

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5723 of 2026

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Pooja Magendra Daughter of Khubchand Magendra, Resident of House No. 67, Makdi, Bangali Para, Makrikhuna, PO and PS- Makdisingrai, District- Uttar Bastar Kanker, Chattishgarh- 494334.

... .. Petitioner/s

Versus

1. The State of Bihar through The Secretary, Health Department, Government of Bihar, Patna, Bihar.
2. The Secretary, Health Department, Government of Bihar, Patna, Bihar.
3. The Officer on Special Duty (OSD), Health Department, Patna, Bihar.
4. The Registrar, Gopal Narayan Singh University, Jamuhar, Rohtas, Bihar.
5. The Principal, Narayan Medical College and Hospital, Jamuhar, Rohtas, Bihar.
6. The Head of Department, Department of General Surgery, Narayan Medical College and Hospital, Jamuhar, Rohtas, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pratik Kumar, Adv.
For the Respondent/s : Mr. Ravi Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 28-07-2026 Heard Mr. Pratik Kumar, learned Advocate for the
petitioner and Mr. Ravi Kumar, learned Advocate for the State.

2. Although on the last occasion, a preliminary objection has been raised with regard to the maintainability of the writ petition, on the ground that the claim of the petitioner is against private college, and as such, no writ would lie against it.

3. The Court had allowed time to assist the Court on the point of law. However, no serious objection has been raised on behalf of the respondent-State.



4. There is no dispute that a writ petition under Article 226 of the Constitution of India lies even against a private university or college, if the impugned action relates to discharge of public duty or it involves public law element. It is well settled that if the dispute is purely private, contractual or relates to internal management with no public character, no writ would lie. However, imparting education is considered to be a public function. If there is transgression of rules, regulations or irregularity causing serious breach of the public duty or action, in such circumstances, the writ would certainly lie.

5. Learned Advocate for the petitioner also placed reliance upon a landmark judgment of ***St. Mary's Education Society & Anr. Vs. Rajendra Prasad Bhargava & Ors., (2023) 4 SCC 498*** where the Court has crystallized that an application under Article 226 of the Constitution is maintainable against a person or a body discharging public duties or public functions. It would be worth benefiting to quote paragraph nos. 75.1 and 75.2, which reads as follows:-

“75.1. An application under Article 226 of the Constitution is maintainable against a person or a body discharging public duties or public functions. The public duty cast may be either statutory or otherwise and where it is otherwise, the body or the person must be shown to owe that duty or obligation



to the public involving the public law element. Similarly, for ascertaining the discharge of public function, it must be established that the body or the person was seeking to achieve the same for the collective benefit of the public or a section of it and the authority to do so must be accepted by the public.

75.2. Even if it be assumed that an educational institution is imparting public duty, the act complained of must have a direct nexus with the discharge of public duty. It is indisputably a public law action which confers a right upon the aggrieved to invoke the extraordinary writ jurisdiction under Article 226 for a prerogative writ. Individual wrongs or breach of mutual contracts without having any public element as its integral part cannot be rectified through a writ petition under Article 226. Wherever Courts have intervened in their exercise of jurisdiction under Article 226, either the service conditions were regulated by the statutory provisions or the employer had the status of "State" within the expansive definition under Article 12 or it was found that the action complained of has public law element."

6. Having considered the aforesaid legal position, this Court finds the preliminary objection raised by the learned Advocate for the State is wholly unfounded, and as such, the same stands overruled.

7. Coming to the grievance of the petitioner, it appears that despite having completed her M.S. General Surgery Course



and successfully passed all the semester examination, the petitioner has not been extended the passing certificate as well as other original certificates/documents, which had been kept by the university at the time of admission. Besides, the university has also not returned even the caution fee of Rs. 2 lakhs.

8. Considering the aforesaid facts emerging from the record, for redressal of the grievance, the petitioner has made persistent request and also filed representation but no action has been taken. This Court directs the petitioner to file a fresh application along with the order of this Court. In case such an application is filed preferably within a period of two weeks from today, the concerned university shall consider the same and take an appropriate action within a further period of two weeks to redress the grievance of the petitioner, if there is no legal or administrative impediment otherwise.

9. The writ petition stands disposed of.

(Harish Kumar, J)

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