

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.393 of 2017

=====

Azhar Anwar, son of Syed Mohammad Anwar Alam, resident of Naaz Villa,
House No. 01, Road No. B/3, Ali Nagar, P.O. Anisabad, P.S. Gardanibagh,
District Patna

... .. Petitioner/s

Versus

1. The Chancellor, B. N. Mandal University, Laloo Nagar, Madhepura, Bihar
2. B. N. Mandal University, Laloo Nagar, Madhepura, Bihar, through its Vice Chancellor
3. The Vice Chancellor, B. N. Mandal University, Laloo Nagar, Madhepura, Bihar
4. The Registrar, B. N. Mandal University, Laloo Nagar, Madhepura, Bihar
5. The Controller of Examination, B. N. Mandal University, Laloo Nagar, Madhepura, Bihar
6. Katihar Medical College, through its Principal, Karim Bagh, P.O. Box No. 23, Katihar-854105

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Yugal Kishore, Sr. Adv. Mr. Ugranath Mallik Mr. Sanjay Kumar
For the University	:	Mr. Mithilesh Kumar Rai

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 13-10-2017 Heard learned Senior Counsel appearing on behalf of the petitioner and learned Counsel appearing on behalf of the University.

The petitioner seeks review of the order, dated 01.09.2017, passed in CWJC No. 10965 of 2017, whereby a writ application filed on his behalf, seeking direction to the respondent-B. N. Mandal University, Madhepura, to allow him grace marks for the purpose of declaring him pass in Pathology paper of Second MBBS Professional Examiantion (theory), came to be



dismissed.

One of the reasons assigned in the order, dated 01.09.2017, is that maximum 5 marks can be awarded as grace marks to a student and since the petitioner was less by 5.5 marks to achieve pass marks, no direction could be issued.

Learned Senior Counsel appearing on behalf of the petitioner has attempted to impress upon me that the petitioner, in fact, had scored only 5 marks less than the pass marks and the observation made by this Court that it was less than 5.5 marks is an error apparent on record. He has, for the said purpose, attempted to take me to the Medical Council of India Regulations on Graduate Medical Education, 1997, and the marks scored by the petitioner in the said subject.

I do not intend to go into that aspect in the present application for review since there are two other reasons assigned in the said order for rejecting the petitioner's claim. Regulation 13 (10) of the Medical Council of India Regulations on Graduate Medical Education, 1997, confers discretion on the University to allow grace marks.

I have taken a view that no direction can be given to exercise discretion in a particular way. There is another reason assigned in paragraph 8 of the said order, which is self evident.



Learned Senior Counsel has submitted that the reason given in paragraph 8 of the order cannot be sustained in view of the Division Bench decision of this Court, in the case of **Roma Jha v. B. N. Mandal University through its Vice Chancellor and Others**, reported in **2017 (1) PLJR 323**.

The said decision has been taken note of in the order under review. An application of review cannot be decided as an appeal. I do not find any ground for review of the order is made out.

This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

Prabhakar Anand/-

U	✓		
---	---	--	--

