

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2141 of 2023

1. Dr. Abhishek Kumar Son of Nripendra Kumar Gupta, Resident of C/O- Dr. N.K. Gupta, Barinagar, Gurubazar, P.S.- Barari, District- Katihar.
2. Dr. Shikha Komal, Daughter of Late Yogendra Prasad Bhagat, Resident of Gokul Krishna Ashram Road, P.S.- K.Hat, District- Purnea.
3. Dr. Komal Kumari, Daughter of Ramesh Kumar, Resident of Batiyari Sarai, P.O.- Lalbagh, P.S.- Laheriasarai, District- Darbhanga.
4. Dr. Vinita Sharma, Daughter of Prem Kumar, Resident of 213, Road No.- 7, S. K. Puri, Shyamnagar Niwas, Lakhibagh, Manpur, P.S.- Muffassil, District- Gaya.
5. Dr. Mohd. Asif Ali, Son of Mashir Ahmad, Resident of 338, Kaland, Sardhana, P.S.- Mulheda, District- Meerut, Uttar Pradesh.
6. Dr. Sabuhi Romana, Daughter of Rizwana Begum, Resident of Janta Press Gali, Imarat-e-Shariah, Minhajnagar, Phulwari, P.S.- Phulwari Sharif, District- Patna.
7. Dr. Sneha Verma, Daughter of Dilip Kumar, Resident of 18, Ved Nagar, Opposite Krishna Public School, Rukkunpura, Bailey Road, B. V. College, P.S.- Rupaspur, District- Patna.
8. Dr. Vaibhav, Son of Jagat Narayan Prasad, Resident of Flat No.- 303, B-Block, Aradhna Enclave, Bailey Road, Near Reliance Footprints, Pillar No.- 17, Khajpura, P.S.- Rupaspur, District- Patna.
9. Dr. Sumedha Singh, Daughter of Dharmnath Singh, Resident of Satsung Nagar, Road No.- 1, Paigambarpur Kolhua, P.S.- Ahiyapur, District- Muzaffarpur.
10. Dr. Nupur Prakash, Wife of Dr. Ankit Karan, Resident of Flat No.- 202, Deodeep Enclave, Vyas Nagar, Magistrate Colony, Straight ahead of Vyas Nagar Park, Ashiyana- Digha Road, P.S.- Rajeev Nagar, District- Patna.
11. Dr. Jyoti Kumari, Wife of Phalendra Kumar Yadav, Resident of Village- Khajuri, P.S.- Bhargama, District- Araria.
12. Dr. Shashank Mohan, Son of Himanshu Mohan Jha, Resident of Road No.- 58, Laxmisagar, P.O.- Laxmisagar Lachhmipur, P.S.- Laxmisagar, District- Darbhanga.
13. Dr. Abhishek, Son of Jayant Prasad, Resident of Road No.- 22, Plot No.- 140, Sri Krishna Nagar, P.S.- Buddha Colony, District- Patna.
14. Dr. Ammarul Haque, Son of Md. Allauddin, Resident of A- 23 / B, New Azimabad, Colony, P.S.- Bahadurpur, District- Patna.
15. Dr. Abhishek Kumar, Son of Abhay Kumar, Resident of Mohalla- Moullabagh, P.S.- Ara, Arrah, District- Bhojpur.
16. Dr. Kiran Kumari, Daughter of Bhuneshwar Singh, Resident of Mohalla- Pragati Vihar Colony, Near Jagdish Chowk, Shahpur Road, New Jaganpura, P.S.- Ram Krishna Nagar, District- Patna.
17. Dr. Saurav Suman, Son of Dilip Kumar, Resident of Flat No.- 402, Dev Narayan Apartment, Beside Jahazi Kothi, P.S.- Kadamkuan, District- Patna.



18. Dr. Manisha, Daughter of Suresh Pandey, Resident of Village- Purana Sabalpur, Babura, P.S.- Barhara, District- Bhojpur.
19. Dr. Kumar Shaleen, Son of Late Upendra Narayan Jha, Resident of Professor Colony, Gali No.- 1, Tajpur Road, P.S.- Samastipur, District- Samastipur.
20. Dr. Puja Kumari, Daughter of Kameshwar Mishra, Resident of East New Bus Stand, Gangjala, P.S.- Saharsa, District- Saharsa.
21. Dr. Prabhakar, Son of Deo Narayan Prasad, Resident of Mohalla- Punjabi Colony, Dharampur, P.O. and P.S.- Samastipur, District- Samastipur.
22. Dr. Mayank Kumar, Son of Prakash Jayswal, Resident of Rampur Road, Jamalpur, P.S.- Gogri Jamalpur, District- Khagaria.
23. Dr. Sneha Praveen, Daughter of Lala Praveen Kumar Sinha, Resident of Mohalla- Naya Bazar, Ward No.- 9, P.S.- Saharsa, District- Saharsa.
24. Dr. Aditya Prakash, Son of Late Mahendra Prasad, Resident of BS 0064 / 100, Isakchak, Jagdishpur, P.S.- Isakchak, District- Bhagalpur.
25. Dr. Adil Ahmed Zaidi, Son of Ibrar Ahmad, Resident of Near Noorie Masjid, Wasseypur, P.S.- Bank More, District- Dhanbad, Jharkhand.
26. Dr. Aditya Shree, Daughter of Jitendra Prasad, Resident of Village- Belwa, Adapur, P.S.- Harpur, District- East Champaran.
27. Dr. R. Karthik Raja @ Karthikraja Rajaperumal, Son of P. Raja Perumal, Permanent Resident of M- II 231, TNHB Colony, District- Tenkasi, Tamil Nadu. Presently Residing at Room No.- 16, Block- 2, New P. G. Hostel, NMCH, Agamkuan, P.S.- Agamkuan, District- Patna.
28. Dr. Rajesh Kumar Rai, Son of Baleshwar Rai, Resident of House No.- A- 388, D.D.A. Flats, Santa Vihar, South Delhi, Delhi- 110076.
29. Dr. Tanushree Narain, Daughter of Late Dr. Chandrabhushan Narain, Resident of 130, Road No.- 7, Rajendra Nagar, P.S.- Kadamkuan, District- Patna.
30. Dr. Sudha Kumari, Daughter of Mithilesh Kumar Singh, Resident of 501, Ganesh Anju Apartment, Gokhula Path, Abhiyanta Nagar, Gokhula Gas Agency, Bailey Road, P.S.- Rupaspur, District- Patna.
31. Dr. Azad Meena, Son of Mohan Lal Meena, Resident of Village- Kharab Nareda, P.O.- Narehara, Tahsil- Kotpatli, P.S.- Sarund, District- Jaipur.
32. Dr. Shanta Kumari, Wife of Sunil Kumar, Resident of Road No.- 16, Keshari Nagar, Rajeev Nagar, P.S.- Rajeev Nagar, District- Patna.
33. Dr. Prashant Kumar Ratnesh, Son of Shiv Narayan Prasad, Resident of Village- Naubatpur Lotan, Anchal- Bihar Sharif, P.O.- Chhabilapur, P.S.- Manpur, Nalanda, District- Bihar Sharif.
34. Dr. Smit Kumar, Son of Pradip Kumar Lal, Resident of Purani Bazar, P.O. and P.S.- Jamui, District- Jamui.
35. Dr. Anamika Kumari, Daughter of Tarak Nath Mahto, Resident of C/O Dr. Anup Kumar, Baliya, Maharajganj, P.S.- Maharajganj, District- Siwan.
36. Dr. Rajnish Arun, Son of Ramkeshwar Prasad Prajapati, Resident of Village- Barun Road, Near Government Hospital, Ward No.- 7, P.O. and P.S.-



Daudnagar, District- Aurangabad.

37. Dr. Ganesh Kumar, Son of Ghanshyam Prasad, Resident of Village- Bharatshila, P.O.- Bharatshila, P.S.- Shambhuganj, District- Banka.
38. Dr Amardeep Kr. @ Dr. Amardeep Kumar, Son of Pradeep Kumar Sharma, Resident of Sandeep Medical Hall, Pani Tanki, Dehri-on-Sone, P.S.- Dehri, District- Rohtas.
39. Dr. Saket Vats, Son of Prabin Chandra Jha, Resident of Mohalla- Adarsh Nagar Colony, P.S.- Madhubani, District- Madhubani.
40. Dr. Vanshika Rai, Daughter of Keshav Prasad, Resident of Village- Nizampur, P.O.- Shorampur, P.S.- Janipur, District- Patna.
41. Dr. Shyama Kumari Gupta, Daughter of Heera Lal Gupta, Resident of C/O Late Rajendra Yadav, Ward No.- 6, Pokhrai, P.O. and P.S.- Samastipur, District- Samastipur.
42. Dr. Ashish Kumar, Son of Late Ramdayal Sah, Resident of Ward No. 22, Naga Road, Raxaul, P.O. and P.S.- Raxaul, District- East Champaran.
43. Dr. Mukesh Kumar @ Mukesh Kumar Kushwaha, Resident of Village- Sareyan Purb Tola, P.O.- Mustafabad, P.S.- Goreyakothi, District- Siwan.
44. Dr. Masood Raza, Son of Md. Musa Kazmi, Resident of Katihar, P.S.- Muffasil, District- Katihar.
45. Dr. Monika Jha, Daughter of Nawin Kumar Jha, Resident of Saroni Kalan, Via- Bihariganj, P.S.- Bihariganj, District- Madhepura.
46. Dr. Kumari Anamika, Daughter of Ram Balak Mahto, Resident of Village- Malhipur, P.O.- Maheshpur, P.S.- Bhagwanpur, District- Begusarai.
47. Dr. Sheezan Imam, Daughter of Sohail Imam, Resident of B- 67 (B), Alinagar Colony, Anishabad, P.S.- Gardanibagh, District- Patna.
48. Dr. Danish Akhtar, Son of Late Ali Asgar Hussain, Resident of C/O Ruby Cottage, Masoom Gali, Dargah Road, Pather ki Masjid, P.O.- Sultanganj, P.S.- Sultanganj, District- Patna.
49. Dr. Shazia Nishat, Son of Zeyaur Rahman, Resident of Mohalla- Karimganj, Near Janta Nursery, P.O.- Laheriasarai, P.S.- Laheriasarai, District- Darbhanga.
50. Dr. Md. Nadeem Akhtar, Son of Md. Shamimuddin, Resident of 202, Park View Apartment, Salimpur Ahra, Near IMA Hall, South Gandhi Maidan, P.S.- Gandhi Maidan, District- Patna.
51. Dr. Kamal Nayal Raghav, Son of Shambhu Baitha, Resident of Mohalla- Kailashpuri, Ward No.- 9, P.O.- Dumra, P.S.- Dumra, District- Sitamarhi.
52. Dr. Prashant Kumar Sinha, Son of Satish Kumar Sinha, Resident of Village- Chhabila Thika, P.O.- Belaw, P.S.- Barbigaha, District- Sheikhpura.
53. Dr. Vivek Kumar, Son of Chandeshwar Ram, Resident of Village- Pranpur, P.O.- Sawna, Via- Mirganj, O.S.- Barharia, District- Siwan.
54. Dr. Ashutosh Kumar, Son of Shyam Sharan Prasad Singh, Resident of Village- Orro, P.O.- Orro, P.S.- Hasua, District- Nawada.
55. Dr. Pawan Kumar Tiwari, Son of Bagish Tiwari, Resident of Village- Mathiya, P.O.- Hetimpur, P.S.- Karkhana Rampur, District- Deoria, Uttar



Pradesh.

56. Dr. Sumbul Kazmi, Wife of Syed Tausif Ahmad, Resident of Prince Market, Third Floor, Sabzibagh, Arya Kumar Road, P.O.- Bankipur, P.S.- Pibahor, District- Patna.
57. Dr. Tanya Verma, Daughter of Narendra Nath Verma, Resident of C- 6, Golf View Apartment, Saket, Malviya Nagar, S.O., South Delhi, Delhi 110017.
58. Dr. Priyanka Kumari, Daughter of Indu Bhushan Prasad, Resident of Flat No.- 404, Block- C, Kadambini, Near Sanjeevani Hospital, Riding Road, Sheikhpura, P.S.- Airport, District- Patna.
59. Dr. Anupriya Mishra, Daughter of Ram Dayal Mishra, Resident of Flat No.- 104, Block- D, Vaishnavi Enclave, Opposite Meridian Public School, R. K. Puram, Saguna More, P.S.- Rupaspur, District- Patna.
60. Dr. Snigdha Srikant, Daughter of Dr. Srikant, Resident of Village- Islampur, P.S.- Islampur, District- Nalanda.
61. Dr. Neha Girir, Daughter of Arun Kumar Giri, Resident of Bihajado, P.O.- Sahdei Buzurg, P.S.- Desri, District- Vaishali.
62. Dr. Durganand, Son of Hari Narayan Yadav, Resident of Phulparas, P.O. and P.S.- Phulparas, District- Madhubani.
63. Dr. Nikhat Gulnar, Daughter of Aftab Alam, Resident of Village- Khawaspur, P.O.- Khawaspur, P.S.- Basantpur, District- Siwan.
64. Dr. Nupur Narayan, Daughter of Srikrishna Narayan, Resident of Mohalla- Friends Colony, Road No.- 3, Aashiyana Nagar, District- Patna.
65. Dr. Shaikh Sadiya @ Dr. Sadiya Mohd. Rizwan Shaikh, Daughter of Mohd. Rizwan Shaikh, Present Resident of Flat No.- 504, Sharf Apartment, Frazer Road, District- Patna, Permanent Resident of Flat No.- 202, C i Wing, Ammar Complex, Near Kandahari Building, Kausa Mumbra, Thane, Maharashtra
66. Dr. Utkarsh, Son of Vijay Kumar Verma, Resident of Mohalla- Ambika Nagar, Near Chanchal Baba Math, P.S.- Chanpatiya, Motihari, District- East Champaran.
67. Dr. Anas Misbah, Son of Tahseen Misbah, Flat No.- 306, Nafees Palace, Sharif Colony, Bhikhna Pahari, Sampatchak, P.S.- Pibahor, District- Patna.
68. Dr. Chackappen D. Aymanom @ Dr. Chckappen D. Aymanom, Son of A.C. Devasia, Resident of Aymanathil House, Kuttampuzha, PDistrict- Ernakulam, Kerala.
69. Dr. Lakshmi Unnikrishnan, Daughter of N. Unnikrishnan, Resident of Sindhu, R.V.C.A.R.A.- 31, Thevally, P.O.- Kollam, P.S. District- Kollam, Kerala.
70. Dr. Himanshu Kumar, Son of Ishwari Yadav, Resident of Village- Titlakho, P.O.- Charkapather, P.S.- Katoria, District- Banka.
71. Dr. Ankur Agrawal, Son of Shyam Prakash Agrawal, Resident of Mohalla- Athwaria Kothi, Sadawasti Chowk, P.S.- Kotwali, District- Azamgarh, Uttar Pradesh.
72. Dr. Mohammad Tanweer Alam, Son of Mohammad Tauheed Alam, Resident of Ward No.- 32, Abdullah Ganj, Abdullahpur, District- Darbhanga.



73. Dr Ankita, Daughter of Rama Shankar Tiwari, Resident of Ward No.- 4, Road No.- 7, Prema Bhawan, Panjar Colony, Gorakshni, Sasaram, P.S.- Sasaram, District- Rohtas.
74. Dr. Sumit Kumar, Son of Late Uday Kumar, Resident of Behind Laheria Dharamshala, City-Station Road, P.S.- Nagar Thana, District- Begusarai.
75. Dr. Shashi Kant, Son of Late Hari Bansh Ram, Resident of Village- Chadoruiea, P.O.- Akhilospur, P.S.- Bhabhua, District- Kaimur at Bhabhua.
76. Dr. Niraj Kumar, Son of Ram Bihari Prasad, Resident of Village- Amwa, P.O.- Amwa, P.S.- Jharaukhan, Via- Ghorasahan, District- East Champaran.
77. Dr. Sanjeet Kumar Mishra, Son of Vijay Kant Mishra, Resident of C- 402, Puspanjali Enclave, North Mandiri, P.S.- Buddha Colony, District- Patna.
78. Dr. Sushobhit Son of Surendra Prasad, Resident of Mohalla- Chhatrapati Talab Lane, Mirzanhat, P.S.- Mojahidpur, District- Bhagalpur.
79. Dr. Anjula, Wife of Kaushal Kumar Rajwar, Resident of Sector- 5B, Q.No.- 3020, Near Chinmaya School, Bokaro Steel City, P.S.- Sector- 6, District- Bokaro, Jharkhand.
80. Dr. Punam Kumari, Daughter of Amirchand Prasad, Resident of Judge Bazar, Navodaya Road, P.S.- Bihiya, P.O.- Bihiya, District- Bhojpur.
81. Sanju Kumari, Daughter of Bhola Prasad, Resident of Tejpratap Nagar, Road No.- 9, P.O.- Anishabad, P.S.- Beur, District- Patna.
82. Dr. Nirmal Kumar, Son of Shyam Sunder Prasad, Resident of Village- Sahpur, Jaganpura Road, P.O.- M. Kacchuara, P.S.- Gopalpur, District- Patna.
83. Dr. Sanjeev Kumar, Son of Mahendra Narayan Mandal, Resident of Village- Tarha, P.S.- Singheshwar, District- Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. The Secretary, Department of Health, Government of Bihar, Patna.
4. The Special Secretary, Department of Health, Government of Bihar, Patna.
5. The Additional Secretary, Department of Health, Government of Bihar, Patna.
6. The Deputy Secretary, Department of Health, Government of Bihar, Patna.
7. The Joint Secretary, Department of Health, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Jagjit Roshan, Advocate
For the Respondent/s : Mr.Anuj Kumar, AC to SC -12

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD



ORAL ORDER

3 11-04-2023 Heard learned counsel for the petitioners and learned
counsel for the State.

Petitioners in the present case are seeking the
following reliefs:-

“I. Issuance of Writ or Writ in the nature of
Certiorari or Order/direction in the nature of
Certiorari to quash the order passed by Respondent
No.-7 vide Memo No.47(17) to 64(17) dated
20.01.2023 (Annexure-17 Series) by which
Petitioners who have completed Post Graduation
Degree from different Government Medical
Colleges of the State of Bihar were posted as
Medical Officer under Compulsory Bond Service
without considering the fact that the Petitioners
have completed their Post Graduate Degree and
are Specialist Doctors and also without
considering their own Policy decision and further
without asking from them their choice and without
considering the fact that similarly situated persons
(earlier batch) were appointed as Senior
Resident/Tutor/Specialist Medical Officer and also
without considering the vacant Post of Senior
Resident in different Medical Colleges, which
resulted in discrimination with the Petitioners.

II. Issuance of Writ in the nature of Mandamus
directing the Respondents to appoint the
Petitioners as Senior Resident/Tutor/Specialist
Medical Officer on the basis of Merit cum Choice
method as adopted by the Respondent in the light



of judicial direction in the earlier batches, so, that Petitioners should not face discrimination.

III. For issuance of direction to stay the process of Memo No.47(17) to 64(17) dt. 20.01.2023 (Annexure-17 series) issued by Respondent No.-7 by which petitioners have been appointed as Medical Officer in an arbitrary manner that shall be stayed till the final adjudication of the present Writ Petition.

IV. Issuance of such other order/orders, direction/directions, relief/reliefs to which the petitioner may found entitled to be passed as your Lordships may deem fit and proper in the facts and circumstances of the case and in the interest of justice.”

When this writ application was taken up for consideration on 02.03.2023, learned counsel for the petitioners prayed for an interim order allowing the petitioners to fill up their forms for senior residents/tutor post notified by Advertisement No. BCECEB/Health/2023/02 dated 22.02.2023 as contained in Annexure- ‘I/7’ to the Interlocutory Application. It was submitted that the petitioners are specialist doctors but they have been forced to work as Medical Officers and they were not being allowed to apply for the posts under the said advertisement.

Considering the submissions advanced on behalf of the petitioners, this Court vide order dated 02.03.2023 directed



the respondents to allow the petitioners to apply under Advertisement No. BCECEB/Health/2023/02 dated 22.02.2023 subject to result of the writ application.

A counter affidavit has been filed on behalf of the respondents. In paragraph '17' of the counter affidavit, it is stated that vide Departmental Letter No.91(17) dated 27.01.2023 all those students covered under the bond who have not been posted as Senior Resident/Tutor in the Medical Colleges of Bihar have been given permission to submit their application for three years tenure post of Senior Resident/Tutor in the Medical Colleges of the State.

Mr. Anuj Kumar, learned AC to SC-12 submits that the grievance of the petitioners in so far as it relates to their not being allowed to appear under the advertisement in question has already been redressed.

At this stage, learned counsel for the petitioners has made endeavour to take this Court through the policy decision of the government as contained in Annexure- '1' to the writ application with regard to three years compulsory service to be provided by the post graduate students who have signed the bond. Learned counsel for the petitioners submits that these petitioners have signed the bond and they are ready to serve



under three years compulsory service scheme but the difficulty with the petitioners is that they are not being posted on suitable posts. Learned counsel submits that this scheme was brought only to get rid of the dearth of the specialist doctors. Learned counsel further submits that vide Annexure- '3' to '5' decisions were taken at different points of time with regard to the posting of the graduates and post graduates medical students.

Learned counsel has relied upon an order of this Court passed on 21.01.2021 in CWJC No.8269 of 2020 (Dr. Shanker Bharti & Ors. Vs. The State of Bihar & Ors.) to submit that earlier this Court has issued directions to the respondents to adopt corrective measures and in case any person lower in the merit list has been preferred in the matter of posting as Senior Residents/Tutors in the Medical Colleges by the respondents, the corrective measure is to be taken.

Learned counsel for the State submits that the petitioners have moved this Court in a hurry. If at all they have any grievance with respect to their postings, they could have represented before the competent authority and all those materials which are being brought to the notice of this Court could have been considered by the competent authority and an appropriate decision would have been taken by this time, but



instead of doing so the petitioners have chosen to move this Court in its writ jurisdiction.

Having heard learned counsel for the petitioners and the State and upon finding that the petitioners have moved this Court even as they have not made a single representation or grievance petition before the competent authority as regards their posting, this Court is not inclined to entertain this writ application.

It is well settled that for purpose of a writ in the nature of a writ of mandamus, the petitioners would be obliged to show that they have approached the competent authority prior to moving of this Court. So far as the prayer for issuance of a writ of certiorari is concerned, in the matter of posting of the petitioners, this Court finds no reason to interfere with the order of posting. In a writ of certiorari, this Court exercising its power under Article 226 of the Constitution of India is not sitting in appeal and unless any perversity is shown no interference is required to be made.

This writ application is, thus, disposed of with liberty to the petitioners to submit their representation before the competent authority within one month from today and bring all such materials which they want, to the notice of the competent



authority. The competent authority shall consider the same keeping in view the policy decision from time to time and an appropriate order shall be made within a period of three months from the date of receipt/production of a copy of the representations.

(Rajeev Ranjan Prasad, J)

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