

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3830 of 2018

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Fazal Ibrahim, Son of Naushad Shahid, Resident of Mohalla- Garhpar, P.O.+
P.S.- Biharsharif, District- Nalanda, Bihar Pin Code- 803101.

... .. Petitioner

Versus

1. The Union of India through the Secretary, Human Resourced Department, Govt. of India, Delhi.
2. The Director, Central Board of Secondary Education, Delhi.
3. The Director, National Eligibility-cum- Entrance Test (U G) 2018 Delhi.
4. The Deputy Secretary, National Eligibility-cum- Entrance Test Unit, Delhi.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Premchandra yadav
For the Union of India	:	Mr. S. D. Sanjay, Addl. Soc. Gen.
For the CBSE	:	Mr. Vinay Krishna Tripathy
For the MCI	:	Mr. Kumar Brijnandan
		Mr. Tarees Hameed

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 14-03-2018 The petitioner, in the present writ application, is aggrieved by Clause (viii) of the admission notice, issued by the Central Board of Secondary Education, for holding National Eligibility -cum- Entrance Test (NEET) (UG), 2018, which reads as under:-

“(viii) Candidates who have passed 10+2 from Open Schools or as Private candidates shall not be eligible to appear for National Eligibility -cum- Entrance Test-UG. Furthermore, study of Biology/Bio-technology as an Additional Subject as 10+2 level also shall not be permissible.”



It is the case of the petitioner that till the previous year of selection process for admission to MBBS courses, there was no such restriction and the restriction, which has been imposed by introducing Clause (viii) in the admission notice, is arbitrary.

Learned Counsel appearing on behalf of the Medical Council of India has produced before this Court a notification, issued by the Medical Council of India, whereby in exercise of powers conferred under Section 33 of the Indian Medical Council of India Act, 1956, certain amendments have been introduced in the Regulations on Graduate medical Education, 1997. Clause 5 of the said amendment introduces a proviso in Clause 4, under the heading Admission to the Medical Course-Eligibility Criteria, below sub-Clause 4 (2) (a), in the following terms:-

“Provided that two years of regular and continuous study of Physics, Chemistry, Biology/Biotechnology taken together shall be required at 10+2 level for all the candidates. Candidates who have passed 10+2 from Open Schools or as Private candidates shall not be eligible to appear for National Eligibility-cum-Entrance Test. Furthermore, study of Biology/Biotechnology as an Additional Subject at 10+2 level also shall not be permissible.”



The said amendment, as noted above, has statutory force. The restriction, as prescribed in Clause (viii) of the admission notice, which is being challenged in the present writ application, is in compliance of the said requirement under the proviso to Clause 4 (2) (a) of the Regulations on Graduate Medical Education, 1997. The validity of the said provision is not under challenge. The claim of the petitioner, in the present application, in the Court's opinion, is not tenable.

Learned Counsel for the petitioner submits that the petitioner should have the liberty to challenge the validity of the Regulation in question in a separate proceeding.

It goes without saying that the petitioner shall have such liberty.

This writ application is accordingly dismissed, but with the liberty, as above.

(Chakradhari Sharan Singh, J)

Prabhakar Anand/-

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