
(1999) 10 PAT CK 0090

In the Patna High Court

Case No : C.W.J.C. No's. 1022 and 1038 of 1999

Dr. (Smt.) Rita Choudhary, Etc.

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 08-10-1999

Acts Referred:

Citation : (1999) 3 BLJR 2387 : (1999) 3 PLJR 721

Hon'ble Judges : N. Pandey, J

Bench : Single Bench

Judgement

N. Pandey, J.—These two writ petitions have been filed for a direction to the respondents to relax the eligibility criteria and fill up the vacant seats in Post-Graduate Courses from the successful candidates of the Post-Graduate Medical Admission Test, 1996 (hereinafter to be referred to as PGM AT).

2. Admitted facts are that admission to the Post-Graduate Course including Diploma is held on the basis of competitive test known as PGMAT. An advertisement, therefore, in terms of the prospectus of such test for the year 1996 was issued by respondent No. 3. The examination was conducted and result was also published. As per the terms of the prospectus minimum qualifying marks for the candidates of general category, Backward Class (BC), Most Backward Class (MBC), etc. was fixed 50% and that of the candidates belonging to Scheduled Caste and Scheduled Tribe 40%.

3. By means of these writ petitions, petitioners have sought for a direction to the respondents to relax the qualifying marks from 50% to 40% for the candidates of general category including Backward Class and Most Backward Class and from 40% to 30% for the candidates of Scheduled Castes & Scheduled Tribes, as was done in view of the direction of this Court in C.W.J.C. No. 9786 of 1995 with C.W.J.C. No. 2900 of 1996 with respect to the P.G.M.A.T., 1995-96 and the said criteria was also approved by the apex Court.

4. It is contended since the qualifying marks was not relaxed for the P.G.M.A.T.,

1996, more than 100 seats in the Post-Graduate Courses remained vacant.

5. It is contended that previously also on different occasions, this Court having noticed that due to the negligence and laches on the part of the authorities, several seats remained vacant, issued directions to the respondents to relax the qualifying marks and after publishing the vacancies in the newspapers, steps be taken to give option fixing a cut off date for admission and thereafter, if seats remain vacant, these should be treated as lapsed. A reference in this regard was made to the orders passed in C.W.J.C. No. 11354 of 1992, C.W.J.C. No. 993 of 1990 and analogous cases and C.W.J.C. No. 3949 of 1993, etc.

6. True it is, as would appear from the facts noticed above, previously on different occasions, as well as while disposing of C.W.J.C. No. 9786 of 1995 with C.W.J.C. No. 2900 of 1996, this Court had issued directions to the respondents to relax the qualifying marks so that the seats, which remained vacant, can be filled up. But, as would appear from the order of the apex Court in SLP (Civil) No. 12961-12963 of 1997, the judgment of this Court in the abovementioned cases, namely, C.W.J.C. No. 9786 of 1995 with C.W.J.C. No. 2900 of 1996, was modified holding that the directions contained in paragraph 5 of the said judgment, shall be confined only to the Sessions 1995-98. But, the relaxation granted by this Court with respondent to the subsequent years was not approved. Therefore, having regard to such a decision, of the apex Court, no relaxation was granted thereafter for the subsequent examinations, nor it is possible for this Court to do so, unless the embargo put by the apex Court is relaxed. In this regard, a reference can also be made to a recent decision of the apex Court in the case of Dr Preeti Srivastava and Another Vs. State of M.P. and Others, . In this case, it was held that the State Government having laid down a system for holding admission test, fixing minimum qualifying marks, for the candidates, should not be asked at a later stage to relax the standard. That apart, as would appear from the facts brought on record, about three years have lapsed from the date of publication of the result of the 1996 examination and thereafter other examinations have also taken place. Therefore, taking into consideration all the facts stated above, it would not be possible for this Court at this stage to issue any direction to the respondents to relax the qualifying marks.

7. Mr. Sharma then contended that in order to evolve a proper procedure to complete the process of admission within reasonable time, the apex Court, as back as in the year 1982, in the case of Shan Kumar and etc, etc. v. Director-General of Health Services and Anr. AIR 1982 SC 2202, had issued specific direction that whole procedure should be completed within a reasonable time-frame before 30th October of each year. The Court had also directed that existing vacant seats must be notified in advance fixing cut-off date to enable the students to get admission and thereafter, seats remaining vacant, must be lapsed. He alleged that in this State until the last stage of Counselling, exact number of vacant seats are not notified as a result of which, students always remain in dark.

8. Mr. Sharma lastly contended that in any view of the matter, having regard to the decision of the apex Court in the case of Dr. Sadhna Devi and others Vs. State of U.P. and others, , in that a case when candidate of special category" failed to secure even minimum qualifying marks, then seats reserved for such candidates should not be allowed to go waste. Therefore, it should be made available to the candidates of general category, failing which certainly there will be a national loss. Similar was the view expressed by the apex Court in an earlier judgment in the case of Dr. Jagadish Saran and Others Vs. Union of India (UOI), .

9. In my view, though the submission of Mr. Sharma, as noticed above, appears quite justified, but having regard that these cases are with respect to 1996 examinations, no useful purpose would serve in case the respondents are directed to notify the number of vacancies or to allot such seats to the general category, which remained vacant for want of candidates of a special category. Because in view of specific directions of this Court issued from time to time, not only admission for 1996 examination has been stopped, rather directions have also been issued to stop admission of 1998 examination as well.

10. But as noticed above, in absence of clear vacancies being notified, categorywise, prior to Counsellings, several seats remain vacant for want of the candidates. Therefore, in future to avoid such lapses and national loss as said by the apex Court, in my view, the respondents must evolve a procedure, if not already provided, to publish the vacancies in all the disciplines of the Post-Graduate Medical Courses for admissions with respect to a particular year in the newspaper of importance, fixing a time schedule from the date of the publication to give option for admission in a particular specially and close the admission finally after notifying the cut-off date and thereafter, all the seats remaining vacant, if any, be treated as lapsed.

11. Accordingly, with the above, both these writ petitions are thus disposed of.