

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.845 of 2023

In

Civil Writ Jurisdiction Case No.7058 of 2022

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1. National Medical Commission Pocket- 14, Sector-8, Dwarka Phase- 1, New Delhi- 110077, India.
 2. Medical Assessment and Rating Board Pocket- 14, Sector - 8, Dwarka Phase- 1, New Delhi- 110077, INDIA.

... .. Appellant/s

Versus

1. Radha Devi Jageshwari Memorial Medical College and Hospital run by Society registered under Societies Registration act, 1860 in the name of J.M. Institute of Speech and Hearing (Registration No. 260/84-85) having its registered office at Indrapuri, Road No. 5, Patna - 800004 through its treasurer and authorized representative Alok Kumar Srivastava, S/o Shambhu Nath Sahay, Male, Aged 48 years, R/o Near R.N.S. College, Balughat, Yahiapur, Muzaffarpur, Bihar- 842001.
2. State of Bihar Through Chief Secretary, Government of Bihar.
3. Union of India Through the Cabinet Secretary, Government of India, New Delhi.
4. Jageshwari Memorial Institute of Speech and Hearing having its registered office at Road No. 5, Indrapuri P.S.- Patliputra, District- Patna through its President Manisha Kumari, Wife of Dr. Manoj Kumar, Resident of Road No.5, Indrapuri, P.S.- Patliputra, District- Patna.
5. Aryabhatta Knowledge University, Patna through the Registrar, having its office at Mithapur Farm Area, Mithapur, Patna-800001.
6. Bihar Combined Entrance Competitive Examination Board (BCECE) through Controller of Examination, BCECE having its office at I.A.S. Association Building, Near Patna Airport, Patna-800014.

... .. Respondent/s

with

Letters Patent Appeal No. 799 of 2023

In

Civil Writ Jurisdiction Case No.7426 of 2022

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1. The Chairman, National Medical Commission Pocket-14, Sector-8, Dwarka Phase-1, New Delhi-110077.
 2. Medical Assessment and Rating Board, Pocket-14, Sector-8, Dwarka Phase-1, New Delhi-110077.

... .. Appellant/s

Versus

1. Shashwat Son of Shashi Bhushan Resident of Flat No. 302, Namaskar Kunj,



Behind IGIMS, Patna-800025, Bihar.

2. Shubham Rai, Son of Dhananjay Kumar Rai Resident of Sathiyaw, Fazil Nagar, District-Kushinagar, Uttar Pradesh-274401.
3. The State of Bihar, through the Chief Secretary, Government of Bihar, Main Secretariat, Patna-800015.
4. The Additional Chief Secretary, Health Department, Government of Bihar, Vikash Bhawan, Secretariat, Patna.
5. Radha Devi Jageshwari Memorial Medical College and Hospital, run by a Society Registered Under the Societies Registration Act, 1860 in the name J.M. Institute of Speech and Hearing (Registration No. 260/84-85) having its registered Office at Indrapuri Road No.5, Patna-800004 through its Treasurer and Authorized Representative Alok Kumar Srivastava, S/o Shambhu Nath Sahay, Male, aged 48 Years, R/o Near R.N.S. College, Balughat, Yahiapur, Muzaffarpur, Bihar-842001.
6. The Union of India, represented through the Cabinet Secretary, Government of India, Rashtrapati Bhawan, New Delhi-110004.

... .. Respondent/s

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with

Letters Patent Appeal No. 800 of 2023

In

Civil Writ Jurisdiction Case No.11946 of 2022

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1. The National Medical Commission through the Chairman, Pocket-14 Sector-8 Dwarka Phase-1 New Delhi-110077.
2. The Chairman, National Medical Commission, Pocket-14 Sector-8 Dwarka Phase-1 New Delhi-110077.
3. The Medical Assessment and Rating Board through its President Pocket-14 Sector-8 Dwarka Phase-1 New Delhi-110077.

... .. Appellant/s

Versus

1. Neelabh Son of Sri Rameshwar Lal, Resident of Kishori Niketan, Jai Prakash Nagar, P.O.-G.P.O., P.S.- Jakkanpur, District-Patna-800001.
2. Rishabh Raj Son of Sri Raghunath, Resident of Village and P.O.-Shahar Rampur, P.S.-Naubatpur, District-Patna-801109.
3. Shweta Bharti Daughter of Sri Manoranjan Kumar Manohar, Resident of Atand P.O.-Ara, P.S.-Nawada, District-Bhojpur.
4. Praveen Anand Son of Sri Vikrama Ram, Resident of Village-Dhanahi, P.O.-Barmaswa, P.S.-Harsidhi, District-East Champaran, Bihar-845437.
5. Faiyaz Alam Son of Sri-Liyaquat Hussain, Resident of Village and P.O.-Marghiya Sadar Tola, P.S.-Barari, District-Katihar, Bihar-854104.
6. Tanishqu Shrivastava Son of Sri-Gyan Shankar Shrivastava, Resident of At-Kota Colony Behind Vivekanand Teachers Colony, P.S.-Sarswati Nagar Thana Raipur, District-Raipur, Chhatisgarh-492010.



7. Abdul Rab Son of Sri-Md. Waris Ali, Resident of Village and Post-Semrahiya, P.S.-Chauradano, District-East Champaran, Bihar-845302.
8. Ashhar Tarique, Son of Sri-Qaiser Imam Sajid Resident of At-Pokhariya PirSaidpura Near Bazar, P.O.-Ramna, P.S.-Kazi Mohamadpur, District-Muzaffarpur, Bihar-842002.
9. Rahbar Alam Son of Sri-Lal Mohammad, Resident of At Churbighat Chandwa, P.S.-Rohatara, District-Katihar, Bihar-854303.
10. Aarpit Suman Son of Sri-Rajesh Kumar Resident of At Laxmi ChowkDaudpur Kothi, P.S.-Brahampura, District-Muzaffarpur, Bihar-842003.
11. Narendra Bhabha Son of Sri-Prabhakar Prasad Singh Resident of At Ashok Nagar Khagariya Koshi College, P.S.-Chitragupt Nagar, District-Khagariya, Bihar-851205.
12. Kundan Kumar Son of Sri-Naval Kishor Rai, Resident of At Bara Telpa Chapra, P.S.-Mustafir, District-Saran, Bihar-841301.
13. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
14. The Additional Chief Secretary, Health Department, Government of Bihar, Patna.
15. The Bihar Combined Entrance Competitive Examination Board through its Chairman-cum-Member, Board of Revenue, IAS Association Building, Near Patna Airport, District-Patna-800014.
16. The Chairman-cum-Member Board of Revenue, Bihar Combined Entrance Competitive Examination Board, IAS Association Building, Near Patna Airport, District-Patna-800014.
17. Radha Devi Jageshwari Memorial Medical College and Hospital, P.S. Turki, Muzaffarpur through the Principal.

... .. Respondent/s

with
Letters Patent Appeal No. 802 of 2023
In
Civil Writ Jurisdiction Case No.8358 of 2022

1. The Chairman, National Medical Commission Pocket-14, Sector- 8, Dwarka Phase- I, New Delhi- 110077.
2. Medical Assessment and Rating Board, Pocket- 14, Sector-8, Dwarka Phase-1, New Delhi- 110077 through its President.

... .. Appellant/s

Versus

1. Ujjawal Kumar Son of Rohit Kumar Resident of Bokane Kalan, East Champaran, Bihar- 845414.
2. Sushmit Bhardwaj Son of Sanjay Kumar Resident of E/2/4, Road No. 6-D, Sadhnapuri, Gardanibagh, Phulwari, Patna- 800001.
3. Adhiraj Singh Son of Jitendra Singh Resident of Lachhwai, Post Heonra, Etawah, Uttar Pradesh 206001.



4. Ishika Kumari Daughter of Chandeshwar Tiwari Resident of Holding No.100, Ward No.17 Asnabad, Near IBP Petrol Pump, Jhumri Telaiya, Koderma, Jharkhand- 825409.
5. Muskan Singh Onam Daughter of Madan Mohanpur Road, Near of Kranti Hotel, Ward No.13, Kashipur, Samastipur- 848101.
6. Kumar Shambhav Son of Bhal Chandra Mishra Resident of Sahiyar Dih, Samastipur, Rosera, Bihar- 848210.
7. Aakanksha Choubey Daughter of A. Choubey Resident of House No. 34/1878, Shyam Nagar, Telibandha, Raipur, Chhattisgarh- 492006.
8. Satyam Kumar Son of Rajeshwar Choubey Resident of Pandey Tola, Narkatiaganj, West Champaran- 845455.
9. Nidhinandini Daughter of Dayanand Prasad Resident of 63-C, Mustafabad, Post P.S. Rampur, District- Gaya, Bihar 823001.
10. Ojaswi Prakash Son of Om Prakash Opposite Shiv Mandir, Ram Sahay Lane, Mahendru, Patna- 800006, Bihar.
11. Kritika Raj Daughter of Vinod Kumar Resident of House No. 0083, Kashipur, Gali No.1, Ward No.8, Samastipur, Bihar- 848101.
12. Saema Eram Daughter of Md. Iftekhhar Ansari Resident of Barun Khemda Aurangabad, Bihar 824112.
13. Akanksha Priya Daughter of Hira Lal Sah Resident of Sant Nagar, Madhubani, Purnia- 854301.
14. Anamika Prakash Presently Student of Radha Devi Jageshwari Memorial Medical College and Hospital, Manaria Chhajan, Turki, Muzaffarpur.
15. Gulshan Raj Son of Prabodh Kumar Singh Village Man Pursauli Post Isuapur, Saran, Bihar- 841411.
16. Ved Prakash Son of Lalit Prakash Resident of Ram Nagar Polytechnic, Purnea- 854301.
17. Nidhi Daughter of Sipahi Lal Verma Resident of Jainpur Bheekhepur, Ajitmal, Auraiya, Uttar Pradesh- 206129.
18. Nitin Kumar Son of Chandan Kumar Resident of Khajurbanna, Sampatchak, Patna- 800006, Bihar.
19. Hrishikesh Kumar Son of Arvind Kumar Resident of Gram Ijarta, Paipura Kala, Bihar- 801110.
20. Manish Pushkar Son of Dineshwar Prasad Singh Resident of 201, Poonamjyoti Apartment, Vivekanand Park, Boring Road, Patliputra, Patna- 800013.
21. Ninad Vishwajit Kamble Son of Vishwajit Kamble Resident of Pandharkawada, Chintamani Lay out, Kelapur, Yavatmal, Maharashtra- 445302.
22. Komal Daughter of Binod Kumar Reesident of Near Durga Mandir, Sonpur Adam, Ward No.13, Sonapur, Saran, Bihar- 841101.
23. Shilpa Gautam Daughter of Ashutosh Kumar Singh Resident of Madhuaha Birit, East Champaran, Bihar- 845436.
24. Pragya Kumari Daughter of Dilip Kumar Chaudhary Resident of Gold



- Vatika Green City, Dimna Road, Mango, Jamshedpur, Jharkhand- 831012.
25. Shagun Daughter of Mithilesh Kumar Resident of G.C. Banerjee Road, Town, Bhikhanpur, Jagdishpur, District Bhagalpur- 812001.
 26. Sonali Kumari Daughter of Harendra Sah Resident of Motipur, Samastipur, Bihar- 848130.
 27. Saloni Srivastava Daughter of Mukesh Kumar Srivastava Resident of Banwa Tola, P.O. Belbagh, Bettiah, West Champaran- 845438.
 28. Shrishti Raj Daughter of Ravi Ranjan Resident of 5, Jamalabad, Muzaffarpur, Mushari- 842004, Bihar.
 29. Divyam Bhardwaj Son of Vikash Bhardwaj Resident of OM Colony, Bhagwanpur Chowk, Muzaffarpur- 842001.
 30. Diptesh Patel Son of Srikanta Kumar Patel Resident of Industrial Estate, Beheramal, Jharsuguda, Odisha- 768203.
 31. Rishabh Nandan Son of Nandan KUMAR Roy Resident of Flat No.202, Poonam Jyoti Apartment, Vivekanand Marg, Behind Ladoo Gopal Sweets, Near Basudha Apartment, Patliputra Colony, Patliputra, Patna- 800013.
 32. Ankit Raj Son of Jitendra Singh Resident of C-13, 14, 15, Kaveri Kunj, Near Pali Factory, Uttam Nagar, West Delhi- 110059.
 33. Sharvi Shatakshi Daughter of Sanjay Kumar Resident of Road No.2, Durga Mandir, Azad Colony, Maripur, Bhagwanpur, Muzaffarpur- 842001, Bihar.
 34. Shalini Daughter of Sudhir Kumar Ward No.13, Near Primary School, Thalha Gadhiya, Dakshin Thalha, Garhia, Triveniganj, Supaul- 852139.
 35. Deepak Kumar Singh Son of Manoj Kumar Singh Resident of Ward No.7, TJKS College Pratap Nagar, Rajopatti, Sitamarhi, Rampatti, Sitamarhi- 843302.
 36. Ved Prakash Himanshu Son of Gyan Prakash Himanshu Resident of Arya Samaj Mandir Road, S.K. Puram Lane, No.8, R.P.S. More, Ward No.38, Dinapur cum Khagaul, Bihar- 801503.
 37. Ritik Raj Son of Arvind Kumar Singh Resident of 308 G, Vachaspati Nagar, Santh Path Kumhrar, Near Kumhrar Raily Gumati, P.S.- Bahadurpur, Sampatchak, Patna- 800006.
 38. Bishwanath Das Son of Abhaya Kumar Das Resident of Tainkul (Biridua) Sarana, Baharana, Balikuda, VTC, Sarana, P.O. Sarana, District- Jagatsinghapur, Odisha, Pin 754106.
 39. Md. Tahrim Alfid Son of Md. Tafazzal Hussain Resident of SS Road, Navin Nagar, Ranga Gara Huzz, P.O.- Haiborgaon, District Nagaon, Assam- 782002.
 40. Nitin Kumar Son of Chandan Kumar Resident of Khajurbanna, Sampatchak, Mahendru, Patna- 800006, Bihar.
 41. Vivek Kumar Son of Binda Paswan Resident of Mitramandal Colony, near Shiv Narayan Chowk, Phulwari, Patna- 800002, Bihar.
 42. Sweety Kumari Daughter of Gopal Prasad Meharpur, Post Ranabigha, P.S. Laheri, Rana Bigha, Nalanda- 803101.
 43. Harshita Hind Daughter of Sunil Kumar Resident of Near Shiv Mandir



School, Naya Bazar, Ramzan Manzil, Dhanbad, Jharkhand.

44. Sajal Chandrakar Son of Liladhar Chandrakar Resident of Bazar Pada, Ward No.5, Jonk, Khariar Road, Nuapada, Odisha- 766104.
45. Pragya Bharti Daughter of Devendra Choudhary Resident of H.No. 78, Loknathpur, Dalsinghsarai, Samastipur- 8481144.
46. Alok Kumar Son of Ram Ekwal Choudhary Resident of Shivdaspur, Muzaffarpur- 843321.
47. Darsh Verma Son of Yashwat Deo Verma A-15, Gitanjali Nagar, Gudhiyari, Raipur, Chhatisgarh- 492009.
48. Ohm Anand Son of Suresh Prasad Sah Resident of Barbanna, Katihar, 854105.
49. Ravi Raj Raushan Son of Lalan KUmair Nirala P.S. Rajgir, Badi Mili, Nalanda- 803116.
50. Jayant Raj Son of Professor Madhurendra Resident of Aziz Lane, Post G.P.O., District Patna.
51. Abhinav Kumar Bhaskar Son of Brijesh Kumar Resident of Mahal Saray, Najibabad, Uttar Pradesh- 246763.
52. Vishal Tiwari Son of Arvind Kumar Tiwary Student of Radha Devi Jageshwari Memorial Medical College and Hospital, Manaria Chhajan, Turki, Muzaffarpur.
53. Anamika Daughter of Pavan Kumar Saraswat Resident of Saraswat Hospital Runkata, Agra, Uttar Pradesh- 282007.
54. Ayush Kumar Shahi Son of Arun Kumar Shahi Resident of Gayatri Mandir Road, Near Hanuman Mandir, Akharaghat, Nazeerpur, Shekhpora, Muzaffarpur- 842002.
55. Utkarsh Govind Son of Dr. Jagdhar Mandal Resident of Superintendent Quarter, Prashal Bhawan, Parbati, Bhagalpur- 812007.
56. Harsh Singh Son of Brijpal Singh Resident of 117-P-1/572, Shivpuri, Kakadeo, R.K. Nagar, Kanpur Nagar, Uttar Pradesh- 208012.
57. Parag Kumar Deo Son of Ratneshwar Kumar Deo Resident of Village Tikapati, Post- Dasout, Darbhanga, Alinagar, 847405.
58. Avinash Kumar Son of Jitendra Ray Resident of Bharat Milap Chowk, Post Bhagwan Bazar, Chapra, Saran- 841301.
59. Abhinav Raj Son of Ramanand Singh Resident of Ward No.1, Basanwara, Madhepura, Bihar- 852210.
60. Suyash Mishra Son of Karunachal Mishra Resident of 289, Brahmapuri, Near R.M.P. Degree College, Sitapur, Uttar Pradesh- 261001.
61. Uday Dnyandeo Tapre Son of Dhyandeo Tapre Resident of Sr. No. 73/1/1, Ganaraya Bunglow, Shivaji Park, New Sangvi, Pune City, Pune, Maharashtra- 411027.
62. Aman Kumar Ranjan Son of Rajiv Kumar Ranjan Jamuna Flour Mills Campus, Kalibari Road, Binodpur, Katihar- 854105.
63. Rajan Kumar Son of Sanjay Kumar Resident of DS 1-158, Railway Colony, Balidih, Tanr Balidih, Bokaro, Jharkhand- 827014.



64. Nimisha Mishra Daughter of Narendra Mishra Resident of Nawhat, Ward No.5, Rampatti, Madhubani- 847236.
65. Kajal Kumari Daughter of Ranjit Kumar Resident of Nasriganj, Mithila Colony, Dinapur cum Khagaul, Patna- 800018.
66. Bagisha Daughter of Parimal Kumar Khan Resident of House No.26, Road No.14, Near Roxo Convent School, Indrapuri, Keshari Nagar, Patna- 800024.
67. Lipika Kumari Daughter of Rajendra Prasad Keshari Resident of Village Sabour, Post Sabour, District Bhagalpur 813210.
68. Aashutosh Ashok Gupta Son of Ashok Gupta Resident of Sai Sadan, Room No.1, Plot No.622, Kansai Section Road, Behind Datta Mandir, Ambernath East, P.O. Ambernath, Thane District, Maharashtra- 421501.
69. Nammi Dattareya Pavan Sahit Son of Nammi Satya Siva Subhash Kumar Resident of MIG 2-A- 276, Vinayaka Nagar, Vuda Colony, Near Ayyappa Temple, Pedagantyada, Visakhapatnam, Andhra Pradesh- 530044.
70. Boddeda Bharath Son of Boddeda Varaha Laxmi Narasimha Murthy Resident of H No.3- 36, Pottibeedu Center, Mungapaka, Mandeelhir, Nagulapalle, Visakhapatnam, Andhra Pradesh- 531001.
71. Aditi Pandey Daughter of Manoj Pandey Resident of Kaudiya, Near Tulshi Udyan, Shahganj, Jaunpur, Uttar Pradesh- 223101.
72. Sonal Kumari Daughter of Sarbeshwar Singh Resident of Village Narainiya, near Ram Janki Mandir, Narainian, Gopalganj, Bihar- 841438.
73. Rishika Singh Daughter of rajesh Kumar Singh Pali Road, Dehir, Dalmianagar, Rohtas, Bihar- 821305.
74. Utkarsh Mishra Son of Shivakant Mishra Kath Taraon, Mau, Uttar Pradesh- 221602.
75. Suraj Kumar Son of Rameshwar Singh Resident of Lauwa, Kalan, Saran, Bihar- 841403, Bihar.
76. The State of Bihar through the Chief Secretary, Government of Bihar, Main Secretariat, Patna- 800015.
77. The Additional Chief Secretary, Health Department, Government of Bihar, Vikash Bhawan, Secretariat, Patna.
78. Radha Devi Jageshwari Memorial Medical College and Hospital, Manaria Chhajan, Turki, District Muzaffarpur represented through its Principal
79. The Principal, Radha Devi Jageshwari Memorial Medical College and Hospital, Manaria Chhajan, Turki, District Muzaffarpur.
80. The Union of India represented through the Cabinet Secretary, Government of India, Rashtrapati Bhawan, New Delhi- 110004.

... .. Respondent/s

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with
Letters Patent Appeal No. 816 of 2023
In
Civil Writ Jurisdiction Case No.8548 of 2022



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1. National Medical Commission (a statutory body established under the National Medical Commission Act 2019), having its Office at Pocket - 14, Sector - 8, Dwarka Phase - 1, New Delhi - 110077, through its Chairman.
 2. Medical Assessment Rating Board (an Autonomous Board, Established by the Central Government under Section 16(c) of the National Medical Commission Act 2019) having its office at having its office at Pocket-14, Sector-8, Dwarka Phase-1, New Delhi-110077 through its President.

... .. Appellant/s

Versus

1. Jageshwari Memorial Institute of Speech and Hearing a Society Registered under the Societies Registration Act 1, and having its registered office at Road No. 5, Indrapuri, P.O.- Keshrinagar, P.S. - Patliputra, Town and District- Patna 800024 (Bihar), through its President, Dr. (Mrs.) Manisha Kumari.
2. Dr. (Mrs.) Manisha Kumari Wife of Dr. Manoj Kumar Resident of Road No. 5, Indrapuri, P.O. - Keshrinagar, P.S. - Patliputra, Town and District - Patna 800024 (Bihar), President of Jageshwari Memorial Institute of Speech and Hearing.
3. The State of Bihar through the Additional Chief Secretary, Department of Health, Vikas Bhawan, Bailey Road, P.S. - Sachivalaya, Patna - 800015 (Bihar).
4. Aryabhatta Knowledge University (AKU), a University established by the Government of Bihar, having its Campus at CNLU Campus, P.S.- Mithapur, Patna - 800001 (Bihar), through its Registrar.
5. Radha Devi Jageshwari Memorial Medical College and Hospital through Mr. Rajeev Kumar, Son of Suresh Kumar Sharma, Resident of Chakkar Maidan, Mahammadpur Kazi, Muzaffapur Bihar- 842001 and the General Secretary of Society I.e. J.M. Institute of Speech and Hearing.
6. Union of India through the Secretary, Ministry of Health and Family Welfare, having office at Nirman Bhawan, Maulana Azad Road, P.O. - New Delhi, P.S.- Parliament Street, New Delhi- 110001.

... .. Respondent/s

with
Letters Patent Appeal No. 112 of 2024
In
Civil Writ Jurisdiction Case No.11946 of 2022

1. Neelabh Son of Sri Rameshwar Lal, Resident of Kishori Niketan, Jai Prakash Nagar, P.O.- G.P.O., P.S.- Jakkanpur, District- Patna- 800001.
2. Rishabh Raj, Son of Sri Raghunath, Resident of Village and P.O.- Shahr Rampur, P.S.- Naubatpur District- Patna- 801109.
3. Shweta Bharti, Daughter of Sri Manoranjan Kumar Manohar, Resident of At and P.O.- Ara, P.S.- Nawada, District- Bhojpur.



4. Praveen Anand, Son of Sri- Vikarma Ram, Resident of Village Dhanahi, P.O.- Barmaswa, P.S.- Harsidhi, District- East Champaran, Bihar -845437.
5. Faiyaz Alam, Son of Sri - Liyaquat Hussain, Resident of Village and P.O.- Marghiya Sadar Tola, P.S.- Barari, District- Katihar, Bihar-854104.
6. Tanishqu Shrivass, Son of Sri - Gyan Shankar Shrivass, Resident of At- Kota Colony Behind Vivekanand Teachers Colony, P.S.- Sarswati Nagar Thana Raipur, District- Raipur, Chhatishgarh - 492010.
7. Abdul Rab, Son of Sri- Md. Waris Ali, Resident of Village Post Semrahiya, P.S.- Chauradano District- East Champaran, Bihar-845302.
8. Rahbar Alam, Son of Sri Lal Mohammad, Resident of At Churbighat Chandwa, P.S.- Rohatara, District- Katihar, Bihar- 854303.
9. Aarpit Suman, Son of Sri- Rajesh Kumar, Resident of At Laxmi Chowk Daudpur Kothi, P.S.- Brahampura, District- Muzaffarpur, Bihar- 842003.
10. Narendra Bhabha, Son of Sri- Prabhakar Prasad Singh, Resident of At Ashok Nagar Khagariya Koshi College, P.S- Chitragupt Nagar, District- Khagariya, Bihar- 851205.
11. Kundan Kumar, Son of Sri- Naval Kishor Rai, Resident of At Bara Telpa Chapra, P.S.- Mustafir, District- Saran, Bihar- 841301.

... .. Appellant/s

Versus

1. The National Medical Commission through the Chairman Pocket- 14 Sector-8 Dwarka Phase-1 New Delhi-110077
2. The Chairman, National Medical Commission, Pocket- 14 Sector-8 Dwarka Phase-1 New Delhi-110077.
3. The Medical Assessment and Rating Board, through its President Pocket- 14 Sector-8 Dwarka Phase-1 New Delhi-110077.
4. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna.
5. The Additional Chief Secretary, Health Department, Government of Bihar, Patna.
6. The Bihar Combined Entrance Competitive Examination Board, through its Chairman-cum-Member, Board of Revenue, IAS Association Building, Near Patna Airport, District- Patna- 800014.
7. The Chairman-cum-Member, Board of Revenue, Bihar Combined Entrance Competitive Examination Board, IAS Association Building, Near Patna Airport, District- Patna- 800014.
8. Radha Devi Jageshwari Memorial Medical College and Hospital, P.S. Turki, Muzaffarpur through the Principal.
9. Ashhar Tarique, Son of Sri - Qaiser Imam Sajid, Resident of At- Pokhariya Pir Saidpura Near Bazar, P.O.- Ramna, P.S.- Kazi Mohamadpur, District- Muzaffarpur, Bihar- 842002.

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 845 of 2023)

For the Appellant/s : Mr. Kumar Priya Ranjan, Adv.
Mr. Sandeep Kumar, Adv.
For the Respondent/s : Mr. S.D. Yadav, AAG-9
Mr. Prem Ranjan Kumar, AC to AAG-IX
For the Resp No.1 : Mr. Abhinav Srivastava, Adv.
Mr. Arpit Anand, Adv.
For the Resp No.3 : Ms. Kanak Verma, CGC
For the Resp No.5 : Mr. Nadeem Seraj, Adv.
For the Resp No. 6 : Mr. Prasoon Sinha, Adv.

(In Letters Patent Appeal No. 799 of 2023)

For the Appellant/s : Mr. Kumar Priya Ranjan, Adv.
Mr. Vibhuti Kumar, Adv.
For the Respondent/s : Mr. S.D. Yadav, AAG-9
Mr. Braj Bhushan Mishra, AC to AAG-9
For the Resp No.1 : Mr. Abhinav Srivastava, Adv.
Mr. Arpit Anand, Adv.
For the Resp No.6 : Mr. Prasoon Sinha, Adv.
Mr. Amarnath Kumar, Adv.

(In Letters Patent Appeal No. 800 of 2023)

For the Appellant/s : Mr. Kumar Priya Ranjan, Adv.
For the Respondent/s : Mr. S.D. Yadav, AAG-9
Mr. Prem Ranjan Kumar, AC to AAG-IX
For the Resp No.1 : Mr. Abhinav Srivastava, Adv.
Mr. Arpit Anand, Adv.
For the Resp No.6 : Mr. Prasoon Sinha, Adv.
Mr. Amarnath Kumar, Adv.

(In Letters Patent Appeal No. 802 of 2023)

For the Appellant/s : Mr. Kumar Priya Ranjan, Adv.
For the Respondent/s : Mr. Sujeet Kumar Sinha, CGC
For the Resp No.1 : Mr. Abhinav Srivastava, Adv.
Mr. Arpit Anand, Adv.
For the Resp No.6 : Mr. Prasoon Sinha, Adv.
Mr. Amarnath Kumar, Adv.

(In Letters Patent Appeal No. 816 of 2023)

For the Appellant/s : Mr. Kumar Priya Ranjan, Adv.
For the Respondent/s : Mr. Sujeet Kumar Sinha, CGC
For the Resp No.1 : Mr. Abhinav Srivastava, Adv.
Mr. Arpit Anand, Adv.
For the Resp No.6 : Mr. Prasoon Sinha, Adv.
Mr. Amarnath Kumar, Adv.

(In Letters Patent Appeal No. 112 of 2024)

For the Appellant/s : Mr. Kumar Kaushik, Adv.
For the Respondent/s : Mr. S.D. Yadav, AAG-9

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
CAV JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-02-2024

The six appeals are from a common judgment
rendered in five analogous writ petitions. Two writ petitions



were filed, respectively by a medical college and the Society, which runs the medical college, along with its President and the other three by the students admitted to the academic session 2021-22.

2. The medical college and the Society managing it, challenged the cancellation of permission to start the MBBS course, granted for the first time in the academic year 2021-22. The students sought for shifting them to government medical colleges, since, pursuant to the cancellation, they would be deprived of continuing their studies. By an impugned order, the cancellation of the permission granted was stayed by a learned Single Judge, which enabled the students to be continued in the same college. After hearing the matter, the impugned judgment set aside the order of cancellation dated 18.04.2022, in the writ petitions filed by the medical college and the Society managing the college. The prayer of the students for shifting them to government medical colleges was negated, and their writ petitions were rejected.

3. The National Medical Commission (for brevity, the NMC) filed five appeals from the impugned order. The students who filed one of the writ petitions, C.W.J.C. No. 11946 of 2022, alone filed an appeal being LPA No. 112 of 2024 with a



gross delay of 405 days. Even the appeals filed by the NMC were delayed, and the earliest of that filed being LPA No. 799 of 2023, was delayed by four months and twenty days. Though notices were not issued, parties were represented by their Counsel and the matter was heard on consent of all parties, especially considering the fact that the students admitted to the academic year 2021-22, have been continuing on the basis of the interim order and the final judgment passed in analogous cases.

4. Shri. Kumar Priya Ranjan, learned Standing Counsel for the NMC, assailed the impugned judgment primarily on the following grounds. The learned Single Judge, according to the NMC, erred in presuming that since permission was granted for the academic year 2022–23; finding adequate facilities in the college, in the previous year too there would have been adequate facilities. The learned Single Judge erred also in finding the Medical Assessment Rating Board (for brevity, the MARB) as not empowered to cancel a recognition. The subject college had not obtained a recognition, which was possible only after four years of successful running of the academic courses. The learned Single Judge also erroneously found that the defects noticed by the MARB was only by reason



of a bereavement in the family of the Principal, which led to the faculty having departed to attend the funeral. The explanation insofar as there being lesser inpatients in the winter season also cannot be countenanced.

5. The learned counsel would take us through the records of the case to show that though permission was granted, a surprise inspection was conducted when gross deficiencies were detected. The MARB which conducted the physical inspection, reported the same to the NMC, and in the order issued specifically directed that no admissions are to be carried out for the academic year 2021-22. It is in violation of the said restriction that the said admissions were carried out. Based on the inspection, the report with the deficiencies and recommendations to withdraw the Letter of Permission was given by the NMC. It was the NMC which issued the withdrawal dated 18.04.2022.

6. ***Central Council for Indian Medicine v. Karnataka Ayurveda Medical College & Ors; (2022) 7 SCC 46*** was relied on to contend that grant of permission for a new course of study in an year, cannot enure to such permission being presumed for the previous year also. The NMC is the expert body appointed to regulate medical education and ensure



maintenance of minimum standard; the authority of which is recognised by the Hon'ble Supreme Court in ***State of Kerala v. Kumari T.P. Roshana & Anr; (1979) 1 SCC 52***. The decision though was with respect to the Medical Council of India, the erstwhile regulatory authority it applies squarely to the successor authority; NMC. That medical colleges require proper facilities for imparting medical education and should be well equipped cannot be doubted. The Hon'ble Supreme Court has time and again found that there can be no relaxation of standards in medical education, and the report of the inspection of the expert body cannot be upset by the High Court, sitting in appeal over such a report. Reliance is placed on ***Medical Council of India v. Kalinga Institute of Medical Sciences; (2016) 11 SCC 530*** and ***Medical Council of India v. Vedanta Institute of Academic Excellence Private Limited & Anr; (2018) 7 SCC 225*** to justify the surprise inspection conducted. Reliance is also placed on ***Manohar Lal Sharma v. Medical Council of India & Ors.; (2013) 10 SCC 60***. It is the submission of the learned counsel that there can be no admissions made to the academic year 2021-22, and the permission granted for admission to the academic year 2022-23, cannot relate back to the earlier year. The students admitted



have to be shifted to other medical colleges.

7. Shri Kumar Kaushik, appearing in LPA No. 112 of 2024, also supported the stand of the NMC and argued that the admissions were made in violation of the recommendation of the MARB. The governmental agency carrying out admissions ought not to have allotted students to the respondent college. The appellants, having been admitted to the respondent college, whose Letter of Permission was withdrawn for the subject assessment year by the NMC, ought to be accommodated in government colleges. It was submitted that the management of the college has been fleecing them with demands for exorbitant fees, more than that stipulated by the regulatory body. The students are harassed and even prohibited from appearing in examinations, if the demand for an excessive fee is not conceded to. Shri Vikas Kumar appearing for the respondent-students also supports the contention of the appellants in LPA No. 112 of 2024. It is stated that the students were accommodated in another private college where the conditions were worse, and after the interim order was passed, they continued in the respondent college.

8. Shri Abhinav Srivastava, learned counsel appearing for the respondent college and its management, seeks



to support the impugned judgment. It is argued that though a surprise inspection is permissible, before the inspecting team left the premises, the faculty who were attending the funeral returned. The inspecting team refused to acknowledge the presence of such faculty members. It is pointed out that the surprise inspection is said to have been carried out on the complaint of inadequate facilities, by students; when there were no admissions made at the time of the inspection. The respondent college had obtained the Letter of Permission for the first time in the academic year 2021-22. The admissions were delayed because of the COVID pandemic and, in fact, were made only after the commencement of the academic year 2022-23. After the surprise inspection, the MARB and the NMC slept over the matter, which led to the admissions being carried out on the basis of the allotment made by the Bihar Combined Entrance Competitive Examination Board (for brevity, the Board). By the time the admissions were made, the academic year was over, and in the academic year 2022-23, the college again received a Letter of Permission. In fact, though the admissions of 2021-22 would have been in their second academic year in 2022-23, their first year of academics was commenced only in the year 2022-23.



9. The claim of the students to get admitted to government colleges cannot be countenanced submits the Government Advocate since that would lead to other meritorious candidates who were accommodated in other private colleges being overlooked. The attempt of the students in seeking allotment to a government college is only for stealing a march over other meritorious candidates and to avail of the status of having studied in a government medical college, that too with far lesser fee liability.

10. At the outset, we have to notice that the contention of the students regarding the harassment meted out to them and the demand for higher fees by the management are not the subject of consideration in the above appeals. There are other forums to agitate the cause and the students would be entitled so to do before the regulatory authority or such other appropriate forum. In the appeals, we are concerned only with the sustainability of the cancellation of the Letter of Permission.

11. Admittedly, the respondent college had not obtained recognition, which could be obtained only after successful completion of four years academic course. The Letter of Intent was issued by the State Government, based on which an application was made for Letter of Permission. The MARB



conducted a physical inspection of the premises and found compliance of the requirements, for granting Letter of Permission. The assessment form of the NMC and the report of the MARB is produced as Annexure-P/2 in C.W.J.C. No. 8548 of 2022; from which writ petition we refer to the various documents. By Annexure-P/3 dated 22.09.2021, based on the report dated 04.09.2021, the NMC granted approval for filing up of 150 MBBS seats. The only requirement to be complied with, as noticed in Annexure-P/3, based on the report of the MARB, was 'to complete the examination hall and recruit One tutor in Physiology'.

12. The petitioner had made the necessary remittances by way of Annexure-P/4 series and was granted the Letter of Permission as per Annexure-P/5 on 01.11.2021. It was later to that, on 27.11.2021, a surprise inspection was conducted by the MARB. The list of deficiencies are noticed on the last page under the heading 'Summary of Assessment'. We do not extract the same, which has already been extracted in the judgment of the learned Single Judge. Suffice it to notice that there was noticed 85.18% shortage of teaching faculty and 90.69% shortage of resident doctors. The explanation offered by the Principal was that the mother of the President of the



sponsoring body had expired and the staff had been attending the last rites. It was also specifically indicated that by 11 a.m., the entire staff had returned to the college. There is no response by the MARB to the explanation offered by the Principal; which is handwritten in Ext.P/3 report of the MARB itself. Further, it is to be noticed that at the time of such inspection, there were no students admitted to the college. It is also not clear as to who made the complaint against the college.

13. Subsequent to the physical inspection by Annexure-P/7 dated 15.01.2022, the Board issued notice for online applications from qualified, eligible, and interested NEET (UG) 2020-21 candidates for appearing in the Under-Graduate medical counselling of 2021, for admission to the first year UG medical course in the government/private medical/dental colleges of the State of Bihar and also the Government Bihar Veterinary college. It is pursuant to that the admissions were carried out in the college.

14. The report of the MARB, based on the inspection carried out on 26.11.2021, resulted in the show-cause notice being issued produced as Annexure-P/8, dated 15.02.2022. A show-cause was submitted, as is seen at Annexure-P/9. The impugned withdrawal was by Annexure-



P/10 dated 18.04.2022, withdrawing the Letter of Permission and cancelling the admissions of 150 Under-Graduate MBBS students for the academic year 2021-22.

15. Admittedly, the assessment for annual intake of 150 admissions in the subsequent year 2022-23, was carried out on 08.09.2022. The NMC also does not have any dispute that what was granted was the first renewal, as per the report. In fact, in the Summary of Assessment, item no. 2 is relevant and is extracted hereunder:-

2. The college has got Permission from GOI/MCI with intake of 150 seats for the last academic year on 01 Nov 2021 but LOP was withdrawn by the order of NMC vide L.No. NMC/UG/2020/000093/016230 dated 18th April 2022. The classes of 150 students are continuing till date. NMC vide dated 15.02.2022 raised some queries which were deficiency of faculty, deficiency of resident, OPD & bed occupancy was less as per norms. The assessors had looked particularly these points and found them to be rectified by the college except mild deficiency of OPD Attendance on the day of inspection (563) and required is 600.

16. Having noticed the earlier permission granted and its withdrawal, the fact that the students admitted in the previous year was continuing, was also recorded. The assessors had specifically found that deficiency earlier noticed in faculty, residents, and bed occupancy were rectified except for the mild



deficiencies of out-patient attendance on the day of inspection. The type of assessment at Sl. No. 3 was stated to be for 'first renewal'. Hence, it has to be deemed to be a renewal and not a fresh permission granted for the academic year 2022-2023.

17. ***Karnataka Ayurveda Medical College*** (supra) was a case in which the college had applied for permission to start Post-Graduate course in Ayurveda for the academic year 2014-15 under the Medical Central Council (Post-Graduation Ayurveda Education) Regulations, 2012; which stood granted. The Regulations of 2012 came to be superseded by the Regulations of 2016, which had the additional requirement of having a Central Research Laboratory and an Animal House. The college had a collaboration with another institute which permitted the use of its Animal House, based on which the permission was continued for the academic years 2016-17 and 2017-18. Before the start of the next academic year, 2018-19 an inspection was conducted, based on which the permission was withdrawn on the ground of non-availability of the Central Research Laboratory and Animal House. While the writ petition against the withdrawal of permission of the academic year 2018-19 was pending, the Union of India granted permission to the college to admit students for the Post-Graduate course in the



academic year 2019-20. The High Court, relying on the binding precedents of the High Court, held that if the permission was granted for the subsequent years, the benefit should enure in the previous years also. It was in this fact situation that it was held that permission granted for a subsequent academic year would not enure to the benefit of an earlier academic year. What distinguishes the above cited case from the instant one is that there were students studying in the academic year 2018-19, when the permission granted for that earlier year was specifically rejected.

18. In the present case, it is pertinent to notice that though the permission was granted for the academic year 2021-22, that too the first academic year, on the establishment of the medical college, no students were admitted to the college. The Letter of Permission was granted after an inspection by the MARB. Even then, there were no admissions made since the pandemic had stalled the entire process. It is not disputed that the admissions were commenced, for the year 2021-22 only by Annexure-P/7 dated 15.01.2022.

19. The surprise inspection was conducted by the MARB on 27.11.2021, when there were no admissions made to the college, and there was no possibility of any admissions



made in the near future. Hence, when the report was drawn up it was incumbent upon the MARB to have given some time for the rectification of defects. This would have caused no prejudice to the standards of medical education since, at that point, there were no students admitted to the college.

20. We have to specifically notice Section 26 of the NMC Act, which delineates the powers and functions of the MARB. Under Clause (c), the MARB is enabled to carry out inspections of medical institutions for assessing and rating such institutions in accordance with the regulations made under the Act. Clause (f) also empowers such measures, including the issuance of warning, imposition of monetary penalty, reducing intake or stoppage of admissions, and recommending withdrawal of recognition to the Commission for failure to maintain the minimum essential standards specified, *inter alia*, by the Under-Graduate Medical Education Board. Section 28 speaks of permission of establishment of a medical college, under which inspections are carried out and recommendations made for the issuance of Letter of Permission. The Letter of Permission was also issued for the academic year by the NMC. Section 28(7) empowers the MARB to conduct evaluation and assessment of any medical institutions of any type, either



directly or through any other expert, without any prior notice, and assesses and evaluate the performance, standards, and benchmark of such medical institutions.

21. The MARB under Section 29(3), while granting permission for the establishment of a new medical college and considering the scheme received under sub-section 2, can either approve or disapprove of the scheme within a period of six months from the period of such receipt. The proviso to sub-section (3) also provides that before disapproving such scheme, an opportunity to rectify such defect, if any, shall be given to the person concerned. Hence, in the context of the permission granted and the later inspection conducted which led to its withdrawal; it was only proper that the MARB provided an opportunity for rectifying the defects, especially, when the academic course for which permission was granted had not commenced.

22. In any event, there was no measure taken on the recommendation till the Board came out with Annexure-P/7 on 15.01.2022 to admit students. The show-cause notice at Annexure-8 was issued on 15.02.2022, simultaneous to the admission commenced by the State Board. As has been rightly pointed out by the learned counsel for the NMC, it was



specifically directed that the admissions for the academic year 2021-22, shall not be carried out. The fact remains that such admissions were carried out and the students were continued after the withdrawal; on interim orders of this Court. In the next academic year, in which the course of the earlier year also commenced, there was an assessment carried out and after noticing the earlier permission granted and its withdrawal, the assessors had specifically found that the deficiency noticed in faculty, residents, and bed occupancy were rectified except for the mild deficiencies of out-patient attendance on the day of inspection. The type of assessment at Sl. No. 3 was stated to be first renewal. Hence, it has to be deemed to be a renewal and not a fresh permission granted for the academic year 2022-2023.

23. There was thus an inspection conducted on 18.09.2022, when the MARB itself considered the assessment to be one of first renewal and granted the same. If the MARB was of the opinion that the students admitted for the academic year 2021-22, should not be continued, then definitely this would have been a Letter of Permission granted for the first year. The assessment would have been for the grant of Letter of Permission and not for the first renewal. It can be safely inferred that the MARB took into consideration the fact that the students



were admitted only in April 2022.

24. We notice that the assessment made on 08.09.2022 is not available in the records. It has been produced across the Bar. The first and last pages of which are extracted here under:-

NATIONAL MEDICAL COMMISSION
ASSESSMENT FORM FOR ANNUAL INTAKE OF 1st ADMISSION

OPD Attendance was mildly short on the day of inspection.

9. Any other Remarks

Clinical Medical Subjects was seen by Dr. Deepak Malviya and found emergency is equipped and all equipments are found functional. Critical Care Units (ICU, ICCU, NICU, PICU) all are available with manpower. Medical wards (Medicine, Pediatrics, Pulmonary Medicine, Psychiatry, Dermatology) beds are as per NMC norms.

Clinical Surgical subjects including OPD & all OT's were assessed by Dr. Mukesh Kalra and no deficiency were found except of nos. of major operations on the day of inspection.

RHTC & UHTC were visited and examined by Dr. Naresh Mahawana and found to be associated with govt. health centers and approved by district authority for student and Intern posting in future (Copy attached).

Signature

Medical Superintendent: Dr. Deepak Malviya
Dr. Mukesh Kalra
Dr. Naresh Mahawana
Principal: Dr. Naresh Mahawana

Dr. Manish Mahawana
Dr. Deepak Malviya
Dr. Mukesh Kalra
Dr. Naresh Mahawana
Dr. Naresh Mahawana

25. We cannot countenance the contention of the appellants in LPA No. 112 of 2024 that they ought to be transferred to other government colleges. The admissions to the



government and private medical colleges are made in order of merit, and if a college to which admissions are made is found to have a valid claim to continue the course, there is no question of any shifting of students from that college to other colleges. We again reiterate that though the admissions were of the academic year 2021-22, the admissions were made after the conclusion of the academic year, that is 31.03.2022. The students admitted on 18.04.2022 in the first year, carried out their first year course in the academic year 2022-23, for which year the college had a valid permission issued by the NMC. We are told that even the admissions of the academic year 2022-23, was commenced only in the year 2023. Hence, though the admissions were of the academic year 2021-22, they have carried out the course only in the year 2022-23, when the college had a valid Letter of Permission. We find absolutely no reason to interfere with the directions of the learned Single Judge.

26. We have to also notice that the appeals are filed with considerable delay by the NMC and gross delay by the students. The NMCs appeals are with a delay of more than four months, and the students' appeal with a delay of more than 400 days. The delay in filing the appeals of four months by the NMC also prejudices the students insofar as they having been



continued in the respondent college for the said period.

27. We have to notice the principle, as discerned from *Collector, Land Acquisition, Anantnag & Anr. v. Mst Katiji & Ors.; (1987) 2 SCC 107*, that a liberal approach should be adopted to effectuate substantial justice, which is to be preferred over technical considerations. A reading of the said judgment would indicate that despite the delay, the Court had to step in to ensure that substantive rights of private parties and the State are not defeated at the threshold, simply due to technical considerations of delay. The Hon'ble Supreme Court despite that, held that condonation of delay is a discretion conferred on the Courts and it would depend upon the sufficiency of the cause shown and the degree of acceptability of the explanation; the length of the delay being immaterial.

28. In the appeals by the NMC we need not dilate further upon this aspect since we have found on merits that the appeals are devoid of merit.

29. Insofar as the contention raised by the appellants in LPA No. 112 of 2024, we find no sufficient cause shown in the affidavit filed in support of the delay caused. The statement made is that the NMC had filed an appeal from the impugned judgment and since the validity of the Letter of



Permission was under consideration, the appellants sought legal advice and made arrangements for filing of the appeal. It is also stated that the appeal is filed only to ensure that they are shifted to other colleges in case the appeals filed by the NMC is allowed. Hence, there is absolutely no explanation given for condonation for delay.

30. The delay condonation in the appeal filed by the NMC is allowed finding the explanation therein to be satisfactory. However, the appeal is dismissed on the reasoning above. The delay condonation filed in LPA. No. 112 of 2024 stands rejected for no valid cause having been shown to entertain the same. LPA No. 112 of 2024 is also dismissed on merits as has been held in the appeals of the NMC.

31. Ordered accordingly.

(K. Vinod Chandran, CJ)

Harish Kumar, J: I agree.

(Harish Kumar, J)

Aditya Ranjan/-

AFR/NAFR	
CAV DATE	15.02.2024.
Uploading Date	21.02.2024.
Transmission Date	

