

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13992 of 2023

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Ankita Singh, Daughter of Anjani Kumar Singh, Resident of Indrapuri, Road no.-6, House no.- 6/102, P.S.-Patliputra, Patna (Bihar).

... .. Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Health and Family Welfare, New Delhi.
2. The Directorate General of Health Services, Ministry of Health and Family Welfare Government of India, New Delhi.
3. The All India Medical Counselling Committee (MCC), Admission and E-counselling Services for Session 2023, Ministry of Health and Family Welfare Government of India, New Delhi.
4. The Secretary (PG Admissions), National Medical Commission (NMC), Pocket- 14, Sector 8, Dwarka Phase-1, New Delhi 110077.
5. The Chairman, Bihar Combined Entrance Competitive Examination Board (BCECEB), I.A.S. Association Building, Near Patna airport, Patna - 800014

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Kumar Nikhil, Advocate
For the Resp No. 5	:	Mr. Prasoon Sinha, Advocate
For the MCC	:	Mr. Anshay Bahadur Mathur, Advocate
For the Resp No. 5	:	Mr. Kumar Priya Ranjan, Advocate
		Mr. Girish Nandan Abhishek, Advocate
		Ms. Nirmala Singh, Advocate
		Mr. Vibhuti Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 27-09-2023 Heard learned counsel for the petitioner, learned counsel for the All India Medical Counselling Committee (in short 'MCC'), learned counsel for the National Medical Commission (in short 'NMC') and learned counsel for the Bihar Combined Entrance Competitive Examination Board (Respondent No. 5).

2. This writ application has been filed seeking the following reliefs:-



“(i) For issuance of writ in the nature of Mandamus directing the respondent No. 3 i.e. The All India Medical Counselling Committee (MCC) to allow the petitioner to resign from All India Quota (AIQ) seat as soon as possible which as per rule she is mandatorily required to do, so that she can take fresh admission against the seat allotted to her in the Round -2 of the Post Graduate Medical Admission Counselling (PGMAC)-2023, Government of Bihar.

(ii) That Consequent to the grant of relief as stated in above Paragraph (I) the Respondent Bihar Combined Entrance Competitive Examination Board (BCECEB) may also be directed to take admission of the petitioner based on Round-2 result of PGMAC-2023, against the seat allotted to her which she was unable to opt by 20th September 2023 (Last date of taking admission in state Round-2) due to the practical difficulties aroused because of closing of the portal for resignation by the Medical Counselling Committee (MCC) on 13.09.2023 itself, because of which the petitioner was unable to give her resignation from her earlier opted seat for MD (Anesthesiology) at PMCH, Patna, allotted to her in Round-1 by the All India Medical Counselling Committee (MCC) from All India Quota (AIQ).

(iii) For issuance of an appropriate writ in the nature of mandamus directing the respondent authorities particularly the Bihar Combined



Entrance Competitive Examination Board (BCECEB) to either keep one seat vacant/reserved in IGIMS, Patna (institution) in MD (Anesthesiology) against the seat allotted to the petitioner vide Annexure-P-6(Series) or either stay or postpone the admission process of Round-2 of PGMAC-2023- All till the final adjudication of this writ application, or till further orders of this Hon'ble Court.

(iv) For any other relief or reliefs which the petitioner may be found entitled to in the facts and circumstances of the case.

(v) Cost of the litigation throughout.”

3. Learned counsel for the petitioner submits that the petitioner being a qualified doctor having pursued her MBBS appeared in the NEET PG-2023 Examination which is being conducted by Respondent No. 5. She secured All India Rank-21248 and State Rank-348. It is stated that after declaration of the result of NEET PG-2023, a Schedule programme for Counselling- 2023 was published by Respondent No. 4 which is the Governing Body across the country in the field of Medical Education. The petitioner participated in the said Counselling and was allotted seat for admission in MD (Anesthesiology) in Patna Medical College and Hospital, Patna (in short 'PMCH'). The Respondent No. 3 and Respondent No. 5 also came with



their respective prospectus regarding the PG-Counselling to be conducted by them. The petitioner had taken admission in the respective allotted College i.e. PMCH, Patna on 12.08.2023.

4. It is stated that the petitioner also participated in Round-2 of the All India Medical Counselling but for the reason that there was no upgradation in choice of better College that could be allotted to her in Round-2 of the said Counselling, the petitioner continued with her earlier seat allotted in Round-1. In the same way, she waited earlier after State Round-1 Counselling and waited for Round-2 of the State Counselling for getting better options of Colleges.

5. It is stated that the Counselling was, however, getting delayed and what was expected to have commenced from 25th August, 2023 as State Round-1, started late from its scheduled time, so Round-2 of the State Counselling also got delayed. Respondent No. 5 was not following the Counselling scheme given by the Respondent No. 3 from Round-1 itself. Even after start of Round-3 of the All India Counselling on 07.09.2023, ignoring the Scheduled programme published by Respondent No. 3 as per which the State Round-2 Counselling should have commenced, it was not started in time and Round-2 Counselling started from 7th September, 2023 and the result of



the same was declared on 14th September, 2023 which was later on withdrawn on 17th September, 2023 and one revised result was published on 18.09.2023.

6. At this stage, the case of the petitioner is that the Respondent No. 3 came out with a notice dated 04.09.2023 allowing resignation of the candidates by 07.09.2023 to those who had already taken their admission to the Colleges allotted in Round-1/Round-2 of the All India Quota. The petitioner was allotted letter for admission to IGIMS, Patna in Round-2 of the State Counselling allotment list through the Respondent No. 5 but prior to publication of the result of the Bihar State Round-2 Counselling on 18.09.2023, the Respondent No. 3 came out with a notice dated 12.09.2023 itself allowing resignation from Round-1/Round-2 All India Quota Seat on 13.09.2023 only enabling candidates of other States to make their resignation and further opt for option of some better College allotted after declaration of result of Round-2 of their home State Counselling. The submission is that Respondent No. 3, however, could not appreciate and did not take note of the fact that the State Counselling result of the State of Bihar was not published by then because of which the candidates like the petitioner belonging to the State of Bihar could not opt for such



resignation benefit which was given to the candidates of other States.

7. Learned counsel for the petitioner submits that for the delay on the part of Respondent No. 5 in adhering to the scheduled programme by few days, the petitioner has been left to suffer. Attention of this Court has been drawn towards the notice date 12.09.2023 published by the Office of MCC (Respondent No. 3) wherein it is clearly stated that the MCC was in receipt of many requests from PG candidates who had been allotted seats through Round-2 State Counselling and since many States had declared their Round-2 result after the start of Round-3 of PG Counselling being conducted by MCC, candidates who had been allotted in Round-2 of the State Counselling now wanted to resign their Round-2 seats allotted through MCC so that they are able to proceed with the State Counselling.

8. Learned counsel submits that taking note of the request of the PG candidates of the other States, they were allowed to exit from their Round-1 or Round-2 seat allotted to MCC with 'forfeiture of security deposit'. The submission is that one time opportunity is required to be given to the petitioner in similar terms.



9. Mr. Anshay Bahadur Mathur, learned counsel for the Respondent No. 3 has on instruction submitted that because third round of the counselling for the seats under All India Quota has already been completed and the result is likely to be published either today or by tomorrow, no resignation may be allowed at this stage.

10. Mr. Kumar Priya Ranjan, learned counsel for the Respondent No. 4 has placed before this Court a recent order dated 14.08.2023 passed by the Hon'ble Supreme Court in Miscellaneous Application No. 1732 of 2023 in WP (C) No. 76 of 2015. By said order, the one time extension of the deadline for conducting the post-graduate medical courses admission process for 2023-2024 has been allowed and one time extension has been granted until 10th October, 2023 as proposed by the Director of Health Services.

11. Mr. Prasoon Sinha, learned counsel for the Respondent No. 5 has drawn the attention of this Court towards the notice published by Respondent No. 5 as contained in Annexure 'P-6 (series)' regarding Second round Counselling. Clause '10' of the said notice has been referred to submit that in terms of the said Clause '10' because the petitioner has not got her document verification done and has not upgraded herself for



Round-3 by clicking 'No', the seat allotted to her in the Second Round Counselling would stand cancelled and the security deposit shall be forfeited. It is submitted that now the seat allotted to the petitioner has gone to the third round of counselling.

12. Having heard learned counsel for the petitioner and the State, this Court is of the considered opinion that the petitioner has been able to demonstrate a genuine problem on her part in not availing the opportunity granted by MCC vide notice dated 12.09.2023. The delay in publishing the result/revised result of the second round of State Counselling on the part of the Respondent No. 5 writs large. Had the result been published prior to 13.09.2023 and as per the scheduled programme, this difficulty would not have arisen.

13. This Court is conscious of the fact that the third round of counselling has been going on and the result of All India Quota of the third round of counselling is likely to come. In such circumstance, this Court would not like to exercise its extraordinary writ jurisdiction to interfere with the ongoing process in any way but having said so, this Court is of the considered opinion that the grievance of the petitioner is required to be looked into by the Respondents and if it is found



that the petitioner is likely to suffer for no fault on her part and she may be given an opportunity to resign without disturbing the scheduled programme particularly keeping in view the extended time period, her request may be considered.

14. This Court, therefore, directs the concerned respondents to look into the grievance of the petitioner and take an appropriate view of the matter.

15. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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