
(1990) 03 PAT CK 0008

In the Patna High Court

Case No : C.W.J.C. No"s. 993, 996 and 1034 of 1990

Dr. Rajnikant and Another

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 09-03-1990

Acts Referred:

Citation : (1992) 1 BLJR 131 : (1991) 2 PLJR 568

Hon'ble Judges : U.P. Singh, J;S.B. Sanyal, J

Bench : Division Bench

Judgement

S.B. Sanyal and U.P. Singh, JJ.—In these writ petitions a common question of law and fact arises and therefore are being disposed of by a common judgment which will govern all the three cases.

2. The petitioners are desirous of a direction for their admission in different disciplines of Post Graduate Medical course. C.W.J.C. No. 996/90 relates to the admission of the year 1987 whereas C.W.J.C. No. 993 and C.W.J.C. No. 1934 of 1990 relates to the admission of the year 1988.

3. Earlier in a batch of writ petitions in the case of Dr. Vijay Kumar and Ors. v. The State of Bihar and Ors. 1990 (1) PLJR 277 a question arose before this Court, whether in the Post Graduate specialty there should be reservation for admission of Scheduled Castes and Scheduled Tribes and this court decided that no such reservation is permissible and the admission must be made strictly on the basis of merit and performance in the under graduate course See 1990 (1) PLJR 277, After having so held a direction was issued commanding the respondents to admit the petitioners of the said case in the Post Graduate Medical Course in different colleges on the basis of their result at the examination held for admission in 1987 Post Graduate Medical Course strictly recording to merit and not on the basis of reservation of seats for Scheduled Castes and Scheduled Tribes, This direction was extended subsequently to the candidates for admission for the year, 1988 also.

4. Pursuant to aforesaid direction in the said case, the State Government published the name of only few candidates out of the merit list for filling up the vacancies fixing the last date for admission as 15th January, 1990 for candidates of 1987 and 1988 year. Some candidates notified in the notice board of the Medical College, did not take admission resulting in seats remaining vacant, The petitioners who are waiting list candidates prepared on the basis of merit, approached the authorities for being admitted against those vacancies but they were refused to be admitted on 9th February, 1990, stating that the admission stood closed on 15th January, 1990.

5. Mr. Banwari Sharma, learned Counsel appearing on behalf of the petitioners submitted that it is now well-settled that ordinarily vacancies in higher Specialities must not be permitted when there are students serious to take admission. According to the learned Counsel the respondents ought to have notified the vacancies to all the candidates who were on the merit list and were awaiting admission which would have given an opportunity to all to avail admission in the event of a person not opting for admission. Had the course been adopted the anomaly which has arisen now, could have been completely avoided and all vacancies would have been filled up as required by the respondents on or before 15th January, 1990 itself.

6. Mr. S.N. Jha, learned Counsel appearing on behalf of the State submitted that a very anomalous situation has now arisen in as much as the admission of 1990 batch is going to open and it will create great difficulty in admitting so late these persons of the years 1987 and 1988.

7. Having considered the argument of the learned Counsel for the parties, we are of the opinion that it was the respondent who was responsible for creating such anomalous situation ignoring the law laid down by this Court. Had they followed the law as laid down in the case of *Amarjit Singh Gill v. the Union of India* reported in AIR 1986 SC 186 as also the judgment of this Court reported in 1986 P.L.J.R. 939, this anomaly could not have arisen. What they were required to do is to bring out an advertisement in newspaper notifying all the candidates in the waiting list, of vacancies available and giving a last date for their admission and should have proceeded to fill up the vacancies strictly according to the waiting list prepared on the basis of merit and then closed the admission. Notifying the vacancies on the notice board of the colleges was not enough and can not be a notice to candidates who are entitled to admission and were awaiting there for.

8. We are left with no discretion but to direct the respondents to publish the vacant seats in all disciplines of Post Graduate Medical Courses admission of the years 1987 and 1988 in a newspaper of importance giving two weeks time from the date of publication of the notification to give their option for admission in particular specialty and close the admission finally on the closing date notified aforesaid. If even then some seats remain vacant, it will be treated as lapsed. We hope and trust that in future the respondents should always follow the law

laid down in the three decisions referred to above in this judgment in filling up vacancies for admission in the Medical Colleges.

9. The writ applications are accordingly disposed of with aforesaid directing and observations.

10. Let a copy of this judgment be handed over to the learned Counsel appearing for the State.