

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5750 of 2018

=====

Aviral Kashyap, Son of Dr. Ashutosh Kumar Jha, Resident of 'Katihar Seva Sadan', Jamuna Flour Mill Campus, Hospital Road, Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Health Department, Government of Bihar, Patna.
3. National Board of Examination, Government of Bihar, Patna.
4. Bihar Combined Entrance Competitive Examination Board through the Controller of Examinations, I.A.S. Association Building, Near Airport, Patna-800014.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Gyanand Roy
For the State	:	Mr. Ajay Bihari Sinha, GA 8
		Mr. Suryakant Kumar, AC to GA 8
For the Board	:	Mr. Prasoon Sinha

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 11-04-2018 The petitioner seeks direction to the respondents, particularly, respondent no. 4, the Bihar Combined Entrance Competitive Examination Board (BCECEB), to allow him to participate in the process of admission to Post Graduate Medical course against the seats available in State Government-owned medical colleges against State Quota seats.

This is not in dispute that the petitioner has passed the qualifying MBBS examination from a college situated outside the State of Bihar. The BCECEB is conducting the Post Graduate Medical Admission Counselling against 50 per cent State Quota seats of MD/MS/PGD and PG Dental courses,



based on merit list of NEET (PG)-2018 and NEET (MDS)-2018. The petitioner is an applicant. The applications were to be made online. It has been indicated, in an electronically generated information by the BCECEB in the petitioner's online application that he is eligible for admission in private medical colleges of Bihar only.

It is the petitioner's case that his application should be considered for admission in Government owned medical colleges also.

The BCECEB has issued prospectus, Clause 6.1 of which lays down, *inter alia*, educational qualification. Clause 6.1.(i) of the said prospectus reads thus:-

“(i) The candidates must have passed the M.B.B.S. Examination from any Medical College of Bihar State included in the schedule of Medical Council of India.”

The petitioner has grievance against such restriction, as present in Clause 6.1 of the prospectus issued by the BCECEB, who is a domicile of the State of Bihar.

Mr. Gyanand Roy, learned Counsel appearing on behalf of the petitioner, has submitted that such restriction is irrational and it should not have been applied to the residents of



the State of Bihar.

Mr. Prasoon Sinha, learned Counsel appearing on behalf of the BCECEB, on the other hand, has placed reliance on a Division Bench decision of this Court, in the case of **Bihar Combined Entrance Competitive Examination Board and Others v. Paritosh Kumar and Others**, dated 09.10.2013, in L.P.A. No. 1024 of 2013, to submit that the said requirement that a candidate must have passed M.B.B.S. examination from any medical college of Bihar State for admission to State Government-owned medical colleges has been upheld.

I find substance in the submission made by Mr. Sinha, after having seen the said judgment and order, dated 09.10.2013, passed in the case of **Paritosh Kumar** (supra).

Though the issue involved in the said case was slightly different and the challenge was to making reservation for 50 per cent of seats in Post Graduate Diploma courses for Medical Officers serving under the Bihar Government and had served at least three years in remote and difficult areas of the State out of 50 per cent State Quota seats. The Division Bench, while upholding reservation for serving Medical Officers, observed as follows:-

“The object and purpose was salutary to recognize those who not



only obtained their M.B.B.S. qualifications from an institution situated in the State, but also participated and assisted the State in its program for extending medical facilities in rural areas. The two clauses had to be read in unison as otherwise the clause regarding essential condition of eligibility was rendered meaningless.”

(Emphasis is added)

The correctness of the restriction prescribed in Clause 6.1.(i) of the prospectus, as noted above, cannot be gone into in the present proceeding, in view of the observation by the Division Bench of this Court, in the case of **Paritosh Kumar** (supra).

No relief, as sought for in the present writ application, can be granted. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

Prabhakar Anand/-

U	✓		
---	---	--	--

