

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 12658 of 2023

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1. Dr. Amrendra Kumar Son of Kameshwar Prasad, Resident of Quarter No. 2090, Sector-4-C, Sector- 4, Bokaro Steel City, Police Station-Sector-4, District-Bokaro (Jharkhand).
 2. Dr. Priyam Prasad, Daughter of Prem Prasad, Resident of Flat No. 302 B, Sundaram Apartment, Shivpuri Colony, Hinoo Doranda, Police Station-Doranda, District-Ranchi (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Secretary, Health Department, Government of Bihar, Vikash Bhawan, New Secretariat, Patna.
2. The Principal Secretary, Health Department, Government of Bihar, Vikash Bhawan, New Secretariat, Patna.
3. The Joint Secretary to the Government, Health Department, Government of Bihar, Vikash Bhawan, New Secretariat, Patna.
4. The Principal, Darbhanga Medical College and Hospital, Darbhanga.

... .. Respondent/s

Appearance:

For the Petitioner/s	:	Mr. Sanjeet Kumar, Advocate
For the State	:	Mr. S. D. Yadav (Aag9)
		Mr. Anil Kumar Verma, AC to AAG-9

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 26-02-2024

The present writ petition has been filed for quashing the resolution dated 27.02.2019 whereby and whereunder the earlier resolution issued by the Health Department, Government of Bihar, Patna has been amended and though it has been stipulated that such Post Graduate students of the Bihar Government Medical colleges belonging to the All India quota who are working under the Union Government or any State Government



or any other instrumentality of the State shall not be required to execute bond for serving the Bihar Government for three years, after completing the Post Graduate course, however, the said exemption has been denied to the students like the petitioners, who have been admitted in the PG Courses under the State quota, although they are also working with the instrumentalities of the Central Government/ Central Government.

2. Shorn of unnecessary details, it would suffice to state here that while the petitioner no. 1 was working with the Steel Authority of India and the petitioner no.2 was working with the Indian Railway as doctors, they had competed NEET-PG 2019 exam and after counselling, they had taken admission in the PG Course at Dharbhanga Medical College, Laheriasarai, however, under the State quota and not under the All-India quota. In fact, they had also executed the requisite bonds dated 24.05.2019 and 18.05.2019, respectively wherein they had undertaken that after completion of the PG Course, they shall work for the State Government for three years or in the alternative pay a sum of Rs.15 lakh. The petitioners had successfully completed three years PG Course in the year 2021, nonetheless they had then joined their parent employers, i.e. SAIL and Indian Railway, respectively, however, it is their contention that on account of



the bond executed by them, the certificates deposited with the Principal, Darbhanga Medical College, Laheriasarai, Darbhanga are not being returned, inasmuch as they have not shown any intention to work for the Government of Bihar.

3. The learned counsel for the petitioners has though argued at length on the legal issues involved in the present case, but has nonetheless referred to a judgment rendered in the case of ***Dr. Ipsita Mishra & ors. vs. State of Orissa & ors.***, reported in ***AIR 2010 ORISSA 79***, paragraph nos. 6 to 10 whereof are reproduced herein below:-

“6. From the above, it is seen that there is no material distinction between the eligibility criteria for the All India quota and the State quota. Upon being found suitable and selected in either of the tests, such selected candidates are given admission to the seats for P.G. (Medical) Course in the three Government Medical Colleges of the State. Thus, after being admitted to such seats on similar eligibility criteria, there cannot be any distinction between the students holding a State seat and the students holding All India Quota seats. Imposing the condition for candidates admitted under the State quota with regard to Post P.G. (Medical) Service in Clause 20 of the prospectus, more specifically, with regard to non-grant of P.G. Degree Certificates to such candidates, unless they complete the Post P.G. Mandatory Service is a restriction imposed by the State on the candidates who took admission under the State Quota. The question, therefore, arises as to whether such restriction amounts to an arbitrary and unfair action on the part of the State and violates the mandate of Article 14 of the Constitution of



India.

7. In a series of decisions, the Supreme Court has repeatedly dealt with the question as to whether the action of the State amounts to discrimination and violates Article 14 of the Constitution on various set of facts.

8. It is trite law that every action of the State must be informed by reasons and should be free from arbitrariness which is the very essence of rule of law and its bare minimum requirement. Any decision taken in an arbitrary manner contradicts the principle of legitimate expectation relating to procedural fairness in decision making. Such action also amounts to denial of administrative fairness, which is the constitutional anathema (See E.P. Royappa v. State of Tamil Nadu, AIR 1974 SC 555 and Ghaziabad Development Authority v. Delhi Auto & General Finance Pvt. Ltd., AIR 1994 SC 2263. Every action of the State or its instrumentalities should not only be fair, legitimate and above-board, but should be without any affection or aversion, impression of bias and favouritism. In S.G. Jaisinghani v. Union of India, AIR 1967 SC 1427, a Constitution Bench of the Supreme Court observed as follows:—

“In the context, it is important to emphasize that absence of arbitrary power is the first essence of the rule of law, upon which our whole Constitutional System is based. In a system governed by rule of law, discretion, when conferred upon Executive Authorities, must be confined within the clearly defined limits. Rule of law, from this point of view, means that the decision should be made by the application of known principle and rules and in general such decision should be predictable and the citizen should know where he is, if a decision is taken without any principle or without any rule, it is unpredictable and such a decision is anti-thesis to the decision taken in accordance with the rule of law.”

9. Applying the law as stated above to the facts of the



present case, it would be found that by drawing a distinction between the candidates admitted to P.G. (Medical) Course under the State Quota and the candidates who were admitted to the said course in the All India Quota, though after admission, they constituted a homogenous class of students prosecuting their studies in the P.G. Medical Course and withholding issuance of certificates of P.G. Degree Certificates in case of the candidates who are admitted under the State Quota, whereas awarding such certificates to the candidates, who are admitted under the All India Quota amounts to treating equals as unequals. It definitely results in a situation where the candidates under the All India Quota after obtaining such certificate get the opportunity to prosecute Post P.G. Speciality Courses, immediately, but the candidates admitted under the State Quota have to wait for two years more for obtaining such certificates and prosecuting higher studies till they complete the Post P.G., Mandatory Service as contemplated under Clause 20 of the prospectus.

10. It is, therefore, clear that such action on the part of the State is arbitrary and unfair and does not stand the test of administrative fairness. Such action is clearly violative of Article 14 of the Constitution of India, which calls to be quashed. Coupled with the above, it is also found in the instant case that such a procedure was not adopted prior to the year 2007 by the State Government, where only in respect of in-service candidates Pre-P.G. service in KBK/Tribal Districts were insisted upon. Action of the State Government does not also disclose any reason for adopting Clause 20, as it stands in the prospectus of the year 2007 and 2008 which clause has been challenged by the petitioners. The discrimination is further evident on a conjoint reading of Clauses 20.1 and 20.3, which results in a situation where candidates prosecuting P.G. (Medical) Classes in nonclinical subjects are not required to render their service in KBK/Tribal areas. The said Clause 20 of the prospectus



of P.G. (Medical) Selection, 2007 as well as 2008 is accordingly quashed.”

4. The learned counsel for the petitioners has also referred to a judgment dated 16.11.2022, rendered by a co-ordinate Bench of this Court in the case of **Dr. Ranjeet Kumar & Ors. vs. The State of Bihar & Ors**, passed in **CWJC No. 20553 of 2021**, paragraph nos. 6 to 12 whereof are reproduced herein below:-

“6. The condition of submitting a bond for joining service with the State Government after the completion of PG course is applicable to the students admitted against State quota. The purpose is those doctors who have already taken the benefit of State quota reservation and have worked with the State Government should return back to the State Government and continue their services, after having done the PG course.

However, in the present case, there is a slight distinction, while the petitioners have been admitted under the State quota, they were working under the Central Government organizations and benefit of State quota reservation has been extended to them.

7. In the circumstances, if a bond is required to be taken from such candidates, question arise whether such a condition can be laid down in the bond that after completing their PG course they will serve with the Bihar Government as they are already in service with the Central Government Corporations from where they have taken study leave.

8. If the challenge to the bond is accepted, the same would result in such doctors from being relieved of obligation to return back to their organizations of the Central Government and the very purpose of State quota reservation would stand defeated. The purpose of



providing State quota reservation was essentially to those doctors who may take higher qualifications and serve the people of the State.

9. Keeping in view the said aspect, the condition of bond has to be harmoniously read down to mean as a condition that the candidate who is admitted under the State quota shall serve the respective Government or it's organizations after completing their PG course. It would also mean the other Governments or it's organization apart from Bihar under which the candidate was serving prior to joining the PG course. Reading it such, would subserve the purpose of the bond and also the purpose of providing State quota reservation.

10. Keeping in view thereto, this Court holds that State Government is entitled to put a condition or bond to the State quota and PG students for doing service in Government after they have completed their PG course. However, such service would be with respect to the same organizations where they were working prior to joining the PG course.

11. In other words, petitioners or similarly placed doctors, who have been working with the organizations of the Central Government, namely, SAIL, ESIC and CGHS etc. would have to join back to the respective organizations after they complete their PG course failing which the amount as mentioned in the bond shall be forfeited and recovered from such doctors.

12. So far as the specific prayer made by petitioner no.3 in the interlocutory application is concerned, keeping the view what has been stated above, since the petitioner no.3 has completed his course and has also submitted a bond along with other petitioners, his original documents shall be released for the purpose of further studies after he has completed his PG course by the respondent no.4. It is made clear that the petitioner no.3 would be allowed to produce those documents before the concerned hospital for the purpose of joining DNB course. It is also



made clear that all the petitioners would have to submit their joining to their respective organizations. Their joining report shall be made available to the Government of Bihar for the purpose of satisfying the condition of bond. If such document is produced before the Government of Bihar, the Government of Bihar shall not take any further steps for forfeiture of the bond amount.”

5. *Per contra*, the learned counsel appearing for the respondent-State has referred to clause 10.2 (xii) of the prospectus, issued by the Bihar Combined Entrance Competitive Examination Board for the Academic Session 2019, with regard to PG Medical Admission Counselling-2019, to submit that the same itself provides for furnishing bond, etc. at the time of taking admission in the allotted PG Medical Courses in the Government Medical Colleges of Bihar, hence after the petitioners have furnished bonds, they are estopped from raising any challenge to the same.

6. I have heard the learned counsel for the parties and perused the materials on record. This Court had put a query to the learned counsel appearing for the respondents as to whether the aforesaid judgment dated 16.11.2022, passed in the case of **Dr. Ranjeet Kumar** (supra) has been challenged, to which the answer is in the negative and it has been instead submitted that the certificates of the said writ petitioners have already been returned back, hence similar



treatment can be extended to the present petitioners.

7. Having regard to the law laid down by a co-ordinate Bench of this Court in the case of **Dr. Ranjeet Kumar** (supra) to the effect that the condition of bond and the Government resolution dated 27.02.2019 have to be read down to mean that the candidate, who is admitted under the State quota, shall serve the respective Governments, whether it be the State Government or the Central Government or for that matter the instrumentalities of the State, after completing the PG Course, for three years, this Court also deems it fit and proper to direct the respondents to extend similar benefit to the petitioners inasmuch as the petitioner No. 1 is working with SAIL and has also joined his job as a Doctor at SAIL after completing his PG medical Course, while the petitioner no.2 is working with the Indian Railways and she has also joined back her posting as a Doctor at Indian Railways after completing the PG Medical Course, both organizations being instrumentality of the Central Government/Central Government organizations. Consequently, the respondent no. 4 is directed to release the original documents/ certificates of the petitioners, subject to the petitioners producing certificate from their principal employer, i.e. SAIL/Indian Railways and further executing a bond that



they would be working for three years, starting from completion of the PG Medical Courses, with SAIL/Indian Railways.

8. It is needless to state that within a period of four weeks of the petitioners producing the requisite certificates/Bond, as aforesaid, the respondent no.4 shall verify the same and release the documents/certificates.

9. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.03.2024
Transmission Date	NA

