

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.818 of 2016**

**In**  
**Civil Writ Jurisdiction Case No.4734 of 2014**

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1. The State of Bihar through the Chief Secretary, Government of Bihar
  2. The Principal Secretary, Department of Health, Government of Bihar
  3. The Joint Secretary, Department of Health, Government of Bihar
  4. The Additional Secretary, Department of Health, Government of Bihar

... .. Appellant/s

Versus

Dr. Parmit Tiwary Son of Dr. K. Tiwary resident of Daudpur Kothi, Police Line Muzaffarpur, P.S. P.S. MIT Police Station, Distt. Muzaffarpur

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Ashutosh Ranjan Pandey, AAG 15  
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**  
**and**  
**HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)**

**Date : 08-12-2017**

Though we are not satisfied with the reasons assigned in the condonation application, which is I. A. No.3253 of 2016, where delay has been caused to the extent of 214 days, in the larger interest, the Court is willing to condone the delay and allow the application for condonation to examine the correctness or otherwise of the decision of the learned Single Judge since it has implications.



The learned Single Judge disposed off the writ application by giving an expanded meaning to the definition given in the rule that experience in government sector is not required to be confined to the nine Medical Colleges of the State of Bihar. Submission of the learned Additional Advocate General 15 is that there is an object and reason for the experience in the medical institution in the State of Bihar, which has been given a position of supremacy because after all these appointments are required to be made in the Medical Colleges of the State of Bihar.

There are two significant aspects, which has been taken note of by the learned Single Judge. One, that experience in a government sector is not a desirable qualification but weightage is required to be given for such experience. In other words, the basic eligibility is not altered in any manner in matter of such selection or eligibility for such selection. The other aspect, which has been taken note of by the learned Single Judge, is that the experience in government sector cannot be confined to the Medical Colleges of the State of Bihar because there is no rationality as to why the Medical Colleges and the institutions run by other State Governments or even by Central Government should be excluded for the purposes of giving weightage.



In fact, we are of the opinion that by restricting the experience only to the Medical Colleges of the State of Bihar, the State Government is creating some kind of discrimination against institutions which are also government run and may be such candidates will carry better experience and exposure from institution of repute, one of them having been noted in the order is All India Institute of Medical Sciences.

We are not satisfied that any interference is warranted with the order of the learned Single Judge. The appeal, therefore, is dismissed being devoid of merit.

**(Ajay Kumar Tripathi, J)**

**( Rajeev Ranjan Prasad, J)**

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