

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1036 of 2017

In

Civil Writ Jurisdiction Case No.13853 of 2016

Dr. Dhiraj Kumar Jaiswal Son of Late Ramchandra Prasad Sah Resident of
25A-B, Club Road, Police Station- East Colony, Jamalpur, District- Munger.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Health, Govt. of Bihar, Patna.
3. Patna University through its Registrar, Patna University, Patna- 800005.
4. The Vice-Chancellor, Patna University, Patna- 800005.
5. The Principal, Patna Medical College, Patna- 800004.
6. Medical Council of India through the Secretary, Medical Council of India, Sector 8, Dwarika, New Delhi- 110077.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. T. N. Matin, Sr. Advocate
Mr. Rajeev Kumar Sinha
For the Respondent/s : Mr. Suryadeo Yadav-AAG9

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

8 03-10-2018 Feeling aggrieved and dissatisfied by the
impugned order passed by the Learned Single Judge
dated 15.05.2017 in C.W.J.C. No. 13853 of 2016, by
which the Learned Single Judge has refused to entertain
the said petition with respect to the prayer of the
petitioner of compensation to the tune of Rs.
50,00,000/- (fifty lakhs), the original writ petitioner has
preferred the present Letters Patent Appeal.

Heard learned counsel for the respective parties



at length.

It is required to be noted that so far as two reliefs, out of three, relief nos. 2(i) and 2(ii), the learned counsel appearing on behalf of the original writ petitioner did not press the same and continue the petition for grant of compensation to him to the tune of Rs. 50,00,000/- (fifty lakhs) on the ground that though the course in question, for which the petitioner got the admission, was not recognized, still the admission was taken.

In the counter affidavit filed on behalf of the State, the allegation leveled by the original writ petitioner has been denied and it is pointed out that the original writ petitioner was aware of the fact that the course in question was not recognized by the Medical Council of India.

The aforesaid disputed question of fact can only be considered, which, as such, is required to be considered, by a civil court of competent jurisdiction in an appropriate proceeding.

Even otherwise, how the original writ petitioner claimed Rs. 50,00,000/- (fifty lakhs) by way of damages, was not placed before the Court.

The aforesaid claim will also be a disputed question of fact and the damages to be assessed /



decided on the basis of the evidence led.

Under the circumstances, the Learned Single Judge has rightly dismissed the petition.

The appeal is dismissed, accordingly.

However, it will be open to the appellant-original writ petitioner that he can file a suit, claiming damages and the same will be considered on its own merits and the evidence led, on which this Court is nothing to express.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

Skm / Krishna

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