

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.261 of 2018

In

Civil Writ Jurisdiction Case No.708 of 2017

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Vikash Gaurav, son of Sri Deo Bansh Rai, resident of House No. K170,
Hanuman Nagar, P.C. Colony, Kankarbagh, P.S. - Patrakarnagar, P.O. -
Lohianagar, Patna - 800020.

... .. Appellant/s

Versus

1. The Union of India through the Secretary, Ministry of Health and Family Welfare, Government of India, New Delhi.
2. Medical Council of India through it's Chairman, Medical Council of India, New Delhi.
3. The Chairman, Medical Council of India.
4. The Consultant Medical Council of India.
5. Katihar Medical College, Katihar through it's Principal, Katihar Medical College, Katihar.
6. The Principal, Katihar Medical College, Katihar.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Bipin Bihari Singh, Advocate Mr. Rajesh Kumar Sharma, Advocate
For Union of India	:	Mr. S.D. Sanjay, Addl. Soc. Gen. Mr. Anshuman Singh, CGC
For the MCI	:	Mr. Kumar Bijendra, Advocate Mr. Tarees Hameed, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)



Date : 26-11-2018

I.A. No. 6829 of 2018

Heard Shri Bipin Bihari Singh, learned counsel for the appellant.

2. The delay of 188 days has been reported.

3. We have considered the submissions raised and we find that sufficient cause has been shown to condone the delay. The delay is condoned and the appeal shall be treated to be within time.

4. I.A. No. 6829 of 2018 stands allowed accordingly.

Re: L.P.A. No. 261 of 2018

This appeal questions the correctness of the judgment dated 18th July, 2017, whereby the learned Single Judge has declined the relief to the appellant on the ground that the appellant's admission in the Medical College under the NRI quota was unsupported by any evidence in relation thereto in spite of the same having been demanded by the concerned college.

2. Learned counsel submits that a seat was lying vacant on account of drop out of a candidate and consequently the appellant's case was considered and he was admitted and it



was at the stage of the examination that the appellant has been non-suited. This has caused prejudice to him and thereby curtailed the right of the appellant in pursuing the course of his choice which is violation of his fundamental right guaranteed under the Constitution of India.

3. We have considered the submission raised and heard Shri Kumar Brij Nandan for the Medical Council of India and Shri Anshuman Singh for the Union of India.

4. The learned Single Judge after having traversed the facts and the issues raised has arrived at the conclusion that even if it is accepted that the admission was permissible keeping in view the status of the College, even then the appellant could not be admitted and continue and pursue his studies in the absence of any evidence of the claim of NRI status.

5. Learned counsel submits that the appellant had not volunteered as such and it was the college which had demanded the said documents. The very basis of the alleged admission of the appellant was on account of his being treated by the college under the NRI quota and, therefore, the appellant cannot be now permitted to say that he had availed the benefit on some other ground.

6. Consequently, we do not find any error in the



conclusion drawn by the learned Single Judge. The appeal fails and hereby dismissed.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-R.S.Sen

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CAV DATE	
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