

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3032 of 2018

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Rahul Kumar Mishra Son of Sri Satyendra Kumar Mishra, resident of Village
and P.O.- Harpur Karah, P.S.- Baniyapur, District- Saran, Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Bihar Combined Entrance Competitive Examination Board, I.A.S.
Association Bhawan, Near Airport,
3. The Secretary, Bihar Combined Entrance Competitive Examination Board,
I.A.S. Association Bhawan, Ne
4. The Controller of Examination, Bihar Combined Entrance Competitive
Examination Board, I.A.S. Associ

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Dr. Mayanand Jha, Sr. Adv. Mr. Raj Narayan Mishra, Adv.
For the Respondent/s	:	Mr. N.P. Yadav- SC23
For the Respondent 2 to 4:	:	Mr. Prasoon Sinha, Adv.

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

10 14-11-2022

1. The petitioner preferred this petition with a prayer to direct the respondents to pay damages and compensate him for loss he suffered on account of alleged fault and latches on part of the respondents in not publishing the mop up round conducted on 07.10.2016 timely.

2.The learned senior counsel submits that the notification for mop up round was published on 07.10.2016 at 3:00 p.m. and the closing time was 7:00 p.m. The petitioner could not participate in the mop up round resulting in candidates having lesser merit being admitted while the



petitioner was deprived of admission in Government Medical College in Bihar. He had to perforce take admission in a private medical college in Karnataka and during the pendency of this writ petition the petitioner has completed his M.B.B.S. course. He further submits the petitioner would be deprived of participating in the admission process for post-graduation in State of Bihar as a domicile on account of his having completed his UG course from Karnataka. Thus, the petitioner has suffered immense loss on account of the action of the respondents.

3.Counter has been filed by the respondents and it has been pointed out that the Supreme Court vide order dated 06.10.2016 passed an order as whereby it has been directed that the mop up round of counselling shall be completed by 07.10.2016 in various States where the State quota seats and All India quota seats were left vacant. Accordingly the Government of India sent a letter on 06.10.2016 directing the State to conduct the last counselling and fill up the remaining seats by 07.10.2016.

4.Learned counsel submits that accordingly on 07.10.2016 notice was published for filling up the remaining seats as a mop up round by 7:00 p.m. The same was published on the website of the Bihar Combined Entrance Competitive



Examination Board and therefore it cannot be said that there were any laches on the part of the respondents in publishing the notice pursuant to the Honorable Apex Court's Order.

5. The learned counsel submits that the petitioner did not participate while other candidates participated in the counselling and as per merit the admissions were granted. In the circumstances no compensation is required to be granted to the petitioner. A person is required to be aware of the notifications for admissions being issued by the State Government from time to time and the fault therefore would not lie on the respondent with regard to the effect of petitioner of having taken admission in Karnataka in relation to the subsequent PG course admission form.

6. Learned counsel submits that the same cannot be taken notice as on today as there is no such situation which arises. It is further submitted that the Supreme Court categorically mentioned in this order that no individual notice is required to be given to each candidate for the purposes of mop up round.

7. I have considered the submissions, while it is true that students having lesser merit were granted admission in the mop up round counselling conducted on 07.10.2016, it is also



noticed that the petitioner did not participate in the mop up round.

8. The argument being advanced is that he could not come to know about the said mop up round counselling which was conducted at very short notice issued on the same day.

9. Earlier he had already participated in the counselling, at that time the petitioner counselling could not be done as persons higher in merit had been admitted.

10. This Court further notices that the Supreme Court passed an order on 06.10.2016 only as under :-

“At this juncture, it is submitted by Mr. Gaurav Sharma, that this Court has granted extension of time to the States of Kerala, Karnataka, Madhya Pradesh and Uttar Pradesh to fill up their State Quota Seats. Needless to say, the State quota also includes the seats that have been reverted from All India Quota. The rest of the seats which find mention in the chart not belonging to the four States shall be filled up by the concerned States by adopting a transparent procedure, regard being had to



the criteria followed for filling up All India Quota seats. We may hasten to clarify, the States shall not treat them as seats which have been reverted to the State quota from All India Quota but fill them up by taking the merits in All India Quota. Needless to say the whole thing shall be completed by 07.10.2016.

The order shall be put on the website by the DGHS and the competent authority of the Medical Council of India; and the DGHS shall inform the competent authorities of the States. Similar exercise shall be done by the States which are not covered by the extended period. No individual notice shall be given. Be it clarified our order shall only be applicable to Government colleges with respect to All India quota.”

11. Government of India accordingly directed for conducting the counselling for the remaining vacant seats on 7th



October 2016 and the Government of Bihar issued an order on 07.10.2016 in the same terms publishing it on their website.

12. In the opinion of this Court, sufficient notice was given to the students for participating in the counselling. The petitioner who had already participated earlier was therefore required to keep a vision and ought to have at his own being available for the counselling. In his absence persons lesser in merit have been admitted which cannot be put as a fault on part of the State Government or the counselling authorities. The students who have been admitted are not party to the present writ petition and nothing can be said as against them in their absence.

13. Question regarding compensation can only be if this Court reaches to a conclusion that the petitioner was made to suffer on account of action of the respondents. As this Court has reached to conclusion otherwise, claim of compensation is not found to be made out. The writ petition is therefore found to be devoid of merits and is liable to be dismissed.

14. In question with regard to the denial of petitioner to be treated as a domicile of Bihar for the purpose of PG admissions is concerned, this Court leaves the question open as on today there is no such situation before it.



15. The writ petition is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

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