

**(2003) 02 JH CK 0066**

**In the Jharkhand High Court**

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

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

Vs

State of Jharkhand and Others

RESPONDENT

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**Date of Decision :** 25-02-2003

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2003) 2 JCR 176

**Hon'ble Judges :** Vinod Kumar Gupta, C.J.; Hari Shankar Prasad, J

**Bench :** Division Bench

**Advocate :** P.K. Prasad, Rajiv Ranjan, Abhay Kr. Mishra and Mahesh Kr. Sinha,  
for the Appellant; A.K. Sinha, A.G. and A.K. Mehta, for the Respondent

**Final Decision :** Allowed

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**Judgement**

1. It is a very unfortunate case where the writ petitioners being brilliant students possessing outstanding merit and duly having been selected for admission in Bachelor of Engineering Courses in the Regional Engineering Colleges for the academic Session 2002-2003 were denied the fruit of their hard labour and merit and in the process also denied admission into the RECs aforesaid courses for the aforesaid academic Session (2002-2003) only on account of the happening of some circumstances which were not at all of their creation and which were totally beyond their control. The screening test for admission was conducted on 7th July, 2003 and based on the result of the screening test (to determine merit), written, entrance examination was held on 4th August, 2002 and the result thereof declared on 15th September, 2002 in which the petitioners found their places duly and legitimately in the Select List. On 29th October, 2002 the petitioners were invited for participating in the Counselling Sessions through which they were to be allocated their respective courses in various respective colleges. Up till this stage, there was no doubt whatsoever that the petitioners

would be admitted in the respective courses in the respective colleges because of their merit duly tested in the entrance examination, but the fate had something else in store for the petitioners. The counseling which was scheduled to be held on 13th November, 2002, due to mismanagement on the part of the respondents could not be held on that date and had to be postponed till 18th November, 2002. It could not be held on that date and had to be again postponed to 23rd and then to 27th November 2002. In the meanwhile, some candidates filed a writ application in Patna High Court (being CWJC No. 11555 of 2002) and a learned Single Judge of Patna High Court on 27.11.2002 passed an ad interim stay order restraining the Government of Jharkhand from going ahead with the Counselling as was notified in the newspaper's publications carried on 25.11,2002. Petitioners were not parties in the aforesaid writ application before Patna High Court.

2. In this case, S.J. Mukhopadhyaya, J. in his order dated 16.11.2002 has formulated some queries with respect to the jurisdiction of Patna High Court while passing the aforesaid interim order restraining the Counselling in Jharkhand State even with respect to such students who had to be admitted in the Jharkhand State colleges and who had nothing to do with Bihar State. Right now however, we are not directly concerned with that issue raised in that order. That issue may come up later on for consideration, if required. Apparently, therefore, because of the aforesaid order dated 27.11.2002 as passed by the learned Single Judge of Patna High Court, the counselling as aforesaid scheduled could not be held. As noticed, the petitioners herein were not parties in the aforesaid writ application and it was for no fault of theirs that the counselling could not be held. However, Patna High Court on 13th December, 2002 permitted the holding of the counselling and also directed its completion by 7th January, 2003 and accordingly vacated the aforesaid interim order of stay. A modification to the order dated 13th December, 2002 was also carried out by the Patna High Court vide its order dated 20th December, 2002. Because of the aforesaid developments, the counselling did start on 2.1.2003, but very unfortunately, in the meanwhile, as per the admission procedure and the scheduling of the academics in the classes, admissions in all the engineering colleges where the petitioners had the absolute chance of being admitted had already stood closed. In fact, in some of the colleges, rather in most of them, first Semester was already over and classes for second Semester had also begun in the meanwhile.

3. In the aforesaid background, therefore, passing any order at this stage insisting upon the educational institutions to admit the petitioners in the on-going academic Session (2002-2003) may be an unrealistic approach and futile exercise because the academic session in which the first Semester is already over and the second Semester may be at an advanced stage, passing of any such order would disturb the scheduling of the academics in all such institutions, and may also create problems both for the Management of the institutions and as also for the petitioners. By making this observation, we do not at all intend to jeopardize the interests of the petitioners, because it is an undisputed case of all

the parties that the petitioners had secured admission on the basis of their merit by undergoing and successfully qualifying entrance tests and yet, the cruel hands of destiny snatched the benefits of their merit from them.

4. According to us, therefore, the most equitable and best course of action would be to pass an order whereby it is ensured that at least for the next academic session i.e. 2003- 2004, the petitioners are admitted in the respective courses in the respective institutions based on their selection in the last academic session, thus without having to undergo through any fresh selection process. This is the minimum that at present this Court can order for the petitioners, of course, reserving for future the decision on the question as to how to compensate the petitioners for their loss of one precious year. The same view actually was also echoed by one of the institutions, namely N.I.T., Rourkela in its communication dated 16.1.2003 addressed to the Joint Secretary, Ministry of Human Resources Developments, New Delhi, the text whereof we extract hereinbelow :--

"Sub : Admission of 3rd candidates from the State of Jharkhand.

Dear Sir,

Please refer to your letter dated, 6.1.2003 where it was indicated by your office that the last date of admission to 1st semester in the Session 2002-2003 and 30th September, 2002 beyond which no admission will be done. Earlier we had admitted two students for the State of Haryana beyond this date with undertaking from the candidates for which a lot of problems including High Court case had arisen.

Now that the 1st semester is over and the 2nd semester classes have started from 9th January after registration on 8th January, it is not possible to admit the candidates. If at all the candidates are allowed to be admitted in to 2nd semester, they cannot read the 1st semester next year as all the old semester (1st, 3rd etc.) will run simultaneously.

Under such circumstances, the only alternative that we suggest is that the three candidates may be allowed to be admitted to 1st semester during the Session 2003-2004 (i.e. July, 2003) without further appearing at Joint Entrance Examination.

I, therefore request you to communicate the decision of the Ministry for these three cases at the earlier."

5. Mr. A.K. Sinha, learned Advocate General appearing for the State of Jharkhand has made a categorical statement before us that in view of the takeover of the NIT by the Government of India, the Government of Jharkhand has nothing to do whatsoever with the management or the control of the NIT at Jamshedpur, nor has the Government of Jharkhand anything to do with the admission in this institution or other Regional Engineering Colleges. According to Mr. Sinha, the control now vests entirely with the Central Government in the Ministry of Human Resources Development. We, accordingly, direct Mr. Prasad, learned counsel

appearing for the Union of India to file an affidavit of a competent officer of the Union of India in the Ministry of Human Resources Development or any other competent officer informing this Court the scheduling and the procedure with respect to admission of the petitioners in the respective courses in the respective institutions for the academic Session 2003-2004 (based on their selection for the academic Session 2002-2003) in the light of the observations made herein above. This affidavit shall be filed well before the next date.

6. Let the matter appear on 26th March, 2003 before any appropriate Bench, but in which Justice S. Mukhopadhaya should be a member.

Let a copy of this order be given to Mr. P.K. Prasad, learned counsel appearing on behalf of the Union of India.