

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 11111 of 2025

1. Dr. Shyam Kumar Satyapal, son of Satya Narayan Paswan, resident of Kankarbagh Colony, Near Tempo Stand, P.S. Kankarbagh, Sampatchak, Lohia Nagar, District-Patna-800020.
2. Dr. Shashi Kapur, son of Late Kedar Prasad, resident of Flat No. B/403, Bailey Kunj Apartment, Shaikhpora, P.S. Airport, District Patna-800014.
3. Dr. Ajay Kumar, son of Late Jaganath Chaudhary Prabhat, resident of Flat No. 208, Vasundhra La Greeno, New Bypass Road, Kankarbagh, Ashok Nagar, P.S. Patrakar Nagar, Patna-800020
4. Dr. Md. Abu Nasar, son of Md. Naseer Ahmed, resident of House No. 168/2, Sector-B, New Azimabad Colony, P.S. Sultangaj, District Patna - 800006.
5. Dr. Sanjay Kumar, son of Rajeshwar Baitha, resident of Ward No. 2, village Parihar, P.S. Parihar, District Sitamarhi-843324.
6. Dr. Chandra Kishore Das, son of Mohan Das, resident of Mohalla Chhoti Khanjarpur, Jagdishpur, P.S. Barari, District Bhagalpur-812001
7. Dr. Sanjay Kumar, son of Late Ram Lalit Mandal, resident of Road No. 13, Rajeev Nagar, Pulwari, P.S. Rajeev Nagar, District Patna-800024.
8. Dr. Rakesh Ranjan, son of Braj Kumar Singh, resident of Braj-Geet Kunj, Indrapuri Colony, Raja Bazar, Rukanpura, Danapur, District Patna

... .. Petitioner/s

Versus

1. The National Medical Commission, Sector 8, Dwarka, New Delhi-110077, through its Chairman.
2. The Chairman, National Medical Commission, Sector 8, Dwarka, New Delhi-110077.
3. The Secretary, National Medical Commission, Sector 8, Dwarka, New Delhi-110077.
4. The Union of India through the Secretary, Ministry of Health and Family Welfare, Cabinet Secretariat, Raisina Hill, New Delhi.
5. The Secretary, Ministry of Electronics and Information Technology, Electronics Niketan, 6, CGO Complex, Lodhi Road, New Delhi-110003.
6. The State of Bihar through the Additional Chief Secretary, Health Department, Old Secretariat, Government of Bihar.
7. The Officer on Special Duty, Health Department, Old Secretariat, Government of Bihar.
8. The Principal, Sri Krishna Medical College and Hospital, Muzaffarpur, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Ms. Shrishti Singh, Advocate
Mr. Pranav Kumar, Advocate

		Mr.Saurabh Sunder, Advocate
		Mr.Ashish Gaurav, Advocate
For the Respondent/s	:	Mr. P.K. Sahi, AG
		Mr.P.N.Sharma, AC to AG
For the NMC	:	Mr.Kumar Priya Ranjan, Sr.S.C
		Mr.Sudarshan Bharadwaj, Advocate
For the UOI	:	Dr.K.N. Singh, ASG
		Mr.Amit Kishore Sinha, CGC

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
CAV JUDGMENT

Date: 17-01-2026

1. A constitutional issue of violation of Right to Privacy is the bone of contention of the instant writ petition, where some medical practitioners, who are in employment in different Medical Colleges and Hospitals in the State of Bihar, have challenged the public notice, dated 17th of April, 2025, issued under the signature of the Secretary, National Medical Commission, whereby face based Aadhar Identification and sharing of GPS location for marking attendance of faculty members of the medical colleges has been directed to be mandatorily implemented in all medical colleges/institutions. The petitioners have also prayed for quashing subsequent orders bearing Memo No. 1128 of 2025, dated 21st of April, 2025 issued under the signature of the Member, Sri Krishna Medical College, Muzaffarpur and the letter bearing no. 414 (17) dated 30th of April, 2025, whereby and whereunder, all the departmental heads have been directed for implementation of

notice, dated 16th of April, 2025.

2. For the sake of brevity, this Court finds it appropriate, at the outset, to set out the prayers / reliefs prayed by the petitioners in the instant writ petition:

“i. To issue an appropriate writ(s)/ order(s)/ direction(s) in the nature of certiorari for quashing the public notice dated 16.04.2025 issued under the signature of the Secretary, National Medical Commission, whereby the FACE based Aadhar authentication and sharing of Global Positioning System (GPS) for marking attendance of faculty has been directed for mandatory implementation in all medical colleges/institutions (Annexure-P/1, Pg.28.).

ii. To issue an appropriate writ(s)/ order(s)/ direction(s) in the nature of certiorari for quashing the office order bearing memo no. 1128/25 dated 21.04.2025 issued under the signature of Principal, Sri Krishna Medical College & Hospital, Muzaffarpur, whereby all the Departmental Heads have been directed for implementation of FACE based Aadhar authentication for marking attendance of doctors / faculty doctors through Face Biometric authentication from 01.05.2025. (Annexure-P/2, Pg. 45).

iii. To issue an appropriate writ(s)/ order(s)/ direction(s) in the nature of certiorari

for quashing the letter bearing no. 414(17) dated 30.04.2025 issued under the signature of Officer on Special Duty, Health Department, whereby pursuant to the notice of the NMC dated 16.04.2025, the Principals / Superintendents of all the Government Medical Colleges and Hospitals in the state of Bihar have been directed to mandatorily implement the FACE based Aadhar authentication for marking attendance of doctors / faculty doctors (Annexure-P/3, Pg.46.).

iv. To issue an appropriate writ(s)/ order(s)/ direction(s) in the nature of mandamus commanding the respondents not to implement the FACE based Aadhar authentication for marking attendance of doctors/faculty doctors.

v. To issue an appropriate writ(s)/ order(s)/ direction(s) in the nature of mandamus commanding the respondents to delete all data collected pursuant to the public notice dated 16.04.2025.

vi. To any other relief(s) that the petitioners are entitled to in the facts and circumstances of the case.”

3. The case of the petitioners is that they are faculty members being Assistant Officers, Professor and Heads of the Department, Associate Professor in Sri Krishna Medical College and Hospital, Muzaffarpur; Jawahar Lal Nahru Medical College and Hospital, Bhagalpur; Government College, Bettiah; Nalanda

Medical College and Hospital; Government Medical College, Purnia; Darbhanga Medical College and Hospital and Government Medical College, Purnia, respectively.

4. They are aggrieved by a public notice, dated 16th of April, 2025, issued by the National Medical Commission (hereinafter referred to as “NMC” for short) by virtue of which, all medical colleges / institutions under the NMC were directed to fully shift his face based Aadhar Authentication for marking attendance NMC from 1st of May, 2025. It was mentioned in the said public notice by the NMC that the said system of attendance was introduced to leverage the latest technology and to make attendance process user friendly. The notice further provided steps to be followed for such implementation, which included, among others, attendance to be marked within 100 meters radius of a given GPS location in the college. The college would share GPS location points where it wants convince of attendance marking via mobile app. The notice also required all faculties to install face based Aadhar Authentication App to their mobile phone. The notice was addressed to medical colleges and institutions and was also forwarded to the respective Health Departments in all States and Union Territories. Suffice it to say that by virtue of the said public

notice, the Health Departments under the State Governments issued direction and on the basis of the said direction, the Principals, Medical Colleges and Hospitals issued letters to the faculty members to give their attendance by face based authentication system. It is alleged by the petitioners that introduction of face based authentication attendance is in complete violation of the judgement passed by the Hon'ble Supreme Court in ***K.S. Puttaswamy (Privacy-9J.) v. Union of India*** reported in ***(2017) 10 SCC 1*** and ***K.S. Puttaswamy (Aadhaar-5J.) v. Union of India*** reported in ***(2019) 1 SCC 1***.

5. It is submitted by Ms. Shrishti Singh, learned Advocate for the petitioners that the impugned circulars and notice issued by the Principal, Sri Krishna Medical College and Hospital, Muzafarpur are bad in law in the teeth of the decisions rendered by the Hon'ble Supreme Court in Puttaswamy's case (supra) as well as under the provision of Sections 7, 8, 23, 53 and 57 of the Aadhar Act.

6. It is urged by the learned Advocate on behalf of the petitioners that Section 7 specifies the purpose for which Aadhar No. and its corresponding authentication can be demanded. Section 7 of the Aadhar Act runs thus:-

*“7. Proof of Aadhaar number necessary
for receipt of certain subsidies, benefits and*

services, etc.—The Central Government or, as the case may be, the State Government may, for the purpose of establishing identity of an individual as a condition for receipt of a subsidy, benefit or service for which the expenditure is incurred from, or the receipt therefrom forms part of, the Consolidated Fund of India, 1 [or the Consolidated Fund of State] require that such individual undergo authentication, or furnish proof of possession of Aadhaar number or in the case of an individual to whom no Aadhaar number has been assigned, such individual makes an application for enrolment: Provided that if an Aadhaar number is not assigned to an individual, the individual shall be offered alternate and viable means of identification for delivery of the subsidy, benefit or service.”

7. A bare perusal of Section 7 of the Aadhar Act suggests that Aadhar No. is necessary only for receipt of certain subsidies, benefits and services. It is also provided that if beneficiary does not have Aadhar No., he can produce alternative identification no. for getting services mentioned above.

8. In Puttaswamy's Case (Aadhar-5J), the Hon'ble Supreme Court held that the scope of Section 7 of the Aadhar Act cannot be enlarged other than welfare schemes carried out by the Government by given subsidies benefits and services

particularly to the members of deprived class. The same purpose has also been enunciated in Section 23 (2) (h) of the Aadhar Act. So far the application for Aadhar is concerned and extension to its user for any other purpose, it was held by the Hon'ble Supreme Court that other purposes of Aadhar Act is to read under *Ejusdem Generis* Rule in relation to subsidies benefits and services.

9. Ms. Shrishti Singh also refers to Section 8 of the Aadhar Act which empowers the authority to authenticate an Aadhar No. submitted by any requesting entity in relation to biometric information or demographic information. Referring to the provisions contained in Section 8, it is submitted by the learned Advocate on behalf of the petitioners that Aadhar based authentication is fully voluntary in nature and nobody can permitted to submit himself to Aadhar based authentication as directed by the NMC without consent of the individual Aadhar card holder.

10. Ms. Shrishti Singh further advances her argument referring to Sections 53 and 57 of the Aadhar Act to substantiate that the NMC cannot issue the impugned public notice dated 16th of April, 2025 except for the purpose enunciated in Section 7 of the Aadhar Act which refers to face based Aadhar

authentication for the purpose of subsidies benefits and services provided by the Government to any of the beneficiaries. She also refers to Aadhar Authentication Rules, 2020. Rule 3 provides the purposes of Aadhar authentication it states:--

“3. Purposes for Aadhaar authentication.—(1) The Central Government may allow Aadhaar authentication by requesting entities in the interest of good governance, preventing leakage of public funds, promoting ease of living of residents and enabling better access to services for them, for the following purposes, namely:—

(a) usage of digital platforms to ensure good governance;

(b) prevention of dissipation of social welfare benefits; and

(c) enablement of innovation and the spread of knowledge.

(2) Aadhaar authentication under sub-rule (1) shall be on a voluntary basis.”

11. Referring to the judgement of the Hon'ble Supreme Court in 2019 1 SCC 1, the learned Advocate for the petitioners submits that the campaigning doctors and professors to give Aadhar based face identification attendance is violative of rights of freedom to practice profession, dignity, privacy guaranteed under Articles 14, 19 and 21 of the Constitution of

India. It is further submitted on behalf of the petitioners that in Puttaswamy's case reported in 2017 10 SCC 1, the Hon'ble Supreme Court recognized informational privacy as a facet of privacy guaranteed under Article 21 of the Constitution of India. Face based Aadhar authentication, guarantee the access to the identity information of the petitioners as well as the GPS location constitute protected data, the petitioners and similarly situated persons cannot be compelled to part away. Moreover, any such action would require sanction of law as provided in Article 21 of the Constitution of India.

12. According to the learned Advocate for the petitioners, face based Aadhar authentication and requirement for share GPS location are violative of the Right to Privacy. It is a facet of dignity guaranteed under Article 21 of the Constitution of India. The responsible medical officers working as faculty member in various medical colleges and hospitals are treated as chattels and they are subjected to consistent surveillance which is impermissible under the law. The petitioners and similarly other situated persons are compelled to download third party publication on their mobile phone without any corresponding data protection regulation. There is every possibility for the third party to have access of data from the

mobile phone beyond the purpose of authentication.

13. The NMC, more particularly, Respondent Nos. 1, 2 and 3 have filed a counter affidavit against the writ petition under the heading “reply affidavit” denying all allegations made out by the petitioners in the writ petition.

14. A rejoinder has been filed on behalf of the Respondent Nos. 6 and 7. Respondent Nos. 6 and 7, i.e. the State of Bihar and Officer on Special Duty, Health Department, Old Secretariat, Government of Bihar.

15. In the counter affidavit, under the heading “reply affidavit” NMC averred the following factual circumstances:-

Firstly, for the first time NMC introduced biometric attendance with a gazette notification dated 20th October, 2020, as per Section 57 of the NMC Act, which has not been challenged by the petitioner. Secondly, vide letter dated 1st of August, 2022, NMC informed all institutes regarding implementation of NIC Aadhar Enabled Biometric Attendance System. Subsequently, on 12th August, 2022, NMC issued notification for implementation of NIC Aadhar Enabled Biometric Attendance System. Vide letter a dated 20th of August, 2022, NIC issued another notification for implementation of NIC Aadhar Enabled Biometric Attendance System. On 25th of

January, 2023, all medical colleges were directed by the NMC to implement NIC Aadhar Enabled Biometric Attendance System. Subsequently, on 2nd of June, 2023, it was informed by a gazette notification directing introduced Aadhar based attendance in all medical colleges. The said gazette notification dated 2nd of June, 2023 was followed by another notification dated 16th of August, 2023, making Aadhar enabled biometric attendance mandatory. On 16th of November, 2023, the Medical Assessment and Rating Board (MARB) of NMC issued public notice with regard to attendance by way of face identification through Aadhar Enabled Biometric Attendance System “AEBAS”.

16. It is submitted by the learned counsel for the NMC that the NMC in its annual report “2022-2023” held that AEBAS is mandatory because of shortcomings of finger based biometric.

17. In the counter affidavit filed by the NMC, the above-mentioned circulars and gazette notifications are annexed for adjudication of the case. Therefore, this Court finds it necessary to repeat the gazette notifications and circulars separately in the body of the judgement as this will be repetition of some factual aspects.

18. The learned Advocate General submits that the practical purpose is required to be considered behind filing of the case. It is alleged by the petitioners that their privacy would be violated and such violation is against the celebrated fundamental rights under Article 14, 19 and 21 of the Constitution.

19. It is submitted by the learned Advocate General that the face attendance through face identification/iris was since 2020 by the NMC. However, it is found that such attendance can be given from a remote place without attending medical colleges and hospitals. As for example, he submits that doctor while working in Chandigarh could submit his attendance in Patna through Iris. The problem occurs only when along with face identification attendance GPS location was tagged. As soon as GPS location has been tagged, the petitioners found that if they give attendance from an area beyond 100 meters of the precincts of concerned medical college and hospital, they will be marked absent. This has caused serious problem to doctors who on one hand are in employment of government service in most coveted post of Assistant Professor, Professor, Head of the Department etc., and also engaged in private practice during hours when they are supposed to

discharge their final duties.

20. It is also pointed by the learned Advocate General that the petitioners have alleged about violation of fundamental rights but for violation of such fundamental rights what predicament they face has not been narrated in the writ petition.

21. Under such circumstances, he has brought for dismissal of the writ petition.

22. Dr. K. N. Singh, learned Additional Solicitor General has adopted the submission made by the learned counsel for the NMC and the learned Advocate General.

23. I have heard the learned Advocate on behalf of the petitioners, learned counsel for the NMC, learned Advocate General and the learned Additional Solicitor General.

24. It is already recorded that the primary submission made on behalf of the petitioners is that the introduction of Aadhar Enabled Face Identification for attendance with GPS location of the medical officers is a direct violation against their right to privacy and right to control the dissemination of personal information. Privacy of a person is not lost or surrendered merely because the individual is in a public space. Privacy is a postulate of dignity itself. Privacy concerns arise when the State intrudes into the body and mind of the citizen.

Informational privacy is a facet of Right to Privacy. This right cannot be interfered with, without a just, fair and reasonable law. It has to fulfill the test of proportionality, i.e., existence of law, legitimate State's aim and proportionate use of the same. Aadhar Act describes a scheme which is absolutely optional and voluntary. The Act is declared to be valid when it is applicable for providing the subsidies benefits and services to the card holders. Mandatory direction to give attendance by the faculty members of medical colleges and hospitals are not within the scope of subsidies benefits and services for which Aadhar was contemplated.

25. It is held by the Hon'ble Supreme Court in K. Puttaswamy's judgement delivered in the year 2017 that the benefits which are earned by an individual such as pension by government employee cannot be covered under Section 7 of the Aadhar Act as it is the right to individual reserving such benefit. The notifications analyzed by the Hon'ble Supreme Court in relation to various welfare schemes indicate that to avail the benefits, only one time verification is required except for few services where annual verification is needed. Section 3 of the Aadhar Act stipulates that it is an enabling provision which entitled every resident to obtain Aadhar No. Therefore, it is

voluntary in nature. The said fact was got approval in ***Binoy Viswam v. Union of India*** reported in ***(2017) 7 SCC 59***.

26. The Hon'ble Supreme Court in 2017 judgement of K. Puttaswamy examined the privacy issue of linking Aadhar No. in relation to PMLA Rules, 2005 and it was held under the garb of prevention of money laundering or black money, there cannot be any such sweeping provision which targets every resident of the country as a suspicious part. Presumption of illegality is treated as disproportionate and arbitrary. In the said judgement circulars requiring linking of mobile no. with Aadhar was tested. The said circulars were held to be unconstitutional as the circulars were issued without any statutory provision permitting the respondents to issue circulars. Therefore, the Hon'ble Supreme Court held that the circular was not issued in exercise of power under Section 4 of the Telegraph Act, as the circular itself states that it was issued in terms of the direction of the Supreme Court. Therefore, not being backed by law, the requirement of proportionality was not made. Moreover, there can be other appropriate laws and less inclusive alternatives to address the misuse of sim-cards. It also impinges upon the voluntary nature of Aadhar Schemes. It was found to be disproportionate and unreasonable state compulsion, and

therefore the circular was held to unconstitutional.

27. It is contended on behalf of the petitioners that on the same ground, public notice issued by NMC dated 16th of April, 2025 whereby face based Aadhar authentication and sharing of the GPS location for marking attendance of faculty members in the medical colleges and hospitals was directed to be mandatory is illegal and unconstitutional and so is the notice dated 30th April, 2025 issued by the Principal, Sri. Krishan Medical College and Hospital, NMC.

28. Thus, not only primary but one and only contention raised by the petitioners is that when Aadhar Act describes authentication of Aadhar No. for the purposes of subsidies benefits and service, this cannot be used for the purpose of giving attendance by the faculty members in medical colleges and hospitals.

29. The Government of India, Ministry of Electronics and Information Technology issued a circular, dated 25th of March, 2025 on the subject of standard operating procedure and application format for submission of proposal for use of Aadhar authentication under the Aadhar authentication for Good Governance (Social Welfare, Innovation, Knowledge) Rules, 2020 (as amended in 2025). The said circular refers to the Good

Governance Rules, 2020, as amended in 2025, to enable any entity other than the Ministry or Department of Central and State Governments for utilizing Aadhar authentication, on voluntary basis, by submitting a proposal with justification in regard to the authentication sought being for a purpose specified in Rule 3 and in the interest of State(s) to the concerned Ministry or Department of the appropriate Government. It is also directed that if the concerned Ministry or Department is of the opinion that the proposal submitted thereunder fulfills a purpose specified in Rule 3 and is in the interest of the State, it shall forward the proposal along with the recommendations to MeitY.

30. Thus, the above-mentioned rule clearly establishes Governments' intention to use Aadhar based attendance system for good governance. In the instant writ petition, the petitioners alleged that Aadhar authentication is voluntary in nature, but it does not state the alternative system by which attendance of the faculty members of medical colleges and hospitals can be ensured.

31. The introduction of biometric attendance system came to be considered in SLA (CrI.) No. 4116 of 2021 (Rajesh Kumar Rathore v. The State of Chhattisgarh) decided on 11th

June, 2021 in relation to verify the genuineness of surety in subordinate Courts of India. It was held by the Hon'ble Supreme Court in the aforesaid judgement:-

“The problem of impersonation of sureties is rampant in at least some States. We understand that there is a surety module software prepared by National Informatics Center in the Case Information Module for the Sub-ordinate Courts in India. But there is still no mechanism with the courts to verify the genuineness of the surety. Therefore, we deem it appropriate to issue notice to the Central Government and to the Unique Identification Authority of India (UIDAI) Bangla Sahib Road, behind Kali Mandir, Gole Market, New Delhi 110001 as to find out possibility of mechanism for verification of the surety by the judicial officers for its authentication as part of good governance. The desirability of issuing notice to the States and Union Territories shall be decided on the basis of response from the Union/ UIDAI”

32. In *Unioin of India & Ors. v. Dillip Kumar Rout & Ors.*, Civil Appeal No. 13572 of 2015 decided on 29th of October, 2025, the Hon'ble Supreme Court in Paragraph Nos. 9 and 10 held as hereunder:-

“9. Therefore, in the facts and circumstances of the case, when the introduction of the Biometric Attendance System is for the benefit of all the stakeholders, merely for the reason that the employees were not consulted before implementing the same does not render the introduction of the system to be illegal.

10. In the facts and circumstances, we allow the appeal and set aside the order impugned passed by the High Court and permit the Office of the Principal Accountant General,(A&E) to implement the Biometric Attendance System as envisaged by its Circulars dated 01.07.2013, 22.10.2013 and 06.11.2013”

33. A Division Bench of the Madras High Court in WP. No. 5569 of 2019 and WMP No. 6339 of 2019 titled as Sri Thirupathy Venkatachalapathy called upon to decide the legality and constitutionality of the proposal of the Director of School Education to ensure attendance of teachers and students in his school, both Government and Government aided by installing biometric machines. The writ petitioners challenged the aforesaid decision of the State Government opposing the installation of biometric machine in the schools that the State

Government failed to make suitable arrangement for transportation, water facilities and other amenities for the students. Under such circumstances, installation of biometric machines to secure attendance of teachers and students incurring huge expenditure was against public interest.

34. The Division Bench of the Madras High Court dismissed the said writ petition with costs.

35. Again in WP. No. 9314 of 2019 and WMP Nos. 9863 & 9866 of 2019 (Mrs. R. Annal v. The State of Tamil Nadu & Ors.), the learned Single Bench of Madras High Court decided the question as to whether implementation of Aadhar Enabled Biometric Attendance System for teaching and non-teaching employees in the light of the judgement passed by the Hon'ble Supreme in Puttaswamy's Case and Section 7 of the Aadhar Act is illegal and unconstitutional or not. In Paragraph No. 38 of the said judgement, the Madras High Court decided as follows:-

“38. The lis on hand, the relief is to quash the Government order introducing the Aadhar Enabled Biometric Attendance System for Teaching and Non Teaching Staff in Government Schools. If a Teacher has chosen to challenge the full proof

attendance system introduced by the Government, how one can expect from a Teacher that they will teach discipline to their own students. The larger question, which arises in the mind of the Court is that the growing indiscipline in Government Schools and Educational institutions across the State. Stringent measures to maintain discipline is highly essential in view of the growing indiscipline brought to the notice in public domain. Thus, the Constitutional Courts are duty bound to issue certain directions to the Government to regulate the discipline and decorum in the Government Schools and Educational institutions, so as to ensure the Constitutional perspectives and the Philosophies are reached out. This prompted this Court to adjudicate all these aspects, which all are interconnected with the discipline and decorum in the Educational institutions. Thus, it is very much relevant to state that when the tax payers money are being paid by way of salary to these Teachers, they are bound to be regulated by the State and their discipline and activities are also to be monitored with reference to the Service Conditions, Conduct Rules and

other statutes. The writ petitioner cannot go and say that she has got a Fundamental Right in respect of disclosing her personal identity. If so, the only option could be to get relieved from the service. In the event of willingness to continue in public service, they are bound by the Service Rules and the policies introduced by the Government for the improvisation of the Scheme of Education as well as the discipline and decorum in Government Schools and Educational institutions.”

36. Thus, the writ petition was rejected.

37. Implementation of MCD Smart App for attendance of Paramedical Teachers And Staffs were questioned in Paramedical Technical Staff Welfare Association of MCD v. Government of NCT of Delhi & Anr in WP (C) No. 13239 of 2022 and CM Appl. 40117 of 2022, the Delhi High Court held that public authority must have liberty and freedom framing the policies and on such decision, it was held by the Delhi High Court that MCD Smart App for attendance cannot be termed as arbitrary or unfair.

38. The Court has duly considered submissions made by the learned counsels for the parties.

39. On due consideration of the matter in issue, this

Court does not find any reason to raise this grievance by some medical officers and faculty members of a few medical colleges and hospitals in the State of Bihar. It is not in dispute that biometric attendance system is in force in the entire country in medical colleges and hospitals. Apart from outraging the right of privacy, the petitioners have not come forward to any other issue while challenging Aadhar linked biometric attendance system. It is apprehended by the petitioners that their personal information will be revealed before the Government authority but no case is made out to substantiate such apprehension. An unfounded apprehension cannot be the basis for issuance of prerogative writs for protection of fundamental rights because the petitioners must come forward with the specific case of violation of fundamental rights. No such case is made out.

40. The NMC is a statutory body, controlling the medical education, ethics and other related matters of the country. It is found by the NMC during their inspection that the medical colleges are run with inadequate numbers of teaching staff. As a social being, this Court is not unaware of the condition of the health system of the country. The Government and Government aided medical colleges are run by inadequate faculty members, inefficient contractual teachers, lesser number

of laboratory and technical assistants and administrative staff.

41. Under such circumstances if the NMC introduces a full proof attendance system of faculty members, such system should not be scrapped on the ground of arbitrariness and unconstitutional.

42. In view of the above discussion, this Court does not find any merit in the instant writ petition.

43. Accordingly, the instant writ petition is dismissed on contest.

44. However, there shall be no order as to costs.

45. While dismissing the instant writ petition and holding the decision taken by the NMC for Aadhar linked biometric attendance by the faculty members in medical colleges and hospitals, though the instant writ petition does not rise the issue, the NMC is directed to take appropriate action directing the State Government(s) to initiate appointment / recruitment drive to fill up huge number of vacant posts in medical teaching service within a time bond period. This Court anxiously notes that securing attendance of faculty members will not change the dilapidated health of Health Department of the State(s). On the contrary, the condition must be improved if the vacancies are filled up. This Court is not unmindful to note

that if a medical officer or a faculty member is compelled to act continuously for 24 hours or 48 hours or even 72 hours without any break, the tendency of fleeing away and giving false attendance by such over-burdened, if not tortured, faculty members, shall remain and though the instant writ petition is dismissed they will try to find out some other means and ways to avoid attendance.

46. A copy of this judgement be sent directly to the Secretary, National Medical Commission in the Ministry of Health and Family Welfare, Government of India forthwith for implementation of the observation of this Court contained in Paragraph No. 45 expeditiously and preferably within 6 months from the date of this order.

47. Before parting, I would like to write that on previous two occasions, namely, Mr. Kumar Priya Ranjan, Sr. S.C, learned Advocate for the NMC is present.

(Bibek Chaudhuri, J)

uttam/-

AFR/NAFR	AFR
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