

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12966 of 2019

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Shashank Shekhar Son of Shri Ram Ashish Rao R/o ITI Colony, Road No. 4,
Bettiah, P.S. Town, Dist-West Champaran, Bihar-845438

... .. Petitioner/s

Versus

1. All India Institute of Medical Sciences Ansari Nagar, New Delhi-110029 through its Director
2. The State of Bihar through the Principal Secretary, Health Department, Government of Bihar, Patna
3. The Director Indira Gandhi Institute of Medical Science, Sheikhpura, Patna, Bihar
4. The Registrar Indira Gandhi Institute of Medical Science, Sheikhpura, Patna, Bihar
5. The Dean Indira Gandhi Institute of Medical Science, Sheikhpura, Patna, Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ansul, Advocate
For the IGIMS	:	Mr. Sunil Kumar Singh, Advocate
		Mr. Md. Azimuddin, Advocate
For AIMS	:	Mr. S.D. Sanjay, A.S.G.
For the State	:	Mr. Rajeshwar Singh, G.A. 10
		Mr. Kumar Priyaranjan, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 11-07-2019 Heard learned counsel for the petitioner, learned counsel for Indira Gandhi Institute of Medical Sciences, Sri S.D. Sanjay, learned Additional Solicitor General appearing on behalf of the All India Institute of Medical Sciences, assisted by Mr. Kumar Priyaranjan, C.G.C.

The petitioner has approached this Court for a direction to the respondent Indira Gandhi Institute of Medical Sciences to return the original certificates of the petitioner



which were deposited on 05.09.2016. In between 05.09.2016 to 2019, there was history of many deeds and misdeeds but the Court is not willing to enter into those controversy as it will reflect on the career of a bright student. Petitioner appeared in the combined entrance test for admission in M.B.B.S. Course in 2016. He was selected for admission in M.B.B.S. Course in Indira Gandhi Institute of Medical Sciences. After his admission in Indira Gandhi Institute of Medical Sciences, he took admission in All India Institute of Medical Sciences. For certain controversy, his admission stood cancelled. Petitioner thereafter appeared in the entrance test in the year 2019. He again secured 2069 position in the Medical Entrance Test. He is expecting his chance in the second counseling for admission in AIMS. Now his predicament is that unless his original certificates lying with the Indira Gandhi Institute of Medical Sciences are received back he may not be admitted in M.B.B.S. Course.

Mr. Sunil Kumar Singh, learned counsel for the Indira Gandhi Institute of Medical Sciences submits that this petitioner has joined the M.B.B.S. Course after taking admission on deposit of 10% fee. He also attended classes for certain period and thereafter he left the course. As a result thereof, one seat in M.B.B.S. Course remained vacant. He further submits



that the original certificates of the petitioner shall be returned back on deposit of entire course fee plus penalty i.e. Rs. 7,20,000/- as contained in Annexure 'A' (Rs. 2,20,000/- as Course fee and penalty Rs. 5,00,000/-).

So far as the Course fee is concerned, the Court find justification in the claim of the Indira Gandhi Institute of Medical Sciences. So far as the issue as to penalty of Rs. 5,00,000/- is concerned, it would be a harsh decision on the part of Indira Gandhi Institute of Medical Sciences as there is fault of I.G.I.M.S. also in this case.

In the peculiar facts and circumstances of the case, particularly, the fact that the petitioner has already suffered immensely as his admission in Indira Gandhi Institute of Medical Sciences as well as All India Institute of Medical Sciences was cancelled in 2016, the Court, for ends of justice, directs the Indira Gandhi Institute of Medical Sciences to return the original certificates deposited by the petitioner on deposit of Rs. 2,20,000/- which was the Course fee and shall not insist on the payment of penalty. If the petitioner deposit the amount of Rs. 2,20,000/- within a period of 15 days, Indira Gandhi Institute of Medical Sciences, Patna shall return the original documents of the petitioner on the very next day of deposit of



the aforesaid amount.

Mr. S.D. Sanjay, learned Additional Solicitor General has informed this Court, with reference to the written instructions from the All India Medical Sciences that if the petitioner, on account of second counseling or later counseling became eligible for the admission in AIMS, they have no objection in the admission of the petitioner in AIMS.

Considering the aforesaid, the present writ petition is allowed to the extent indicated above.

(Anil Kumar Upadhyay, J)

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