

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6064 of 2018

=====

Shobha Suman, W/o Uttam Kumar Sanchayan, Resident of Ward No. 20,
Laxmi Cinema Road, P.O./P.S./District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Health, Patna.
2. The Director General A.N.M. Registration Council, Department of Health, third floor, Room No. 330 (A), New Secretariat, Bailey Road, Patna.
3. The Examination Controller, A.N.M. Registration Council, Department of Health, third floor, Room No. 330 (A), New Secretariat, Bailey Road, Patna.
4. Principle, A.N.M. Training College, Samastipur.
5. Principle, A.N.M. Training College, Madhubani.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rakesh Chandra
For the Respondent/s : Mr. A.B. Sinha- Ga8

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 13-04-2018 Though, this application has been placed under the heading 'To Be Mentioned', since counter affidavits have been filed on behalf of the respondents, the same is being disposed of at this stage itself, in view of the specific stand taken on behalf of the respondents.

The petitioner is said to be pursuing A.N.M. course in A.N.M. Training College, Madhubani, for the sessions 2016-18. She has filed the present application seeking direction to the respondents to allow her to fill up examination form for the examination, which is scheduled to commence from 18.04.2018. It is her case that initially, she was regularly attending her



classes and was residing in the College Hostel at Madhubani, but since she developed serious ailment of 'scleritis diffuse' in her left eye (a type of eye cancer), she was advised to take special care. It is apparent that the petitioner could not attend minimum number of classes required.

In the counter affidavit filed on behalf of respondent no. 5, relevant portion of 'the Syllabus and Regulation for Auxillary Nurse and Midwives (A.N.M.)', provided by Indian Nurses Council has been brought on record by way of Annexure-C, which, *inter alia*, requires that a candidate must have minimum of 80 per cent attendance (irrespective of kind of absence) in theory and practical, in each subject for appearing in the examination. It is stated in the counter affidavit that the petitioner remained absent for 195 days against total days of 387 days.

Learned Counsel appearing on behalf of the petitioner has submitted that some of the candidates, who were on maternity leave and did not attend required number of classes, have been allowed to appear for the examination. It is his case that the action of the respondent is discriminatory.

If the respondents have acted in contravention of law/regulation in relation to some of the students, that cannot be



the basis for grant of any relief to the petitioner, since illegality cannot be allowed to perpetuate by judicial order.

The prayer made in this application cannot be entertained and the same is accordingly dismissed.

Before I close this order, I must indicate that the respondents shall be obliged to consider the circumstances in which other candidates, who also did not attend the required number of classes, are being allowed to participate in the process of examination.

(Chakradhari Sharan Singh, J)

Ashish/-

U	√		
---	---	--	--

