

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11600 of 2025

1. Dr. Raushan Kumar Son of Sri Pramod Prasad, Resident of Village- Chandasi, P.S.- Noorsarai, Town and District- Nalanda, Bihar- 803113.
2. Md. Naushad Alam, Son of Md. Shabbir Ansari, resident of Ward No.3, Chhoti Quazipur, Abdulalahpur, P.S.- Laheriasarai, District- Darbhanga, Bihar - 846001.
3. Shubham, Son of Sri Ramakant Pandit, resident of 968/a Jhitkahiyan, MIT, Muzaffarpur P.S. - Brahmpure, Town and District- Muzaffarpur, Bihar- 842003.
4. Alok Raj, Son of Bechan Rajak, resident of Ward No. 06, Jaiprakash Nagar, P.S. Town and District- Madhepura, Bihar- 852113.
5. Anita Kumari, Wife of Niraj Kumar, resident of village- Chithaul, P.S.- Bhagwanganj, District- Patna, Bihar- 804452.
6. Ajay Kumar, Son of Manohar Prasad, resident of Saketpuri, Road No.3, Hanumannagar, P.S. Patrakarnagar, District- Patna, Bihar- 800026.
7. Uttkarsh Sharma, Son of Dinesh Kumar Sharma, resident of Nakku Asthan, Mohanpur Road, P.S.- Mohanpur, District- Samastipur, Bihar - 848101.
8. Abhipray Chaudhary, Son of Kumar Amrendra Chaudhary, resident of 870, NH-31, Savita Cinema, Daulatpur, Chundi, P.S. Barh, District- Patna, Bihar- 803213.
9. Gaurav Kumar, Son of Birendra Baitha, resident of Ward no. 3, Chiraiya, near Chiraiya Bazar, P.S.- Chiraiya, District - East Champaran, Bihar- 845415.
10. Anurag, Son of Rajkishore, resident of C/o Basudeo Paswan, Hazari, Shanti Sadan, Math, Lakshamanpur, Sampatchak, P.S. Gulzarbagh, Bihar- 800007.
11. Sneha Sinha, Daughter of Arvind Kumar, resident of Road No. 01, Postal Park, Opposite Subh Mangal Bhawan, P.S.- Jakkanpur, Town and District- Patna, Bihar- 800001.
12. Shyamli daughter of Tarun Kumar, resident of Barmasia, P.S., Town and District- Deoghar (Jharkhand), 814112.
13. Rahul Kumar, Son of Manoj Kumar, resident of Ward No. 04, Mustafaganj, P.S.- Mustafaganj, Town and District- Muzaffarpur, Bihar- 843128.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Health Department, Government of Bihar, New Secretariat, P.S. - Sachivalaya, District- Patna.
2. The Additional Chief Secretary, Health Department, Government of Bihar, New Secretariat, P.S.- Sachivalaya, District- Patna.
3. The Bihar Technical Service Commission, 19- Harding Road, P.S.- Sachivalaya, town and District- Patna, through In-charge Secretary.
4. The In-charge Secretary, Bihar Technical Service Commission, 19- Harding



Road, P.S.- Sachivalaya, Town and District- Patna.

5. The Chairman, Bihar Technical Service Commission, 19-Harding Road, P.S.- Sachivalaya, Town and District- Patna.
6. The Bihar Council of Medical Registration, through its Registrar, Road No. 11D, P.S.- Agamkuan, Rajendra Nagar, District- Patna- 800016.
7. The Registrar, Bihar Council of Medical Registration, Road No. 11 D, Rajendra Nagar, P.S. Agamkuan, District - Patna- 800016.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shivendra Kumar, Sr. Adv. Ms. Alka Verma, Adv.
For the State	:	Mr. P.K.Shahi, Adv. General Mr. Ajit Kumar, GP-9 Mr. Arvind Kumar, AC to GP-9
For the BTSC	:	Mr. Nikesh Kumar, Adv. Mr. Akshansh Shanker, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 29-07-2025

Heard Mr. Shivendra Kishore, learned Senior Advocate with Ms. Alka Verma for the petitioners and Mr. P.K. Shahi, learned Sr. Advocate for the State alongwith Mr. Ajit Kumar, Government Pleader No. 9 and the Bihar Technical Service Commission is represented through Mr. Nikesh Kumar, learned Advocate.

2. The petitioners before this Court are the aspirants for the post of Specialist Medical Officer in terms with advertisement no. 06/2025 – 18/2025, have invoked the jurisdiction of this Court on being aggrieved with the action of the respondent, Bihar Technical Service Commission, (hereinafter referred to as ‘Commission’) whereby the petitioners have been declared non-suited on account of non-



inclusion of the P.G. qualification in the Bihar Council of Medical Registration in the registration certificate, within the cut-off date i.e. 01.04.2024. The petitioners having requisite qualification of Post Graduate in different faculties, on being found eligible for the post of Specialist Medical Officer submitted their applications in terms with the captioned advertisement. After proper scrutiny of the application forms, admit cards were issued; the date of examination was scheduled to be held on different dates, where the petitioners alongwith other eligible candidates participated and appeared in online Computer Based Test. The petitioners have declared qualified and eligible for documents verification, in terms with the advertisements.

3. Learned Senior Advocate for the petitioners submitted that on receipt of the call letter, the petitioner no. 1, who had applied for the post of Specialist Medical Officer (ENT), appeared in the office of Technical Service Commission on 27.06.2025 and got his certificate/documents verified. However, the Commission declared the petitioner no. 1 “Not Qualified”, assigning the reason that P.G. qualification in the State Medical Council Registration Certificate has been entered after 01.04.2025. Similar is the case of other candidates and in fact, they have not even been called upon for verification of the



certificates on account of the afore-noted reasons.

4. Learned Senior Advocate appearing on behalf of the petitioners vehemently submitted that all the petitioners got himself registered earlier with the Bihar Council of Medical Registration and the registration certificate has also been issued in their favour. It is not the case of the respondent Commission that the petitioners have not the requisite qualification to hold the post, rather they have been non-suited only because of the fact that their registration with respect to higher degree could not be done with the Bihar Council of Medical Registration prior to the cut-off date of 01.04.2025.

5. It is further submitted that the facts are admitted that the Principal, Patna Medical College, Patna vide its letter no. 1837, dated 19.03.2025; letter bearing memo no. 1963 dated 24.03.2025; letter bearing memo no. 1962 dated 24.03.2025 and letter bearing memo no. 2590 dated 15.04.2025 have forwarded registration certificate to the Bihar Council of Medical Registration for the registration of the candidates, who were declared successful in their Post Graduation course in different faculties in the month of January, 2025 itself. Albeit, for entry of additional qualification of M.S./M.D. in the registration certificate, their certificates, were kept with the office of the Principal, Patna Medical College since then. The entire process



of submission of the certificates before the Bihar Council of Medical Registration was done prior to the cut-off date of 01.04.2025. All the more, the Registrar of the Registration Council informed that on account of workload, Additional Entry Process was delayed due to heavy workload and finally could be done only in the first week of May, 2025, as is evident from Annexure P/13 to the writ petition.

6. Adverting to the afore-noted facts, learned Senior Advocate thus contended that the case of the petitioners are on different footing as this is not the case, where the petitioners have no qualification for the post, rather on account of the reason and circumstances beyond the control of the petitioners, they have been deprived from participating in their verification of document for which the petitioners in no stretch of imagination can be blamed.

7. Mr. Nikesh Kumar, learned Advocate for the Bihar Technical Service Commission has submitted that the Commission being the recruiting agency is duly abide by the terms and condition of the advertisement, which clearly stipulates under clause 6(iii) and 6(iv) that the registration of a candidate with the Bihar Council of Medical Registration is mandatory. Further clause 6(x) clarified that all the above certificate/marksheet will be valid only as mentioned by the



candidates in his/her online application form. It will be mandatory to mention the number and the date of issue of all the above certificates/marksheet in the online application and uploaded them in the prescribed columns and all the certificate/marksheet must be issued by 01.04.2025.

8. Considering the nature of the grievance, this Court has request the learned Advocate General to ensure his appearance in the matter. After some argument, learned Advocate General, Mr. P.K. Shahi, shown his fair gesture and submitted that one thing is admitted that the petitioners before this Court are not at their fault, since the applications for registration alongwith the certificate have already been sent to the Bihar Council of Medical Registration much prior to the cut-off date by the Principal of the Patna Medical College and it was required to be done at their own level. Hence, a pragmatic view is required to be taken.

9. Before parting with the case it would be pertinent to observe that the Hon'ble Supreme Court in the case of *Narender Singh vs. State of Haryana & Ors., (2022) 3 SCC 286* in a matter of selection for the post of Assistant Professor (College Cadre), where the claim of the appellant (candidate) was non-suited and disqualified on account of delayed submission of the non-objection certificate by the erstwhile



employer, despite the request of the candidate much before the cut-off date, has been pleased to hold that the candidate cannot be punished for no fault of his; whatever was the lapse and/or the delay was, it was on the part of the employer of the candidate and thus directed to appoint the candidate who was otherwise found eligible. The Court further imposed a cost of Rs. 50,000/- against the employer on failure to process the appellants (candidates) application for NOC within a reasonable time.

10. The identical issue has come up for consideration in the case of *Laxmi Saroj & Ors. vs. State of Uttar Pradesh & Ors., (2022) 17 SCC 477* where the delay was occurred in registration of the candidates with the UP Nurses and Widwife Council consequent to which the appellant (candidates) failed to produce requisite document within stipulated time, resulting into cancellation of their candidature for such default. The Hon'ble Supreme Court having taken note of the facts observed that there was no fault on the part of the appellants in not producing the UP Council Registration, either at the time of submitting the application forms or even at the time of verification of the documents, as all the appellants except one had applied for UP Council Registration before the date of advertisement, therefore, for no faults of theirs, the appellants (candidates) could not have



been made to suffer. Reiterating the observations made in the case of *Narender Singh (supra)* the Hon'ble Supreme Court set aside the judgment and order passed by the High Court and directed the appellant to appoint them on the post of Health Worker (Female), if otherwise they are found meritorious and fulfilling other eligibility criteria.

11. Considering the aforementioned legal position and the facts of the case in hand as also the submissions set forth by learned Advocate for the respective parties, especially the admitted position that the date on which the petitioners were applied for the post of Specialist Medical Officer in terms with captioned advertisement, they were having all the qualification for the post, but the registration of their additional higher course of Post Graduate with the State Council for Medical Registration was done belatedly, which was beyond the control of the petitioners and within the exclusive domain of the Principal of the Medical College with the State Council for Medical Registration, the petitioner in no circumstances could have been made to suffer.

12. In view thereof, this Court directs the Commission to allow the petitioners to participate in the document verification, if they are otherwise found eligible, on the schedule date and/or any other date prescribed for the said purpose. So far



the petitioner no.1 is concerned, whose candidature stood rejected on account of the aforesaid reason under Annexure 1, dated 27.06.2025, the same stands quashed and cancelled. He shall also be allowed to participate in the document verification on the date fixed by the Commission. It is also expected that the Additional Chief Secretary, Health Department shall also consider, that identical reliefs should be accorded to similarly situated persons, who have also acquired the higher qualification before the cut-off date but they have been non-suited only on account of the aforesaid ground that their registration with the Bihar State Medical Council could be done after the cut-off date, if they are otherwise found eligible and they are eligible applicants with the captioned advertisement.

13. The writ petition stands allowed with the aforesaid direction.

(Harish Kumar, J)

supratim/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.07.2025
Transmission Date	NA

