

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1610 of 2023

Dr. Vishwadeep S/o Shri Arbind Kumar R/o C- 103 Sector 49, Noida, P.S.-
Sector- 49 Noida, Gautam Buddha Nagar, Uttar Pradesh- 201301.

... .. Petitioner

Versus

1. The All India Institute of Medical Sciences, Patna, through its President.
2. The Governing Body, All India Institute of Medical Sciences, Patna through its Chairman.
3. The HR Sub-Committee of Governing Body, All India Institute of Medical Sciences, Patna.
4. The Standing Selection Committee, All India Institute of Medical Sciences, Patna through its President.
5. The Executive Director, All India Institute of Medical Sciences, Patna.
6. The Deputy Director, All India Institute of Medical Sciences, Patna.
7. The Deputy Director (Administration), All India Institute of Medical Sciences, Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Amit Pandey, Advocate Mr. Raj Kumar, Advocate
For the Respondent/s	:	Mr. Binay Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 20-02-2023 Petitioner in the present case is seeking a writ in the nature of Mandamus directing the respondents to accept the joining of the petitioner on the post of Assistant Professor in the Department of Burns & Plastic Surgery in All India Institute of Medical Sciences, Patna with immediate effect in view of the Appointment Letter No. F-125676/ AIIMS/PAT/ FAC. APPT. 2022/10 dated 22.11.2022.

Learned counsel for the petitioner has drawn the attention of this Court towards Annexure 'P/5' which is the



letter of appointment issued to the petitioner. It appears that petitioner is facing a matrimonial dispute in connection with which a First Information Report No. 192 of 2022 has been registered under Sections 498A, 406 and 34 of the Indian Penal Code, 1860 read with the provisions of the Dowry Prohibition Act, 1961. A divorce case is also going on between petitioner and his spouse. In view of the pendency of the criminal case against the petitioner, the Deputy Director (Administration), AIIMS, Patna has put a condition in the appointment letter which reads as under:-

“5. Since the charges levied against you are cognizable and non-bailable offences, you are therefore requested to produce Order of Hon’ble Court rejecting the aforesaid criminal charges against you for an order of Hon’ble Court specifying that pendency of these criminal charges do not preclude you from joining AIIMS Patna or directing AIIMS Patna to accept your joining subject to outcome of aforesaid criminal cases.”

Learned counsel for the petitioner submits that it is always open for the Administration of AIIMS, Patna to accept the joining of the petitioner subject to outcome of the criminal case but there was no reason for the Institution to ask for an order of the Hon’ble Court saying that the pendency of these criminal charges do not preclude the petitioner from joining AIIMS, Patna or directing the AIIMS, Patna to accept the joining of the petitioner subject to outcome of the aforesaid criminal case.



Learned counsel submits that this unnecessary condition has been causing hardship to the petitioner and is resulting in burdening this Court also with filing of this writ application.

Learned counsel for the respondent AIIMS has come out with a preliminary objection stating that the petitioner should have applied for his remedy before the Central Administrative Tribunal and not before this Court under Article 226 of the Constitution of India.

While this Court agrees with the preliminary objection, in the nature of this case, the Court is of the considered opinion that there is much substance in the submission of learned counsel for the petitioner. Being a Constitutional Court, this Court is of the view that the kind of order being asked by AIIMS, Patna at this stage is not at all required. The petitioner is facing a criminal case but at this stage if he has been found fit for appointment, in the name of pendency of the criminal case arising out of a matrimonial dispute alone, his joining is not to be rejected. This may unnecessarily multiply litigation for no plausible reason.

This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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