

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1585 of 2016

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Chandan Pathak @ Chandan, Son of Sri Shambhu Narayan Pathak, House No. 50/230, Pratap Nagar, P.S.- Sanager, District- Jaipur (Rajasthan).

.... Petitioner

Versus

1. The State of Bihar.
2. The Secretary, Medical Council of India.
3. Central Board of Secondary Education, Delhi, through its Chairman.
4. The Chairman, Central Board of Secondary Education, Delhi.
5. The Controller of Examination, Central Board of Secondary Education, Delhi.
6. The Director-in-Chief, Health Services, Government of Bihar, Patna.
7. The Principal, Darbhanga Medical College, Laheriasarai.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Triloki Nath Maitin, Sr. Advocate Mr. Manish Kumar No.13, Advocate Mr. Rohit Kumar, Advocate Mr. Jitendra Kumar Bharti @ Pappu, Advocate Smt. Nitu Singh, Advocate
For the State	:	Mr. Binodji Verma, G.P.17 Mr. Krishna Kumar Singh, A.C. to G.P.17
For C.B.S.E.	:	Mr. Vinay Krishna Tripathi, Advocate
For M.C.I.	:	Mr. Kumar Brijhendra, Advocate Mr. Tanees Hameed, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 29-03-2016

Annexure-1, dated 08.01.2016 issued by the Principal of

Darbhang Medical College, Laheriasarai is under challenge in the present writ application. By virtue of this order, name of the petitioner has been struck off from the rolls of the M.B.B.S. course for the batch of 2014-19 and he has been barred from attending any classes or deriving any privileges of the course in the said institution. Petitioner wants quashing of this impugned order as also a direction upon the respondent authorities to reinstate him and permit him to

continue with his studies as a M.B.B.S. student.

2. The factual matrix behind the present litigation is that the petitioner participated in the All India Pre-Medical/Pre-Dental Entrance Test conducted in the year 2014 by the Central Board of Secondary Education. He belongs to the general category and since he considered himself to be eligible in all respect, he applied. Admit Card was issued. He participated in the entrance examination and got 199 rank which made him eligible for allotment of a seat in Darbhanga Medical College, Laheriasarai in the State of Bihar. Petitioner took admission under the unreserved seat for the batch 2014-2019. He continued to pursue his studies till Annexure-1 was issued against him.

3. Learned senior counsel representing the petitioner submits that the petitioner after having been permitted to pursue his studies for more than a year cannot be barred or thrown out in a cursory manner. No reason has been assigned in the order contained in Annexure-1 as to why he is being debarred from continuing his studies in the course of M.B.B.S.

4. Counter affidavit came to be filed both on behalf of the Medical Council of India as well as the Central Board of Secondary Education. There is no mystery as to why the decision contained in Annexure-1 came to be taken place. It is evident from the



stand of the Medical Council of India that Medical Council of India made a review of all the students who were given admission on the basis of the entrance examination and had sought details about such candidates from all the colleges who had granted admission on the basis of performance in the entrance examination. During the course of such review, it came to the notice of Medical Council of India that the present petitioner did not fulfill the eligibility and the requirements as laid down in the Graduate Medical Education Regulation of 1997 which is that every candidate must have a minimum of 50% marks in the combined result of Physics, Chemistry and Biology in +2 examination. The petitioner had 47% marks in the papers in +2 examination, therefore, he was not eligible to either apply or sit for the examination in the very first place. However, on the basis of his application and declaration, he did participate and succeeded in getting a rank in the entrance examination. This facilitated a letter of eligibility being issued in his favour, for admission at Darbhanga Medical College.

5. It was the duty of the college to verify from the records and the certificates produced at the time of counselling whether the petitioner had completed all the eligibility or not but for some strange reason, the college authorities without verifying the above position, granted admission to the petitioner and allowed him to



continue despite several reminders and directions issued by Medical Council of India. The earliest of them being on 23.01.2015. It is only when the Medical Council of India took a very firm view of the matter that the Principal of Darbhanga Medical College issued the impugned order on 08.01.2016 after a delay of almost a year.

6. Counsel for C.B.S.E. as well as Medical Council of India unanimity take a plea that the petitioner has played fraud with the system by wrongly declaring his eligibility for participation in the entrance examination because the application form itself indicates as to what was the requirement needed for participation in such entrance examination. Despite the petitioner knowing fully well that he did not have 50% marks in Physics, Chemistry and Biology in +2, he made a declaration and participated in the examination and got a rank and took advantage thereof by getting admission when he was not eligible to sit for the examination in the very first place.

7. The standards which have been fixed by Medical Council of India in terms of the Medical Education Regulation are mandatory in nature and they have to be fulfilled. Merely because the petitioner managed to get a rank in the entrance examination and by oversight even got admission because of the negligence or connivance of the medical college in question, it does not mean that equity runs in his favour.



8. An ineligible candidate remains ineligible through and through till he earns the eligibility. In this case the occasion for earning the eligibility does not arise because the petitioner has and had less than 50% marks in the +2 examination in Physics, Chemistry and Biology stream, therefore, he can never succeed in sitting for any examination which are held and conducted by Central Board of Secondary Education till the benchmark of 50% is lowered.

9. Learned senior counsel for the petitioner relies on a decision of the Hon'ble Supreme Court reported in (2010) 10 SCC 233 (*Monika Ranka v. Medical Council of India*) for the proposition that in a similar situation, merely because a candidate was allowed to continue his studies for more than a year, the Hon'ble Supreme Court allowed such a candidate to complete his studies.

10. The counsel representing C.B.S.E. submits that the facts are totally different in the case cited above. In that particular case, it was a question of not getting 50% marks in the entrance examination and not in the +2 examination. In this case, the petitioner did not have eligibility in the very first place to sit for the examination but despite that fact being known to the petitioner, he took a chance and that chance cannot become a right for him.

11. Therefore, the proposition of law pressed into service by learned senior counsel may not help him in the given facts of the

case. The reason for removal of the petitioner is justified in law and facts.

12. The writ application, therefore, has no merit and the same stands dismissed.

(Ajay Kumar Tripathi, J.)

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