family Welfare, New Delhi
2. The State of Bihar, through the Chief Secretary, Government of Bihar, Old Secretariat, Patna, Bihar
3. Principal Secretary, Department of Health, Medical Education and Family Welfare, Government of Bihar, Patna
4. Director, Medical Education, Bihar
5. Bihar Combined Entrance Competitive Examination Board, through its Controller of Examination, IAS Association Building, Near Patna Airport, Patna- 800014
6. Medical Council of India through its Secretary, New Delhi
7. Narayan Medical College & Hospital through its Principal At + P.O. Jamuhar, District Rohtas (Bihar) Pin- 821305
8. Katihar Medical College & Hospital through its Principal, Katihar, Karim Bagh, Katihar, District Katihar (Bihar) Pin- 854105
9. Mata Gujri Memorial Medical College through its Principal, Kishanganj, Purabballi, Dinajpur Road Kishanganj, District Kishanganj (Bihar) Pin- 855107

.... Respondent/s

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Appearance :

For the Petitioner/s :	Mr Dinu Kumar Mr. Arvind Kumar Sharma Ms Ritika Rani Mr Deepak Kumar Mr Ritu Raj
For the State:	Mr. S.D.Yadav, AAG 9 Mr N.P.Yadav, SC 23
For Respondent 7 & 8 :	Mr P. K. Shahi, Sr. Advocate Mr Amish Kumar Mr Shailendra Kr. Singh
For Respondent 9 :	Mr S.S.Dvivedi, Sr. Advocate Mr Ranjan Kumar Dubey Mr Parth Gaurav Mr Anshu Raj Singh Mr Prajesh Kumar Ms Shambhavi Shankar Mr Sanjay Kr. Srivastava Mr Dharmeshwar Mishra
For Union of India :	Mrs Nivedita Nirvikar, CGC
For Board :	Mr Vikas Kumar
For MCI :	Mr Kumar Brijnandan Mr Tanees Hameed

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 30-11-2016



Petitioner was one of the candidates, who applied and qualified in NEET, 2016. The NEET was introduced for the first time in the year 2016 on the judgment and direction issued by the Hon'ble Apex Court to have a unified process of examination and admission in under graduate medical colleges across the country vide judgment in the case of *Sankalp Charitable Trust v. Union of India, reported in AIR 2016 SC 2159*. No exceptions were made for any college or institution.

2. Since such a declaration was made from the highest court of the land, under the constitutional scheme of things, every authority and citizen is duty bound to honour the law laid down by the Hon'ble Apex Court. However, the reason for this petitioner to approach the Court is that he was denied opportunity for participation in a centralized counselling because certain private medical colleges operating in the State of Bihar ignored the directive of the Apex Court and improvised their own means and mechanism for taking admission into their colleges. This, in the opinion of this Court, was a reprehensible conduct on the part of the private medical colleges, which are before this Court as respondents. They have offered explanation that in terms of a previous direction of the Hon'ble Supreme Court rendered in the case of *Islamic Academy of*

Education v. State of Karnataka, reported in (2003) 6 SCC 697, there is a committee headed by a former High Court Judge under whose supervision they have been conducting examinations and also providing admission and it is the same procedure which has been followed even this time after due consultation with the committee and the State of Bihar.

3. In the opinion of this Court, such a mechanism has no place within the framework of law as it exists now. The Islamic Academy case (supra) was rendered in a situation where there was no unified direction by the Hon'ble Apex Court for conduct of examination and admission. Whatever arrangement was made after the Islamic Academy case have lost its meaning and effect. The Court must also observe that from the affidavits and the material brought on record by the State of Bihar, it appears that they have also played into the hands of the private medical colleges and the reason for doing so is not required to be spelt out in one to many words for the reason that the stakes of financial kind in grant of such admission is widely known.

4. In normal course of things, all the admissions, which have been given by the medical colleges in violation of the Hon'ble Apex Court decision, should have been struck down and a direction should have been given for holding a centralized counselling and give an opportunity to one and all and admissions should have been taken



on the basis of the centralized counselling but since the present petitioner approached the Court a little late and the respondents have also taken their time to respond, the deadline which has been fixed by the Hon'ble Supreme Court by way of a calendar for admission and teaching etc., is already over. If the Court would have come down heavily, which it was entitled to do so, then all these seats would have remained vacant and even the students, who have been given admission, would have suffered at the hands of such institutions, which basically duped them into admission by reaching out to them as if the procedure adopted is supported by law.

5. For these two considerations and the chaos, which would have been created by cancelling the admissions, the Court as a matter of prudence and as an indulgence only for this year, directed all the medical colleges to file a categorical affidavit in no uncertain terms that they are willing and shall abide and fall in line with the directives, which have been issued by the Hon'ble Supreme Court, or any directions, which may come in future by way of clarification, modification etc. relating to the next NEET examination for the next year.

6. The affidavits of all the private medical colleges are unambiguous that they shall and will go by the dictate of the Hon'ble Supreme Court. There will be a centralized counselling and admission will be granted on the basis of the centralized counselling,



and not by the mechanism which they have been following under the old scheme of things under the old directive of the Hon’ble Supreme Court in the Islamic Academy case, which has no application as of now. The institutions in question are cautioned and warned that if they try to play any trick and evolve any methodology to defeat the right and claim of any student for the next year NEET by any innovation, the occasion may arise that they will be hauled up for contempt. There may be even occasion for imposing exemplary cost upon such institutions to send a message to one and all that nobody is above law or the law laid down by the highest court of the land. The Court has used these expressions specifically so that the import of the order is made loud and clear upon the players, who are in the dock today.

Writ application stands disposed of with a heavy heart that no relief could be given to the petitioner under the above circumstances.

(Ajay Kumar Tripathi, J)

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AFR/NAFR	AFR
CAV DATE	NA
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Transmission Date	NA