

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12122 of 2024

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1. Akhilendra Kumar S/o Shailendra Kumar R/o Village- Bahadurpur, P.S.- Mashrakn, District Saran.
 2. Khushboo Singh, D/o Man Singh R/o- Jagdeo Nagar, P.S.- Nawada, District- Bhojpur.
 3. Monalisha, D/o Manoj Kumar Paswan, R/o- Fatehpur P.S.- Zero Mile Sabour, District- Bhagalpur.
 4. Neha Kumari, D/o Niranjan Kumar Singh, R/o- Dudhaila, P.S.- Maner, District- Patna.
 5. Pratibha Kumari, D/o Subhash Kumar, R/o Chandi Prasad Lane, Kobi Badi, P.S.- Musaiadpur, District- Bhagalpur.
 6. Raushan Kumar, S/o Prabhash Kumar Mandal, R/o- Kharadi Tola Minapur, P.S.- Town Thana Hajipur, District- Vaishali.
 7. Sofia Ara Ansari, D/o Tajuddin Ansari, R/o Alba Colony, Near ITI Behind A One Apartment, P.S.- Phulwarisharif, District Patna.
 8. Sumit Kumar, S/o Kamlesh Kumar, R/o- Babhanpura, P.S.- Phulwarisharif, District- Patna.
 9. Varsha Kumari, D/o Bhola Prasad Keshari, R/o- High School Chowk, P.S.- Sabour, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar.
2. The Additional Chief Secretary, Department of Health, Government of Bihar, Patna.
3. The Union of India, through the Secretary, Ministry of Health and Family Welfare, Government of India.
4. The Secretary, Ministry of Health and Family Welfare, Government of India.
5. The Dental Council of India, New Delhi through its President.
6. The President, Dental Council of India, New Delhi.
7. Magadh University, through its Registrar, Bodh Gaya, District- Gaya.
8. The Vice-Chancellor, Magadh University, Bodh Gaya, District- Gaya.
9. The Registrar, Magadh University, Bodh Gaya, District- Gaya.
10. The Controller of Examinations, Magadh University, Bodh Gaya, District- Gaya.
11. B.R. Ambedkar Institute of Dental Sciences and Hospital, Hari Om Nagar, New Bailey Road, Patna through its Principal.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Patanjali Rishi, Adv.



For the State	:	Ms. Anukriti Jaipuryar, RC to AG
For the D.C.I.	:	Mr. S.D. Sanjay, Sr. Adv.
	:	Mr. Mohit Agrawal, Adv.
	:	Mr. Lokesh Kumar, Adv.
	:	Mr. Vikash Khanna, Adv.
For the Magadh University:	:	Mr. Sriram Krishna, Adv.
	:	Mr. Prabhat Kumar Singh, Adv.
	:	Mr. Shashank Shekhar Kunwar, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV JUDGMENT

Date : 08-04-2025

Heard Mr. Patanjali Rishi, learned counsel for the petitioner, Mr. S.D. Sanjay, learned senior counsel for the D.C.I., Ms. Anukriti Jaipuryar, learned counsel for the State and Mr. Sriram Krishna, learned counsel for the Magadh University.

2. The present writ petition has been filed for seeking following reliefs:

i. For issuance of a writ in the nature of mandamus or a writ of mandamus or any other writ of the like nature thereby directing the respondents particularly the respondent no. 2 to ensure shifting of the petitioners from BR Ambedkar Institute of Dental Sciences and Hospital, Patna to any other institute to facilitate petitioners' completion of their BDS courses in furtherance of Letter No.DCI/Acad/BDS/Clg/Periodic/28 /2024-25/2024/329 dated 29/05/2024 and DCI/Acad/BDS/Cig/Periodic / 28 / 2024 -25/2024/2132 dated 26/06/2024 of the respondent no. 5 to the respondent no. 2.

ii. For a writ in the nature of mandamus or a writ of mandamus or any other writ of the like nature thereby directing the respondent authorities to ensure that the final examinations and the internships of the petitioners are conducted expeditiously in such manner so that the petitioners do not suffer loss of academic sessions.



iii. For issuance of a writ in the nature of mandamus or a writ of mandamus or any other writ of the like nature thereby directing the respondent authorities to ensure special examinations are conducted in expeditious manner to ensure that no loss of session is caused to the petitioners.

iv. For issuance of a writ in the nature of mandamus or a writ of mandamus or any other writ of the like nature thereby directing the respondents to ensure such adjustment of the petitioners in BDS course in any other institute so that the petitioners do not suffer loss of academic sessions.

v. For issuance of a writ in the nature of mandamus or a writ of mandamus or any other writ of the like nature thereby directing the respondents to ensure that the petitioners are imparted academic instructions and awarded degree of Bachelor of Dental Sciences from a recognized institution.

vi. For any other relief/reliefs, this Hon'ble Court may find fit and proper in the facts and circumstances of the present case.

3. The brief facts of the present case are that the petitioners appeared in the National Eligibility-cum- Entrance Test, 2020 conducted by the National Testing Agency. On the basis of their ranks the petitioners were called for and participated in the counselling conducted by the Bihar Combined Entrance Competitive Examination Board, Patna. Upon counselling and based on their ranks in the National Eligibility cum Entrance Test, 2020 the petitioners were allotted the B.D.S. course at the B. R. Ambedkar Institute of Dental Sciences and Hospital, Patna. Thereafter, the petitioners further completed the levels of the



course regularly with success and have currently completed the final year of their course. The petitioners got admitted and were pursuing their course and it suddenly came to the knowledge of the petitioners that the B.R. Ambedkar Institute of Dental Sciences and Hospital, Patna had been unrecognized by the Dental Council of India.

4. Learned counsel for the petitioners submits that while unrecognising the B.R. Ambedkar Institute of Dental Sciences and Hospital, Patna and prohibiting further admissions, the Dental Council of India vide letter nos. DCI/ Acad/ BDS/ Clg /Periodic /28/2024-25/2024/339 dated 29/05/2024 and DCI/ Acad/ BDS/ Clg/ Periodic /28/2024-25 /2024/2132 dated 26/06/2024 has requested the respondent no. 2 to ensure adjustment of the students already enrolled at the B.R. Ambedkar Institute of Dental Sciences and Hospital, Patna to other government's institutes imparting education in dental sciences in the State of Bihar (Annexure-P/2 of the writ application). Despite, personal meetings with the officials of the health department and representations filed by the petitioners and other students no positive step has been taken by the officials (Annexure-P/3 of the writ application).



5. Learned counsel for the petitioners further submits that the petitioners had legitimate expectation at the time of seeking admission at the B.R. Ambedkar Institute of Dental Sciences and Hospital, Patna that the petitioners would be imparted education in the course in which they were admitted and the petitioners would receive their degrees recognizing their education.

6. A supplementary affidavit has been filed on behalf of the petitioners in which it is stated that the petitioner nos. 3 to 5 i.e. Mona Lisha, Neha Kumari and Pratibha Kumari have got admission against stray vacancies which were allowed to be undertaken by the Medical Counselling Committee (Annexure-P/9 of this writ application).

7. The respondent no. 11 issued advertisement in daily newspaper calling for applications against stray vacancies (Annexure-P/10 of the supplementary affidavit). The relevant portions of the guidelines for stray vacancy round 'For NEET-UNDER-GRADUATE COURSES (MBBS/BDS)-2020-21' are reproduced hereinbelow:

INTRODUCTION

There are four rounds of counselling i.e. Round 1, Round 2 of AIQ and Mop-Up Round & Stray Vacancy Round. Out of the four rounds, three rounds are conducted online by MCC i.e. Round 1, Round 2 and Mop-Up Round. The Stray Vacancy



round is conducted by the respective Deemed/Central Universities/Central Institutes/AIIMS/JIPMER for which the list of registered & eligible Candidates for the Stray Vacancy round is forwarded by the MCC to the respective Deemed/Central Universities Central Institutes/AIIMS/JIPMER. The allotment shall only be in terms of merit.

The MCC takes no responsibility of any allotment made in the Stray Vacancy Round and shall not be held responsible for any wrong/incorrect allotment.

GENERAL GUIDELINES

3. Colleges must display the eligibility conditions on their website well before the commencement of the Stray Vacancy round in order to enable the participating Candidates to make an informed decision.

4. The Candidates must be allowed to register online. However, physical presence of Candidates along with original documents is must at the time of admission.

8. Learned counsel for the petitioners further submits that accordingly, the petitioner nos. 3 to 5 applied for the same and got admitted after paying fees and have been regularly appearing in the examinations conducted and the documents pertaining the payment of fees and examinations are already on the records of this case. He further submits that it is lacunae of the respondents that the names of the petitioner nos. 3 to 5 are not mentioned with the Dental Council of India.

9. Mr. S.D. Sanjay, learned senior counsel for the D.C.I. joined the proceeding online and submitted that as per the BDS Course Regulation, 2017 issued by the Dental Council of India a



common counselling is required to be conducted on the basis of the merit list of the National Eligibility cum Entrance Test. The counselling for admission is conducted by the State Government. Further, in the State of Bihar the Admission for BDS in different colleges are being conducted by the Bihar Combined Entrance Competitive Exam (BCECE for short) and as per the information gathered from the State Government it was informed to the Dental Council of India that the names of Petitioner Nos. 3 to 5 were not mentioned in the allotted list of BCECE and, therefore, the Admission of such students cannot be accepted by the Dental Council of India. Further, the Hon'ble Supreme Court vide order dated 09.05.2017 passed in Writ Petition(s) (Civil) No(s). 267/2017 reported in **2017 SCC onLine SC 2119** categorically in Para 5 has held that “*common counselling for State Quota seats in government as well as private medical colleges shall be conducted by the State Government or the Authority designated by the State Government*”. The guidelines referred by the Petitioners at Annexure-P/9 in the Supplementary Affidavit dated 17.02.2025 has also been issued in view of the direction of the Hon'ble Supreme Court passed in the aforesaid case. Therefore, the admission of aforesaid students/Petitioners no.3 to 5 cannot be considered to be a valid admission and thus, the order for transfer



of said students/petitioners may not be proper to be passed in the facts of the present case.

10. Mr. S.D. Sanjay, Learned senior counsel for the D.C.I. further submitted that D.C.I. has no objection if the petitioners are shifted to another dental college, within the State of Bihar except petitioners no.3 to 5.

11. Learned counsel for the Dr. B.R. Ambedkar Institute of Dental Science and Hospital, Patna, submits that Dr. B.R. Ambedkar Institute of Dental Science and Hospital, Patna, has already filed a SLP (C) No. 30171 of 2024 before the Hon'ble Apex Court, for de-recognition of the said institute by the D.C.I. which is still pending.

12. Considering the submission made by the Respondent No.1 in C.W.J.C. No.12083 of 2024 dated 18.03.2025, the same has been reproduced hereinbelow:

A supplementary counter affidavit has been filed on behalf of Respondent No.1 in which the counsel submits that the Principal of Patna Dental College and Hospital, Patna, and Government Dental college, Paithana, Rahui, Nalanda have furnished required informations of their respective Dental Colleges in which the



Principal of Patna Dental College and Hospital,
Patna, vide his letter No.961 dated 09.10.2024 has
shown vacancy position of BDS course in the
following manner and the same has been annexed as
Annexure-R/B of this supplementary counter
affidavit and the same has been reproduced
hereinbelow:

शैक्षणिक वर्ष	बी०डी०एस० कोर्स में नामांकन हेतु कुल सीटों की संख्या	कुछ छात्र/छात्राओं द्वारा बी०डी०एस० कोर्स का परित्याग करने के पश्चात् वर्तमान में अध्ययनरत छात्र/छात्राओं की कुल संख्या	कुछ छात्र/छात्राओं द्वारा बी०डी०एस० कोर्स का परित्याग करने के पश्चात् बी०डी०एस० कोर्स में कुल रिक्त सीटों की संख्या
बी०डी०एस० कोर्स सत्र-2020-2021	40 (चालिस)	11 (ग्यारह)	29 (उनतीस)
बी०डी०एस० कोर्स सत्र-2021-2022	40 (चालिस)	19 (उन्नीस)	21 (इक्कीस)
बी०डी०एस० कोर्स सत्र-2022-2023	40 (चालिस)	21 (इक्कीस)	19 (उनतीस)
बी०डी०एस० कोर्स सत्र-2023-2024	40 (चालिस)	27 (सत्ताईस)	13 (तेरह)

Further, the Principal, Government Dental
College, Paithana, Rahui, Nalanda vide his letter
No.688 datd 09.10.2024 has shown vacancy position
of BDS Course in the following manner and the
same has been annexed as Annexure-R/C of this
supplementary counter affidavit and the same has
been reproduced hereinbelow:



Sl.No.	Session	Seat Allotted	Admission taken	Students left as on 08-10-24	Students studying as on 09-10-24	Students appearing for 1st year exam	Vacant Seat as on 09-10-24
01	02	03	04	05	06	07	08
01.	Start Year 2023-24 (1st Year)	100	99	19	87	30	18

13. At Bar, The State Government has no objection to the petitioners being transferred to any Government Dental College situated within the State of Bihar, specifically to the Patna Dental College, Patna, provided that, in the event that the Dr. B.R. Ambedkar Institute of Dental Science and Hospital, Patna succeeds in the aforesaid Special Leave Petition (SLP) filed before the Hon'ble Supreme Court, the petitioners who have been transferred to Patna Dental College, Patna, will subsequently be transferred back to their original institution, i.e., the Dr. B.R. Ambedkar Institute of Dental Science and Hospital, Patna.

14. Considering the facts and circumstances of the case, it is admitted fact that the petitioner nos.3 to 5 got admission in the college though stray vacancy, it is not denied by the learned counsels for respondents, the only objection raised by the respondents is that as per the information gathered from the State Government it was informed to the D.C.I. that the names of the petitioner nos. 3 to 5 were not mentioned in the allotted list of Bihar Combined Entrance Competitive Exam,



therefore, the admission of such students cannot be accepted by the Dental Council of India. It is also an admitted fact that the petitioner nos.3 to 5 are students of 4th year of the BDS course as such the equity is in favour of the petitioners and they are entitled to be transferred to another college.

15. Now after considering the submissions made by the parties and on perusal of records, this Court deems it fit and proper to direct the State Government to take necessary steps to transfer Petitioners to the 4th Year of BDS course to Patna Dental College, Patna, within a period of four weeks from the date of receipt/production of a copy of this order.

16. Dr. B.R. Ambedkar Institute of Dental Science and Hospital, Patna, is hereby directed to issue the transfer certificates and necessary documents of the petitioners within ten days from the date of receipt/production of a copy of this order. If the said institute doesn't issue transfer certificate and necessary documents in given time then the Principal of Patna Dental College, Patna is directed to accommodate the petitioners without transfer certificates and necessary documents of the petitioners. Further, the Principal of Patna Dental College, Patna, is also directed to accommodate the petitioners in their respective semesters/years and permit them to attend classes at



Patna Dental College, Patna. The Magadh University is directed to issue transfer certificates and necessary documents of the petitioners to the concerned University and, further the concerned University is instructed to conduct special examinations for the petitioners in their respective semesters/years, if necessary.

17. It is made clear that the aforesaid decision is subject to the final outcome of SLP (C) No. 3071 of 2024, wherein if the dispute in question is settled in favour of Dr. B.R. Ambedkar Institute of Dental Science and Hospital, Patna, the petitioners who have been transferred to Patna Dental College, Patna, pursuant to this order, shall be transferred back to their original institution, i.e., Dr. B.R. Ambedkar Institute of Dental Science and Hospital, Patna.

18. With the aforesaid direction, the present writ application stands disposed of.

(Anjani Kumar Sharan, J)

anand/-

AFR/NAFR	NAFR
CAV DATE	04.04.2025
Uploading Date	08.04.2025
Transmission Date	NA

