

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.18051 of 2016**

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Rukasana Parveen, D/o Safiuddin Ahamad, Resident of at National Enterprises, Bari Bazar, Gopalganj, P.S.- Gopalganj, District-Gopalganj.

.... .... Petitioner/s

Versus

1. The Medical Council of India through Its Secretary, Pocket-14, Sector-8, Dwarika, New Delhi.
2. The Chairman, Medical Council of India, Pocket-14, Sector-8, Dwarika, New Delhi.
3. The Secretary, Medical Council of India, Pocket-14, Sector-8, Dwarika, New Delhi.
4. The Deputy Secretary, Medical Council of India, Pocket-14, Sector-8, Dwarika, New Delhi.
5. President, Medical Council of India (Bihar), Road No. 11B, Rajendra Nagar, Patna- 800016.
6. The Secretary, Bihar School Examination Board, Sinha Library Road, Patna.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Md. Obaidullah, Adv.

For the MCI : Mr. Kumar Brijnandan, Adv.

For the Board : Mrs. Namrata Mishra, Adv.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI  
SHARAN SINGH**

ORAL JUDGMENT & ORDER

**Date: 12-05-2017**



The petitioner has sought for quashing of communication, dated 25.10.2015, issued under the signature of the Assistant Secretary, Medical Council of India (*hereinafter referred to as the 'MCI'*), whereby, the petitioner's application to issue eligibility certificate for giving the Foreign Medical Graduate Examination (Screening Test), for the purpose of practicing Medicine in India, has been rejected. He has also sought for a direction to grant eligibility certificate, under Section 14(B) of the Indian Medical Council Act, 1956, to appear for the said Screening Test.

**2.** The refusal of petitioner's application is on the ground that he had not studied English as a subject at standard-XI<sup>th</sup> level and he had subsequently studied the said subject as an additional subject after passing standard-XII<sup>th</sup> examination. This, according to the MCI, is in violation of Regulations on Graduate Medical Education, 1997, which requires a candidate to undergo two years of study in English, Physics, Chemistry and Biology for issuance of eligibility certificate.

**3.** I have learned counsel for the petitioner, learned counsel for the MCI as well as learned counsel representing the Bihar School Examination Board.

**4.** This is not in dispute that the issue involved in the present case has been decided by this Court,



in case of "**Aiman Kamal Vs. The Medical Council of India & Ors.**" (L.P.A. No. 1136 of 2015), in which case the petitioner had cleared subject Biology after having passed XII<sup>th</sup> examination in other subjects, *i.e.*, Physics, Chemistry and Mathematics. The Division Bench in case of **Aiman Kamal** (supra), has held in paragraph 32 as follows:-

*"32. The plea, taken by Mr. Giri, learned Senior Counsel, that Regulation 13 of the Regulations of the Council on Graduate Medical Education, 1996, being in conflict with Rule 11 of the Bihar Intermediate Education Council (Establishment of Colleges and Conduct of Examination) Rules, 1994, and, therefore, the claim of the appellant having condition of eligibility for admission to MBBS course cannot be accepted at this stage for more than one reasons. There is no such mention in the impugned order passed by the Medical Council of India rejecting the appellant's claim. Secondly, there is no pleading on record that the said qualification acquired by the appellant being in conflict with Rule 11 of the Bihar Intermediate Education Council of India, the Medical Counsel of India rejected the appellant's claim. Thirdly, as is evident from the decision of Medical Council of India, it appears to*



*be based on the sole reasoning that the appellant did not fulfill the conditions of eligibility as prescribed under Regulation 4(2) (a) of the Regulations of the Council on Graduate Medical Education, 1996.”*

5. Learned counsel, appearing on behalf of the MCI, has submitted that the MCI has preferred Special Leave Petition against the Division Bench decision of this Court in case of **Aiman Kamal** (supra), registered as *SLP (C) No. 36583 of 2016*, which is pending after issuance of notices upon the parties.

6. Be that as it may, since there is no stay of the Division Bench decision in case of **Aiman Kamal** (supra), the Secretary, MCI, is directed to consider the petitioner’s case afresh in terms of the direction given in paragraph 34 of the decision in case of **Aiman Kamal** (supra).

7. This application stands disposed of accordingly.

**(Chakradhari Sharan Singh, J)**

Praveen-II/-

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