

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7031 of 2017

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1. Dr. Aman Kishor Son of Upendra Prasad Singh, Resident of Village-Khawaspur, P.O.- Khawaspur, Via- Pirpanti, P.S.- Pirpanti, District-Bhagalpur. Presently residing at Room No.- 15, DH 2, NMCH, Agamkuan, Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Medical Education and Family Welfare, Government of Bihar, Patna.
3. The Secretary, Department of Health, Medical Education and Family Welfare, Government of Bihar, Patna.
4. The Additional Secretary, Department of Health, Medical Education and Family Welfare, Government of Bihar, Patna.
5. The Director, Department of Health, Medical Education and Family Welfare, Government of Bihar, Patna.
6. The Chairman, Bihar Combined Entrance Competitive Examination Board, Government of Bihar, I.A.S. Association Building, Near Patna Airport, Patna- 14.
7. The Medical Council of India through Secretary, Pocket- 14, Sector-8, Dwarka Phase-1, New Delhi- 110075.
8. The Union of India through Secretary, Health, Ministry of Health and Family Welfare, Government of India, Nirman Bhawan, Maulana Azad Road, New Delhi- 110011.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jagjit Roshan
For the Respondent/s	:	Mr. Binod Kr. Yadav- SC-18
For Union of India	:	Mr. S. D. Sanjay, Addl. S.G. Dr. Punam Kumari Singh, AC to ASG
For MCI	:	Mr. Kumar Brijnandan

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL JUDGMENT & ORDER

2 16-05-2017

Heard learned Counsel for the parties.

2. The petitioner belongs to Scheduled Tribes category. He had appeared in National Eligible cum Entrance Test (NEET) held by National Board of Examinations in the



year 2017 for admission to P.G. Medical Courses.

3. This is not in dispute that he does not satisfy the minimum criteria for admission to the said Course since he has scored less marks than 40 percentile, which is the minimum prescribed under Sub clause (III) of Clause 9 of Post Graduate Medical Education Regulation, 2000 (hereinafter referred to as the Regulations). The proviso to Sub clause (III) of Regulation 9 enables the Central Government, in consultation with the Medical Council of India, to relax the said requirement in appropriate cases when sufficient numbers of candidates, in a particular category do not qualify on the basis of minimum percentile fixed.

4. In similar situation, this Court in case of **Dr. Deepak Kumar Vs. State of Bihar and Anr** (CWJC No. 5087 of 2017) has passed an order dated 02.05.,2017 to the following effect:-

"I do not think there can be any reason for overlooking the statutory provision either by the Central Government or by Medical Council of India in case the number of candidates are found to be insufficient in particular category/categories. I, therefore observe that if sufficient number of candidates are found available for admission to P.G. Courses in the State of Bihar, the State of Bihar may take up the issue with the Central Government and Medical Council of India for application of the proviso to Sub clause (III) of Clause 9 of the Regulations.



The observation, should, however, will not be treated as direction or command by this Court for any purpose.

The relief sought for in the present application cannot be granted in the facts and circumstances of the case as noted above. However, with the observation as above, this application stands disposed of."

5. Learned Counsel appearing on behalf of the Medical Council of India, has submitted that the Medical Council of India has refused to relax the said minimum requirement in one of the cases.

6. I do not need to comment upon that. It is up to the Central Government and the Medical Council of India to take a final decision as has been observed in case of **Dr. Deepak Kumar vs. State of Bihar & Anr.** (CWJC No. 5087 of 2017).

7. This application stands disposed of accordingly in terms of order of this Court in **Dr. Deepak Kumar Vs. State of Bihar** (supra).

(Chakradhari Sharan Singh, J)

ArunKumar/-

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