

**(2004) 03 JH CK 0099**

**In the Jharkhand High Court**

**Case No :** Writ Petition (C) No's. 274, 297, 372, 373, 433, 502 and 561 of 2003

Anirudh Chaterjee and Another, Navneet Kumar and Others, APPELLANT  
Samir Saurabh and Others, Manish Vijay and Others, Deepak  
Kumar and Others, Vivek Vishal and Satyendra Kumar and  
Others

Vs

State of Jharkhand and Others RESPONDENT

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**Date of Decision :** 11-03-2004

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** AIR 2004 Jhar 111 : (2004) 2 JCR 642

**Hon'ble Judges :** S.J. Mukhopadhaya, J; R.K. Merathia, J

**Bench :** Division Bench

**Advocate :** P.K. Prasad, Rajiv Ranjan, A.K. Mishra, Faizur Rahman, Shasi Kant and Mahesh Kumar Sinha, for the Appellant; R.N. Sahay, Sr. SC-II, Rashmi Kumar, JC to Sr. SC-II and Saurav Arun, for the Respondent No. 3, for the Respondent

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## Judgement

R.K. Merathia, J.—As these cases are similar, they were heard together and are being disposed off by this common judgment.

2. The petitioners have prayed for a direction upon the Ministry of Human Resources Development, Government of India, New Delhi to immediately issue the letter of extension to the State of Jharkhand and to the concerned institutes to enable them to take admission in their respective allotted Engineering Colleges pursuant to their selection in the Jharkhand Combined Entrance Competitive Examination for engineering for the year, 2002.

3. The petitioners' case in short is that they cannot be made to suffer for no fault on their part. Their career cannot be jeopardized on account of laches on the part of one or the other respondent.

4. The petitioners ranked high in the merit list aspired for admission into different Regional Engineering Colleges spread throughout the country. The

counselling was to begin from 13th November, 2002. This date was postponed as the Ministry of Science and Technology, State of Jharkhand could not obtain the permission of Ministry of HRD, Government of India for extension of the date of admission to the Regional Engineering Colleges inside and outside the State of Jharkhand. The counselling was postponed from time to time when finally counselling started on 27th November, 2002 it was stayed in view of an order of Hon'ble Patna High Court dated 27.11.2002, passed in C.W.J.C. No. 11555/2002. The stay was with regard to the filling of the vacancies of various seats in the institutes against the Jharkhand quota. The said writ petition was finally disposed off on 13th December, 2002, amended by order dated 20th December, 2002, with a direction to the concerned respondents to start the counselling and complete the selection process within three weeks. The Patna High Court also extended the last date of admission in the colleges, for the State of Jharkhand and other States, till 17th January, 2003. It may be noticed here that the said order was passed after hearing all the parties including learned counsel for the Union of India. The relevant portions of the said order is as follows :--

".....The only difficulty which has been raised is that the date of counselling has expired and secondly, that the date of admission in the Regional Engineering Colleges of the State of Jharkhand and other States have also closed.

In the special facts of the case, this Court with the consent of the parties, directs that the counselling be started forthwith and the process of selection be completed within a period of three weeks from today i.e, latest by 7th January, 2003. It is further directed that the last date of admission in the aforesaid colleges be extended till 17th January, 2003.

Any interim order passed earlier merges in the present order and automatically stands vacated."

5. The Regional Institute of Technology, Jamshedpur refused to countersign the recommendations of the Selection Committee on the ground that the date of admission in the Regional Engineering Colleges has expired on 30th September, 2002 and it has not received any extension from the Central Government. Consequently, the Regional Engineering Colleges also refused admission on the same ground that they have not received any letter of extension from the Central Government. Some of the Regional Engineering Colleges agreed to take admission at the risk of the students. In these circumstances, the petitioners submitted that due to the laches/inaction on the part of one or other respondent, their academic career have been put in jeopardy.

6. On 16.1.2003, this Court directed the respondents to obtain immediate instructions and file counter affidavit. This Court, in the meantime, ordered that the colleges where name of the petitioners have been recommended, may provisionally admit them subject to the decision of this case. In the order dated 30.1.2003, this Court recorded that the Union of India has shown their inability to extend the date of admission though it appears that there were no laches on

the part of the students. The stand of the Union of India was that due to orders passed in certain litigations, the admission process was delayed; that the extension of date for admission in the academic Session 2002-03 was not possible and practical as the institutes have expressed great difficulties in taking admissions; that the first semester was over; that the Government has to fix a cut off date for admission as a matter of policy and that the aforesaid situation has accrued due to fault and laches on the part of the State of Jharkhand.

Taking into consideration, the career of the students and nature of the cases, all these cases were referred to a Division Bench, by the said order dated 30.1.2003,

7. One or other respondent has submitted that there was no fault or laches on their part and the said situation has arisen due to the fault and laches on the part of other respondents.

8. The Union of India moved an application for modification/recall of the said orders dated 13th December, 2002, read with order dated 20th December, 2002 before Patna High Court, under which the Patna High Court had extended the date of admission till 17th January, 2003, as aforesaid. The Patna High Court by order dated 23rd January, 2003 rejected the said writ petition of the Union of India observing as follows :--

"It has further been mentioned in the present application that a definite time schedule has to be adhered to maintain a high standard of education in the technical institutions and as admission has already been closed for the Session 2002-03 on the 30th September, 2002, allowing admission in these institutions at this stage may lead to chaos and confusion.

The question whether this Court by allowing the modification should leave these students to suffer without any fault in their part is required to be answered.

To day this Court does not wish to enter into the controversy as to whether the situation has been created on the inaction of the State of Jharkhand or otherwise. The welfare of the students at large has to be seen.

As only after taking all these facts of the case into consideration and after hearing the parties at large, the date of admission have been amended till the 17th of January, 2003, period said has already lapsed today, this Court in view of the decisions as made above is not in a position to modify the orders 13.12.2002 and 20.12.2002 passed in C.W.J.C. No. 11555/02.

The present application is accordingly dismissed."

9. It may be noticed here that inspite of the said interim order passed by this Court on 30.1.2003, some of the institutes refused admission, for which petitions for initiating contempt was filed. However, in view of the subsequent developments, it is not necessary to go into that aspect now. This Court on 25th February, 2003, observed that direction to admit the petitioners in the ongoing academic session 2002-03 may be an un-realistic approach and futile exercise

as first semester is already over and the second semester may be at an advanced stage. Therefore, this Court observed that it should be ensured that at least for the next academic session i.e. 2003-04, the petitioners are admitted in the respective courses in the respective institutions based on their selection in the last academic session without having to undergo through any fresh selection process.

10. By order dated 26th March, 2003, this Court directed the NIT, Jamshedpur to endorse the names of successful candidates of Jharkhand to their respective NITs for which they have been selected and on receipt of such recommendation the respective NITs may admit the students for the sessions 2002-03 subject to the decision of these cases. On 9.4.2003 the following interim order was passed by this Court, in addition to the earlier interim orders.

(a) If one or other petitioner or any other similarly situated candidate whose name is appearing in the list of 71 successful candidates appears before the Director, N.I.T., Jamshedpur, the said authority after medical test and other verification will process the name of such successful petitioner/candidate within seven days of appearance for admission to the respective N.I.T./R.E.C. for which the petitioner/candidate has been selected and recommended.

(b) The respective N.I.Ts./RE.Cs. in their turn will provisionally admit such candidates/petitioners whoever may approach with the endorsed letter from N.I.T., Jamshedpur, subject to the decision of these cases.

(c) The admissions of such successful candidates/petitioners to be made in the current session of 2002-03 for which the Competitive Examination was held.

11. The Union of India filed a petition for clarification of the aforesaid order dated 9.4.2003. On 9th May, 2003, this Court found that as the Union of India could not act on the basis of the observations made in the said order dated 25th February, 2003 and did not give undertaking for admitting the petitioners in the next session 2003-04, the said order dated 26th March, 2003 was passed followed by order on 9th April, 2003. In these circumstances, this Court modified the order dated 25th February, 2003 to the aforesaid extent.

12. During the pendency of this case, all the petitioners have been admitted in different NITs. All the NITs have appeared. They have adopted a common stand as follows :

"That it is humbly stated and submitted that those students who competed for admission in the year 2002, but have been admitted for the session for 2003-04, shall be treated at par with any other students who are admitted through the entrance examination of 2003 on regular basis and there shall be no discrimination and separate treatment to those students.

12. The Union of India has taken the following stand :--

That it is respectfully, submitted that if the admission granted on provisional

basis by the order of this Hon"ble Court is regularized, it would in effect render the policy decision of fixing a cut off date for admission infructuous. Besides, it would also be quoted as a precedent for all such future policy and directions and thus would nullify the sanctity of any last date prescribed for any admission. Therefore, as a matter of principle and policy, the respondent is opposed to regularization of any admission made after the last date prescribed for admission."

13. The aforesaid circumstances make it clear that the petitioners being meritorious students and having been duly selected for admission in bachelor of engineering courses in the Regional Engineering Colleges for the academic session 2003-04 have suffered due to the fault/laches on the part of one or the other respondent. The petitioners are not at fault at all. The circumstances created by one or the other respondent were totally beyond their control. There were certain orders of stay passed by the Patna High Court, and therefore their admissions were delayed. The petitioners are victims of the aforesaid circumstances.

14. In these circumstances, this Court is of the opinion that the career of the petitioners should not be jeopardized and equity should rescue them. In view of these findings, it is not necessary for this Court to go into any other aspect in this case. We affirm the admissions of petitioners as taken by Respondent NITs in the light of the interim order, and the stand adopted by the NITs. The petitioners will pursue their studies.

15. We have passed this order in the special facts and circumstances of this case and therefore this order will not be treated as a precedent.

16. With these observations and directions, these writ petitions are disposed off.

S.J. Mukhopadhaya, J.

I agree.