

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4825 of 2019

Mithila Minority Dental College and Hospital Ekmi Ghat, P.S.- Laheriasarai, Darbhanga through its Managing Director Imbesat Shaukat, aged about 45 years (Male), S/o Achariya Shaukat Khalil, R/o Firoz Palace, Flat No. 402, Indrapuri, Near Belal Masjid, Raja Bazar, P.S.- Shastrinagar, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health and Family Welfare Department, Bihar, Patna
2. The Under Secretary, Department of Health, Bihar, Patna
3. The Superintendent, Darbhanga Medical College and Hospital, Laheriasarai, Darbhanga
4. The Dental Council of India through its Secretary Aiwan-E-Galib Marg, Temple Lane, Kotla Road, New Delhi
5. L.N. Mithila University through its Registrar, Kameshwar Nagar, Darbhanga

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anand Kumar Ojha Mr. Shailesh Kumar
For the State	:	Mr. Ajay Behari Sinha (GA-8) Mr. Neeraj Raj, A.C. to GA-8
For the D.C.I.	:	Mr. S.D. Sanjay, Sr. Advocate Mr. Mohit Agarwal
For the L.N.M.U.	:	Mr. Md. Nadim Seraj

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 23-04-2019 Heard the learned counsel for the State, the learned counsel for the D.C.I. and the learned counsel for L.N. Mithila University.

The present writ petition has been filed for quashing part of Clause-II of paragraph no. 2 of the letter dated 10.09.2018 issued by the Under Secretary, Department of Health, Bihar, Patna, whereby and whereunder, while allowing the students of the petitioner college to participate in the observership training with the Darbhanga Medical College and Hospital, Darbhanga, a condition has been imposed to the effect that they would not be entitled to either use the equipments of



the Institution or permit to examine the patients.

This Court by an order dated 17.04.2019 had passed the following orders:-

“The learned counsel for the petitioner has referred to Annexure 6 to the writ petition which is dated 10.09.2018 and has submitted that though the P.G. students of the petitioner-College have been permitted to undergo observership training at Darbhanga Medical College & Hospital, Laheriasarai, Darbhanga, however they have neither been allowed to use equipments of the said Medical College nor they have been permitted to examine the patients. The learned counsel for the petitioner has further referred to paragraph no. 12 of the counter affidavit filed by the State Government and has submitted that it has been stated by the Additional Director, Health Services, Bihar, Patna that the terms and conditions of Observership training programme of the Post Graduate students of the petitioner-College is same as has been incorporated by the All India Institute of Medical Sciences, Patna, however it is pointed out that the All India Institute of Medical Sciences, Patna permits the P.G. students undergoing the Observership training programme to examine patients and they are only debarred from using the equipments of the institute, hence the authorities of the State



Government may clarify as to whether the terms and conditions governing the P.G. students undergoing Observership training programme at the All India Institute of Medical Sciences, Patna shall also govern the P.G. students of the petitioner-College who have been attached with Darbhanga Medical College and Hospital, Laheriasarai, Darbhanga.

The learned counsel for the State Government submits that he would take instructions and would file appropriate affidavit on or before 22.04.2019.

List this case on 23.04.2019 under the heading “For Orders”.”

In response to the aforesaid order dated 17.04.2019, a supplementary counter affidavit has been filed on behalf of the respondent nos. 1 and 2 i.e. the Health Department and in paragraph no. 5 it has been followed as:-

“5. That considering their mistake which was not deliberate, the department shall now abide and follow the observership programme of AIIMS, Phulwarisharif, Patna and will allow the petitioners students to undergo the observership programme in accordance with terms and conditions of observership programme of AIIMS, Phulwarisharif, Patna as annexed by way of Annexure-B to earlier



counter affidavit.

Thus in nutshell the stand of the Health Department, Government of Bihar is that on account of inadvertence certain mistake had taken place in the aforesaid notification dated 10.09.2018 and in fact the respondent authorities of the State Government admit that the students of the petitioner college shall be allowed to undergo the observership programme in accordance with the terms and conditions of observership programme of AIIMS, Phulwarisharif, Patna as is apparent from Annexure-B to the counter affidavit filed by the State Government which is dated 28.05.2016.

Having regard to the stand taken by the Health Department, Government of Bihar in the supplementary affidavit, this Court directs that the consequences of the same shall follow, hence no further orders are required to be passed in the present case.

Thus the writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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