

(2001) 01 PAT CK 0055

In the Patna High Court

Case No : CWJC No's. 3686 and 3915 of 2000

Dr. Yashwant Kumar and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 17-01-2001

Acts Referred:

Citation : (2001) 1 PLJR 556

Hon'ble Judges : Shiva Kirti Singh, J

Bench : Single Bench

Advocate : K.K. Mandal, Rajiv Roy and Basant Kumar Singh, for the Appellant; P.K. Shahi, for Controller of Examinations and S.K. Ghosh, for State, for the Respondent

Judgement

Shiva Kirti Singh, J.—Heard the parties.

2. The Petitioners in these two writ petitions are aggrieved by Clause 8.2 (XII) of the prospectus of PGMAT examination 000 issued by Bihar Combined Entrance competitive Examination Board. The foresaid clause in the prospectus provides thus:

If a candidate who has been admitted in a P.G. Degree/Diploma Course in any speciality, then he will not be eligible for admission in a Post Graduate Degree or Diploma Course of another speciality. However, if a candidate has been admitted in Post Graduate Diploma Course of any speciality, then he will be eligible for admission in a Post Graduate Degree Course of the same speciality for the same academic session.

3. On a plain reading of the foresaid clause in the prospectus it is apparent that if a candidate has been admitted in a Post Graduate Degree/Diploma course in any speciality then he will not be eligible for admission in a Post Graduate Degree/Diploma course in another speciality. The only exception is in the case of a candidate who has been admitted in Post Graduate Diploma course of any speciality. If he is found eligible for admission in a Post Graduate Degree course

of the same speciality for the same academic session then he will be admitted to such Degree Course.

4. The grievance of the Petitioner is that such a provision puts unreasonable restriction upon right of a candidate to improve his performance in a subsequent admission test and get his choice of speciality on account of such subsequent test and result. No doubt such submission appears to be attractive at the first instance but seats being limited for Post Graduate course, allowing such transfers to take place in subsequent years will amount to loss of such seats as the transaction for admission to such seats will be over on account of passage of time during which admission could have been permissible. Such wastage of nation's limited resources should not be permitted. Hence on this account no unreasonableness is found in the aforesaid provision of the prospectus.

5. The other grievance raised on behalf of the Petitioners is that when they took admission into different speciality on the basis of their results in the PGMAT, at that time there was no similar restriction and as per the prevailing practise successful candidates in the subsequent PGMAT were eligible for admission to any speciality as per their eligibility and choice.

6. On this account it has been submitted that such a provision restricting the right of already admitted students should be applied from the next year and should not be made applicable for the Petitioners who were not aware that such provision may be incorporated in the prospectus of PGMAT 2000. There appears some substance in this submission. If the Petitioners would have been aware of the provisions they may have decided not to accept admission into specialities of lower choice and may have awaited to take the next examination.

7. On behalf of the Respondents no serious contest was made in relaxing, rigours of aforesaid Clause XII for the candidates of PGMAT, 2000 on account of aforesaid submission but a condition was indicated that such candidates like the Petitioners in order to avail such relaxation must agree to refund any monetary benefits which they may have received or are likely to receive on account of their admission and training in a PG Degree/Diploma course to which they are already admitted. The Petitioners have agreed to such a condition and represented before this Court that in order to avail the relaxation from Clause 8.2(XII) of the prospectus they agree to refund or not to claim any monetary benefit they might have received or become entitled to on account of their admission in the earlier year.

8. In such circumstances, these two writ applications are disposed of with a direction that if the Petitioners give a written undertaking as mentioned above then on such condition Clause 8.2(XII) of the prospectus of PGMAT, 2000 will not be applied to them. This course of action is by way of exception only for the present year keeping in view the submissions advanced on behalf of the Petitioners earlier and the Respondent Board will be entitled to enforce such a clause from next year if they are so advised. It is expected that formalities of

admission of such Petitioners who are otherwise eligible for admission should be completed at an early date preferably within three weeks from today.

9. Both writ applications are disposed of, accordingly.