

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7552 of 2018

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1. Satish Kumar, Son of Sri Naresh Prasad, Resident of Village and Post Office- Ahwar Shekh, Bettiah, Majhauriya, District- West Champaran, PIN- 845459.
 2. Mohammad Hamza, Son of Sri Nasre Imam Siddiqui, Resident of House No.- 263H/193, Nusrat Residence, Prem Park, Massom Gali, Dargah Road, Sultanganj, Mahendru, District- Patna, PIN- 800006.
 3. Savan Pandey, Son of Sri Ram Saran Pandey, Resident of Village- Hathiyawan, Sheikhpura, District- Sheikhpura, PIN- 811105.
 4. Vivekanand, Son of Sri Sachchidanand, Resident of Anand Bhawan, Karan Karai, Sasaram, District- Rohtas, PIN- 821115.
 5. Sushil Kumar, Son of Sri Bindeshwari Rajak, Resident of Village and Post Office- Shahpur, Gwalpara, District- Madhepura, PIN- 852115.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Bihar, 1st Floor, Vikas Bhawan, Bailey Road, Patna- 800015.
2. The Principal Secretary, Health Department, Bihar, 1st Floor, Vikas Bhawan, Bailey Road, Patna- 800015.
3. The Director, Medical Education, Health Department, Bihar, 1st Floor, Vikas Bhawan, Bailey Road, Patna- 800015.
4. The Union of India through the Secretary, Ministry of Health and Family Welfare, Government of Bihar, New Delhi.
5. The National Board of Examinations, Medical Enclave, Ansari Nagar, Mahatma Gandhi Marg (Ring Road), New Delhi- 110029 through its Director.
6. The Director, National Board of Examinations, Medical Enclave, Ansari Nagar, Mahatma Gandhi Marg (Ring Road), New Delhi- 110029.
7. The Bihar Combined Entrance Competitive Examination Board (BCECEB), I.A.S. Association Building, Near Patna Airport, Patna- 800014 through its Chairman-cum-Member, Board of Revenue, Bihar, Patna.
8. The Chairman-cum-Member, Board of Revenue, Bihar, Patna, The Bihar Combined Entrance Competitive Examination Board (BCECEB), I.A.S. Association Building, Near Patna Airport, Patna- 800014.
9. The Controller of Examination, The Bihar Combined Entrance Competitive Examination Board, I.A.S. Association Building, Near Patna Airport, Patna- 800014

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Navendu Kumar
For the Respondent/s	:	Mr. P.N.Shahi, Additional Advocate General
For the BCECEB	:	Mr. Prasoon Sinha
For Union of India	:	Mr. Rajesh Kumar Verma



CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

7 09-05-2018 Later on, Mr. Pushkhar Narayan Shahi, learned Additional Advocate General No.VI, on the basis of instructions, which he has received from the Principal Secretary, Health Department, Government of Bihar, has submitted that the counselling for NEET-PG-2018 for 50% of the State Quota seats (50%) shall be carried out, in accordance with the provisions under the Prospectus duly approved.

2. The petitioners have completed their MBBS Course as students of All India Institute of Medical Sciences (Patna). They have a grievance that they are not being allowed to participate in the Post Graduate Medical Admission Counselling Act, 2018 (PGMAC-2018) by invoking Clause 6.1 (i) of the Prospectus for PGMAC-2018, which reads thus:-

“6.1 Educational:

(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. For Private Medical Colleges, this criteria is liable to be modified in the light of झापांक सं.-1 /विविध- /74 /2016-404(1) दिनांक 06.04.2018 and related directives of Department of Health, Govt. of Bihar (See Annexure-5).”

3. It is possibly on the ground that AIIMS (P) is not



a Medical College of Bihar State as contemplated under Clause 6.1(i) of the Prospectus, the petitioners apprehend that they shall not be allowed to participate in the counselling.

4. A counter affidavit has been filed on behalf of the Bihar Combined Entrance Competitive Examination Board (BCECEB), which is the agency holding the counselling for the said admission, paragraph 3 (G) of which reads thus:-

“3(G). On 14.04.2018 during the 1st day of counselling, Mr. Khurshid Alam, Controller of Examination, Health Department, Bihar, Patna informed the OSD, BCECEB, that the candidates of AIIMS, Patna are not eligible for the PG Medical seat of State Quota (Bihar quota). Hence, the petitioner no.1 and petitioner no.2 were not allowed to participate in the counselling. So far petitioners no. 3,4 and 5 are concerned, they did not appear in the said counselling as such they were marked absent.”

5. Except for the said averments, there is no material to suggest that there was any decision taken at the level of the Health Department, Government of Bihar or BCECEB to disallow the students of AIIMS(P) to participate in the counselling. In the Court's view, the confusion has arisen because of language used in Clause 6.1(i) of the Prospectus. Except for the expression “Medical College of



Bihar State”, there is no further stipulation whether such expression refers to only those Medical Colleges, which have been maintained by the State Government of Bihar or all such Medical Colleges, which are located within the territorial jurisdiction of the State of Bihar. It has transpired in course of hearing of the present case that students of other Institutions, namely, Indira Gandhi Institute of Medical Sciences, Patna (I.G.I.M.S) and those of privately managed Medical Colleges situated within the State of Bihar are being allowed to participate in the counselling for admission. It cannot, therefore, be said that AIIMS-Patna does not fall within the ambit of “Medical College of Bihar State” which is located at Patna. There is no serious objection on behalf of the BCECEB over allowing these petitioners to participate in the process of counselling.

6. This application is, accordingly, disposed of with clear observation that the petitioners should be allowed to participate in the second round of counselling to be held on 10.05.2018. This is also because the authorities are bound by the terms prescribed in the Prospectus for the purpose of selection.

7. The Court expects that the State Government of



Bihar, should ensure in future that there is no ambiguity in the language of the Prospectus, particularly, in respect of Clause 6.1(i) thereof.

8. This application stands disposed of.

(Chakradhari Sharan Singh, J)

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