

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1043 of 2016
Arising out of
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)

.... Appellant/s

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

.... Respondent/s

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Appearance :

For the Appellant/s	:	Smt. Archana Sinha, Advocate Smt. Shalini Bihari, Advocate Mr. Vivek Kumar, Advocate
For the CBSE	:	Mr. Vinay Krishna Tripathy, Advocate
For the MCI	:	Mr. Kumar Brijnandan, Advocate Mr. Tarees Hameed, Advocate
For the State	:	Mr. Raj Kishore, Rai, GP-18

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 10-02-2017

Heard learned counsel for the parties.

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 29th of March, 2016 in CWJC No. 1585 of 2016 whereby, the writ application filed by the appellant challenging the cancellation of his admission vide order dated 8th January, 2016 remained unsuccessful.



The appellant was admitted to MBBS Course for the batch 2014-19. The eligibility condition for admission is that a candidate must have obtained 50% marks in the combined result of Physics, Chemistry and Biology in +2 examinations. But the appellant had obtained only 47% marks in the three subjects in +2 examinations. He appeared and qualified in the Entrance Examination and was admitted in Darbhanga Medical College, Laheriasarai. When the lack of eligibility came to the notice, the Medical Council of India directed the College to cancel the admission and in pursuance of such direction an order was passed by the Darbhanga Medical College on 8th January, 2016.

The undisputed fact is that the appellant had not obtained 50% marks to make him eligible for admission to MBBS course. It is the lack of eligibility condition which led to the cancellation of the admission.

The argument of learned counsel for the appellant is that he has not withheld any information and it was the responsibility of the Medical College to verify the eligibility condition. Once the College has admitted the appellant, therefore, the appellant cannot be burdened to the evil consequences of not satisfying the eligibility condition. Reliance is placed upon a judgment of the Supreme Court reported as R.Vishwanatha Pillai



Vs. State of Kerala & Ors., (2004) 2 SCC 105.

The eligibility conditions were made known to the candidates when the candidates are to appear in the All India Entrance Examination. Thus, even without satisfaction of the eligibility conditions, the appellant appeared in the Entrance Examination. Obviously, such appearance is subject to his own risk. Since the very eligibility conditions were not fulfilled, he was not eligible to sit in the Entrance Examination and subsequently to be admitted in the Medical College in MBBS Course. Therefore, the direction of the Medical Council of India that the admission should be cancelled, cannot be said to be illegal.

In fact, the judgment of the Supreme Court reported as R.Vishwanatha Pillai' case (supra) is not applicable to the facts of the present case. In the said case, caste certificate was cancelled subsequently, the candidate has sought admission and has completed the course under the interim order of the Court. It is in these circumstances the Supreme Court has allowed the candidate to be granted degree. Here, the basic question is lack of eligibility for admission. Once the eligibility criteria is not satisfied by the appellant, the appellant could not have been admitted and consequently, cannot be allowed to complete the course in any circumstance.



Consequently, we do not find any merit in the present Letters Patent Appeal. The same is dismissed.

(Hemant Gupta, ACJ.)

S.Pandey/-

(Sudhir Singh, J.)

AFR/NAFR	NAFR
CAV DATE	NA
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