

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4669 of 2021

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Kumar Utsav son of Shambhu Prasad resident of Chhawani, Ward no. 5, P.O.
- Bettiah, P.S. - Mufassil, District West Champaran, Bihar- 845438.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Principal Secretary, Health Department, Government of Bihar, Patna.
3. Bihar Combined Entrance Competitive Examination Board through its Chairman, IAS Association Building, New Patna Airport, Patna- 14.
4. The Examination Controller, Bihar Combined Entrance Competitive Examination Board, IAS Association Building, New Patna Airport, Patna-14.
5. The officer on special duty, Bihar Combined Entrance Competitive Examination Board, IAS Association Building, New Patna Airport, Patna-14.
6. The Office of the State Commissioner for person with Disability Social Welfare Department, Bihar through its State Commissioner Disability, Old Secretariat, Sichai Bhawan Parisar, Patna - 800015.
7. Nalanda Medical College and Hospital, Patna through its Principal, NMCH, Patna.
8. The Principal, Nalanda Medical College and Hospital, NMCH, Patna.
9. The Office of the Civil Surgeon - cum - Chief Medical Officer, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Subodh Kumar Jha, Adv.
For the State	:	Mr.Nagendra Prasad Yadav (Sc23)
For the Board	:	Mr. Prasoon Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

11 19-05-2022 Heard the parties.

This Court vide order dated 16.09.2021 directed the petitioner to deposit a sum of Rs.50,000/- whereafter the respondents were to constitute a Medical Board by the All India Institute of Medical Sciences, New Delhi, for the purpose of



evaluation of disability regarding hearing impairment of the petitioner. In pursuance of the said direction the Medical Board was constituted and the report has been submitted by the All India Institute of Medical Sciences dated 07.10.2021 whereby the Board constituting of five members has evaluated and examined the petitioner, Kumar Utsav, on 05.10.2021 and submitted its report as under :

“Based on the clinical examination and above investigations the board is of the opinion that the candidate Kumar Utsav has better then 30-40dB hearing threshold amounting to less than 1% disability.”

Learned counsel for the petitioner submits that the report is erroneous as in terms of the guidelines relating to declaring the issue of hearing disability certificate, a person who has a dB 26 to 40 in the better hearing would be treated as mild impairment, who is less than 40% impairment, a person having dB between 41 to 60 in the better hearing would be said to be having a moderate hearing impairment between 40% to 80% and so on so forth. He therefore submits that as the hearing impairment between 30 to 40 degree he should be treated to be having an impairment.

I have considered the submissions.

The report as quoted above specifically states that the



petitioner has a hearing less than 1% disability as “**it is better**” than 30 to 40 dB. If it had been up to 30 to 40 dB the percentage of impairment would be less than 40% and he would not be in the category of hearing impaired.

In the circumstances, therefore the decision taken by the respondents treating the petitioner not to be in the disable category can not be faulted that the petitioner has been wrongly admitted in the disabled category. It would therefore has been rightly cancelled and he can not be allowed to continue to pursue studies on the basis of admission based on disability certificate which has been wrongly issued.

The writ petition is wholly misconceived and is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Shamshad/-
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