

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15986 of 2025

Shivkant Patel S/o Shri Shyamsundra Prasad Resident of Vill.- Avsanpur,
Post- Gauchari, P.S.- Balthar, Dist.- West Champaran, Bihar- 845307.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, New Secretariat, Vikas Bhawan, Patna, Bihar- 800015.
2. The Principal Secretary, Health Department, Government of Bihar, Vikas Bhawan, Patna, Bihar- 800015.
3. The Bihar Technical Service Commission, through its Chairman, 19, Harding Road, Patna- 800001.
4. The Secretary, Bihar Technical Service Commission, 19, Harding Road, Patna- 800001.
5. The Civil Surgeon-cum- Chief Medical Officer, at Sadar Hospital Campus, East Champaran, Motihari- 845401.
6. The Incharge Medical Officer, Community Health Centre, Paharpur, East Champaran, Motihari, Bihar- 845458.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mrs. Nivedita Nirvikar, Sr. Advocate
For the Respondent/s	:	Mr. Advocate General
For the BTSC	:	Mr. Nikesh Kumar, Advocate
		Mr. Akshansh Shankar, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

- 2 24-11-2025 1. The petitioner is a medical graduate, having his MBBS degree. Bihar Technical Service Commission issued Advertisement No. 19 of 2025 for recruitment of General Medical Officer on 10th of March 2025. The petitioner was initially qualified in written examination and he was called for document verification. After verification of document, the petitioner was handed over an acknowledgment receipt wherein it was recorded that the petitioner got 48.3664 marks in the



selection process of General Medical Officer. Annexure P3 (Acknowledgment Receipt) shows that the said mark was allotted to the petitioner on the basis of his marks obtained in written examination as well as work experience.

2. It is ascertained from learned counsel for the BTSC that after completion of MBBS course, a student will be conferred MBBS degree on completion of internship for certain period, and thereafter he is granted MBBS degree. After obtaining MBBS degree, he may render contractual service in Government Hospital, and in case a candidate renders contractual service in Government Hospital, as per advertisement, he is entitled to get five marks per year up to the maximum limit 25 marks.

3. Learned Senior Counsel appearing on behalf of the petitioner draws my attention to page 45 which is a certificate showing work experience of the petitioner issued by the In-charge Medical Officer, Community Health Centre, Paharpur on 18th of March, 2025.

4. The learned Senior Advocate for the petitioner also has pointed out that the said certificate was in terms of the format annexed with the advertisement. However, the petitioner came to know that the experience certificate would not be



accepted by the BTSC and such certificate is required to be issued only by the Civil Surgeon-cum-CMO of the district. On the very date of issuance of the certificate, the In-charge Medical Officer, Community Health Centre, Paharpur, forwarded a copy of the said application to the Civil Surgeon-cum-CMO, East Champaran, Motihari for issuance of the certificate in prescribed proforma under his signature. However, after a lapse of 10 days on 28th of March, 2025, the Civil Surgeon-cum-CMO, East Champaran, Motihari issued a certificate and that too not in the format issued by BTSC. As the petitioner failed to deposit such certificate, the number which was allotted towards his experience was deducted from his aggregate mark.

5. It is apprehended by the petitioner that he may be disqualified on the ground of no fault of him because the CMO was under obligation to issue experience certificate according to the proforma annexed with the advertisement.

6. Learned Advocate on behalf of the BTSC refers to sub-Clause (iii) (iv) and (v) of Clause 5 of the advertisement. It is necessary to quote the said clauses hereinbelow:-

“(5)(iii) कार्यानुभव का लाभ लिखित प्रतियोगिता परीक्षा में उत्तीर्ण अभ्यर्थियों को ही मिलेगा। कार्यानुभव प्रमाण-पत्र संबंधित जिले के सिविल सर्जन, चिकित्सा महाविद्यालय की स्थिति में



प्राचार्य, चिकित्सा महाविद्यालय एवं अस्पताल की स्थिति में अधीक्षक, अतिविशिष्ट अस्पताल की स्थिति में निदेशक तथा विज्ञापन की कंडिका-5 (i) (b) में उल्लेखित संस्थानों की स्थिति में उक्त संस्थानों के प्रधान द्वारा निर्गत हो, आवेदन के विहित कॉलम में दर्ज करेंगे। आवेदन में कार्यानुभव का दावा नहीं होने पर कार्यानुभव का अंक एवं आयु सीमा में छूट का लाभ देय नहीं होगा। कार्यानुभव अवधि की गणना 11.03.2025 तिथि तक की जायेगी।

(iv) कार्यानुभव प्रमाण-पत्र हेतु परिशिष्ट-1 में प्रारूप (Format) संलग्न किया गया है। इस प्रारूप में ही (कार्यानुभव प्रमाण-पत्र दिये जाने पर कार्यानुभव के अंकों एवं आयु सीमा में छूट का लाभ दिया जायेगा। इस प्रारूप से अलग किसी अन्य प्रारूप में कार्यानुभव प्रमाण-पत्र दिये जाने पर अंको का लाभ देय नहीं होगा।

(v) नियमानुसार, लिखित प्रतियोगिता परीक्षा में उत्तीर्ण (Qualified) अभ्यर्थियों को विज्ञापन के कंडिका-5 (i) में वर्णित प्रावधानुसार कोटिवार मेधासूची तैयार कर दस्तावेज सत्यापन (Document Verification) हेतु आमंत्रित किया जायेगा।"

7. It is contended on behalf of the respondent that the cut-off date was fixed on 11th of March, 2025 and the Commission is under obligation to act as per advertisement.

8. Clause 6(ix) says that the certificate for work experience could be issued till 8th of April, 2025. The Commission did not accept the work experience of the petitioner as it was not informed.

9. It is needless to say that the Respondent No. 5, the Civil Surgeon-cum-CMO at Sadar Hospital Campus, East Champaran, Motihari is a State functionary who committed the



mistake by not issuing the certificate in the proforma as per the advertisement.

10. Thus, the mistake was committed by a State functionary, i.e., Respondent No. 5 for which the petitioner cannot be held responsible.

11. The same principle was laid down by the High Court of Rajasthan in SB Civil Writ Petition No. 17366 of 2024 (Laxita Kumari Patidar v. State of Rajasthan & Ors.) vide order dated 9th of February, 2024. The learned Single Judge of Rajasthan High Court was of the view that “Clearly, the shoe is on the other foot. The respondents are trying to take advantage of their own wrong for issuing an incorrect certificate and making the petitioner run from pillar to post. Their stand is, therefore, being noted only to be rejected.”

12. As a result, the instant writ petition deserves to be allowed.

13. The Respondent No. 5 is directed to issue experience certificate in the prescribed format within one week from the date of this order.

14. Since final result has not been published, the BTSC is directed to take into account the experience certificate of the petitioner and act in accordance with the Advertisement



No. 19 of 2025 and thereafter consider his candidature that he will be qualified or not for the service of General Medical Officer.

15. Since this Court directs the Respondent No. 5 to issue certificate within a week, the parties are at liberty to act on the server copy of the order.

16. With the above directions, the instant writ petition stands dispose of.

(Bibek Chaudhuri, J)

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