

Dr. Anil Kumar Vs. State of Bihar and ors.

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Court : Patna

Decided On : Dec-21-1992

Judge : Shamimul Hoda and Gurusharan Sharma, JJ.

Acts : [Constitution of India](#) - Article 226

Appeal No. : Civil Writ Jurisdiction Case No. 8910/1988

Appellant : Dr. Anil Kumar

Respondent : State of Bihar and ors.

Advocate for Def. : Ramanand Prasad Yadav, Govt. Adv., Afshan Azeen, J.C. to Govt. Adv.

Advocate for Pet/Ap. : Banwari Sharma, Adv.

Disposition : Application allowed

Judgement :

Gurusharan Sharma, J.

1. The

petitioner appeared in the post-Graduate Medical Admission Test, 1987, for admission into post-Graduate degree/ diploma course of the different Medical College of the State of Bihar. The petitioner fulfilled the requisite qualifications for

appearing at the said competitive test. The result of the test was published on 9-4-1983 on the notice board of Patna Medical College and subsequently on 10-4-1988 in 'The Times of India', an

English daily. The petitioner did not find his Roll Number in the merit list. The petitioner expected at least 75% marks, whereas the persons securing 71 % marks were found in the merit list. The answer sheets were evaluated by the Computer. Sometimes the Computer produces erratic results, and, as such, the petitioner requested for revaluation of his answer sheet, but in spite of assurance revaluation was not done. The petitioner, therefore, having no efficacious remedy left, invoked the jurisdiction of this Court under Articles 226 and 227 of the [Constitution of India](#).

2. No counter-affidavit has been filed by the respondents. However, the counsel appearing on behalf of the State submitted that the answer sheets of the petitioner were not available as they have been destroyed after fifteen days of the publication of the result. In the circumstances, there was no question of re-evaluation of the answer sheets.

3. It appears that a Bench of this Court by order dated 17-11-89 directed the petitioner to attend the classes in one of the Medical Colleges of the State and record his attendance on a separate sheet of paper.

4. The petitioner's counsel submitted that pursuant to the aforesaid direction, the Controller of Examinations, Health Services, allowed the petitioner to attend the Post-Graduate Classes and since last three years he is attending classes and has now only to appear in theoretical and practical examination. It was also suggested that since the petitioner was attending the Post-Graduate Classes, he did not sit in the subsequent competitive examinations. These facts have not been controverted by the respondents.

5. In the similar situation a Bench of this Court by order dated 16th September, 1992, in C.W.J.C. No. 9718 of 1989 (Dr. Arun Kumar Jha v. State of Bihar) has held that no useful purpose would now be served by restraining the petitioner from completing his course and as such in the special circumstances of the case, the

respondents were directed to admit the petitioner of that case and allow him to complete the Post-Graduate

course. In the aforesaid writ application the interim direction permitting the petitioner to attend Post-Graduate Classes was passed on 12-1-1990, whereas in this case similar interim order was passed even earlier thereto, i.e. on, 17-11-1989. The Counsel for the State also agreed that this case can be disposed of in the light of the aforesaid decision of this Court.

6. In the circumstances, the respondents are hereby directed in the special circumstances of the case to admit the petitioner and allow him to complete the Post-Graduate course. It is made clear that it will not be a precedence for other similarly situated cases.

7. In the result, this application is allowed to the extent of the direction given above. In the facts and circumstances of the case there shall be no order as to costs.

S. Hoda, J.

8. I agree.

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