

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17291 of 2024

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Anisha Raj D/o Anil Kumar, R/o Bochahi, P.S. Mufassil, District Munger.
... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar.
2. The Additional Chief Secretary, Department of Health, Government of Bihar, Patna.
3. The Union of India through the Secretary, Ministry of Health and Family Welfare, Government of India.
4. The Secretary, Ministry of Health and Family Welfare, Government of India.
5. The Dental Council of India New Delhi through its President.
6. The President, Dental Council of India New Delhi.
7. The Magadh University, through the Vice Chancellor, Bodh Gaya, Gaya.
8. The Controller of Examinations, Magadh University, Bodh Gaya, Gaya.
9. B.R. Ambedkar Institute of Dental Sciences and Hospital, Hari Om Nagar, New Bailey Road, Patna through its Principal.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Patanjali Rishi, Adv.
For the State	:	Mr. Raghwendra Kumar, SC22
For the D.C.I.	:	Mr. S.D. Sanjay, Sr. Adv.
	:	Mr. Mohit Agrawal, Adv.
	:	Mr. Lokesh Kumar, Adv.
	:	Mr. Vikash Khanna, Adv.
For the Magadh University:	:	Mr. Sriram Krishna, Adv.
	:	Mr. Prabhat Kumar Singh, Adv.
	:	Mr. Shashank Shekhar Kunwar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV JUDGMENT

Date : 08-04-2025

Heard Mr. Patanjali Rishi, learned counsel for the petitioner, Mr. S.D. Sanjay, learned senior counsel for the D.C.I., Mr. Raghwendra Kumar, learned counsel for the State and Mr. Sriram Krishna, learned counsel for the Magadh University.

2. The present writ petition has been filed for seeking following reliefs:



i. For issuance of a writ in the nature of mandamus or a writ of mandamus or any other writ of the like nature thereby directing the respondents particularly the respondent no. 2 to ensure shifting of the petitioner from BR Ambedkar Institute of Dental Sciences and Hospital, Patna to any other institute to facilitate petitioner's completion of her BDS courses in furtherance of Letter No.DCI/Acad/BDS/Clg/Periodic/28/2024-25/2024/329 dated 29/05/2024 and DCI/Acad/BDS/Cig/Periodic/28/2024-25/2024/2132 dated 26/06/2024 of the respondent no. 5 to the respondent no. 2.

ii. For issuance of a writ in the nature of mandamus or a writ of mandamus or any other writ of the like nature thereby directing the respondents to ensure such adjustment of the petitioner in BDS course in any other institute so that the petitioner do not suffer loss of academic sessions. bu

iii. For issuance of a writ in the nature of mandamus or a writ of mandamus or any other writ of the like nature thereby directing the respondents to ensure that the petitioner is imparted academic instructions and awarded degree of Bachelor of Dental Sciences from a recognised institution.

iv. For issuance of a writ in the nature of mandamus or a writ of mandamus or any other writ of the like nature thereby directing the respondent authorities particularly respondent nos. 5 and 7 to ensure that the petitioner's candidature as student of Bachelor of Dental Sciences being offered by the respondent no. 9 is duly recognized and her names be entered in all the relevant records including the database of the respondent no. 5.

v. For any other relief/reliefs, this Hon'ble Court may find fit and proper in the facts and circumstances of the present case.

3. The short facts of the present case is that petitioner appeared in the National Eligibility cum Entrance Test, 2020 conducted by the National Testing Agency vide Roll No.



1502215068. On the basis of her rank the petitioner took admission in the Dr. B.R. Ambedkar Institute of Dental Sciences, Patna for pursuing Bachelor of Dental Sciences and was pursuing her course at that institute and the name of the petitioner finds mention in the list supplied by the respondent no. 9 to this in the writ petitions filed by other students of the said college (Annexure-P/1 of the writ application). The petitioner got admitted and was pursuing her course suddenly it came to the knowledge of the petitioner that the B.R. Ambedkar Institute of Dental Sciences and Hospital, Patna had been unrecognized by the Dental Council of India.

4. Learned counsel for the petitioner submits that while unrecognising the B.R. Ambedkar Institute of Dental Sciences and Hospital, Patna and prohibiting further admissions, the Dental Council of India vide letter nos. DCI/ Acad/ BDS/ Clg /Periodic / 28/2024-25/2024/339 dated 29/05/2024 and DCI/ Acad/ BDS/ Clg/ Periodic /28/2024-25 /2024/2132 dated 26/06/2024 has requested the respondent no. 2 to ensure adjustment of the students already enrolled at the B.R. Ambedkar Institute of Dental Sciences and Hospital, Patna to other government's institutes imparting education in dental sciences in the State of Bihar (Annexure-P/2 of the writ application). Despite, personal meetings with the officials



of the health department and representations filed by the petitioner and other students no positive step has been taken by the officials.

5. Learned counsel for the petitioner further submits that the petitioner had legitimate expectation at the time of seeking admission at the B.R. Ambedkar Institute of Dental Sciences and Hospital, Patna that the petitioner would be imparted education in the course in which she was admitted and the petitioner would receive her degrees recognising her education.

6. A supplementary affidavit has been filed on behalf of the petitioner in which it is stated that the the petitioner has got admission against stray vacancies which were allowed to be undertaken by the Medical Counselling Committee (Annexure-P/9 of this writ application).

7. The respondent no. 11 issued advertisement in daily newspaper calling for applications against stray vacancies (Annexure-P/6 of the supplementary affidavit). The relevant portions of the guidelines for stray vacancy round 'For NEET-UNDER-GRADUATE COURSES (MBBS/BDS)-2020-21' are reproduced hereinbelow:

INTRODUCTION

There are four rounds of counselling i.e. Round 1, Round 2 of AIQ and Mop-Up Round & Stray Vacancy Round. Out of the four rounds, three rounds are conducted online by MCC i.e. Round 1, Round 2 and Mop-Up Round. The Stray Vacancy round is



conducted by the respective Deemed/Central Universities/Central Institutes/AIIMS/JIPMER for which the list of registered & eligible Candidates for the Stray Vacancy round is forwarded by the MCC to the respective Deemed/Central Universities Central Institutes/AIIMS/JIPMER. The allotment shall only be in terms of merit.

The MCC takes no responsibility of any allotment made in the Stray Vacancy Round and shall not be held responsible for any wrong/incorrect allotment.

GENERAL GUIDELINES

3. Colleges must display the eligibility conditions on their website well before the commencement of the Stray Vacancy round in order to enable the participating Candidates to make an informed decision.

4. The Candidates must be allowed to register online. However, physical presence of Candidates along with original documents is must at the time of admission.

8. Learned counsel for the petitioner further submits that accordingly, the petitioner applied for the same and got admitted after paying fees and has been regularly appearing in the examinations conducted and the documents pertaining the payment of fees and examinations are already on the records of this case. He further submits that it is lacunae of the respondents that the name of the petitioner is not mentioned with the Dental Council of India.

9. Mr. S.D. Sanjay, learned senior counsel for the D.C.I. joined the proceeding online and submitted that as per the BDS



Course Regulation, 2017 issued by the Dental Council of India a common counselling is required to be conducted on the basis of the merit list of the National Eligibility cum Entrance Test. The counselling for admission should be conducted by the State Government. Further, in the State of Bihar the Admission for BDS in different colleges are being conducted by the Bihar Combined Entrance Competitive Exam (BCECE for short) and as per the information gathered from the State Government it was informed to the Dental Council of India the name of petitioner was not mentioned in the allotted list of BCECE and, therefore, the Admission of such students cannot be accepted by the Dental Council of India. Further, the Hon'ble Supreme Court vide order dated 09.05.2017 passed in Writ Petition(s) (Civil) No(s). 267/2017 reported in **2017 SCC onLine SC 2119** categorically in Para 5 has held that “*common counselling for State Quota seats in government as well as private medical colleges shall be conducted by the State Government or the Authority designated by the State Government*”. The guidelines referred by the petitioner at Annexure-P/5 in the Supplementary Affidavit dated 21.03.2025 has also been issued in view of the direction of the Hon'ble Supreme Court passed in the aforesaid case. Therefore, the admission of petitioner cannot be considered to be a valid



admission and thus, the order for transfer of said petitioner may not be proper to be passed in the facts of the present case.

10. Learned counsel for the Dr. B.R. Ambedkar Institute of Dental Science and Hospital, Patna, submits that Dr. B.R. Ambedkar Institute of Dental Science and Hospital, Patna, has already filed a SLP (C) No. 30171 of 2024 before the Hon'ble Apex Court, for de-recognition of the said institute by the D.C.I. which is still pending.

11. Considering the submission made by the Respondent No.1 in C.W.J.C. No.12083 of 2024 dated 18.03.2025, the same has been reproduced hereinbelow:

A supplementary counter affidavit has been filed on behalf of Respondent No.1 in which the counsel submits that the Principal of Patna Dental College and Hospital, Patna, and Government Dental college, Paithana, Rahui, Nalanda have furnished required informations of their respective Dental Colleges in which the Principal of Patna Dental College and Hospital, Patna, vide his letter No.961 dated 09.10.2024 has shown vacancy position of BDS course in the following manner and the same has been annexed as Annexure-R/B of this



supplementary counter affidavit and the same has been reproduced hereinbelow:

शैक्षणिक वर्ष	बी०डी०एस० कोर्स में नामांकन हेतु कुल सीटों की संख्या	कुछ छात्र/छात्राओं द्वारा बी०डी०एस० कोर्स का परित्याग करने के पश्चात् वर्तमान में अध्ययनरत छात्र/छात्राओं की कुल संख्या	कुछ छात्र/छात्राओं द्वारा बी०डी०एस० कोर्स का परित्याग करने के पश्चात् बी०डी०एस० कोर्स में कुल रिक्त सीटों की संख्या
बी०डी०एस० कोर्स सत्र-2020-2021	40 (चालिस)	11 (ग्यारह)	29 (उनतीस)
बी०डी०एस० कोर्स सत्र-2021-2022	40 (चालिस)	19 (उन्नीस)	21 (ईक्कीस)
बी०डी०एस० कोर्स सत्र-2022-2023	40 (चालिस)	21 (इक्कीस)	19 (उनतीस)
बी०डी०एस० कोर्स सत्र-2023-2024	40 (चालिस)	27 (सत्ताईस)	13 (तेरह)

Further, the Principal, Government Dental College, Paithana, Rahui, Nalanda vide his letter No.688 datd 09.10.2024 has shown vacancy position of BDS Course in the following manner and the same has been annexed as Annexure-R/C of this supplementary counter affidavit and the same has been reproduced hereinbelow:

Sl.No.	Session	Seat Alloted	Admission Taken	Students left as on 09-10-24	Students Studying as on 09-10-24	Students appearing for 1st year exam	Vacant Seat as on 09-10-24
01.	Start Year 2023-24 (1st Year)	100	99	19	81	80	19



12. At Bar, The State Government has no objection to the petitioner being transferred to any Government Dental College situated within the State of Bihar, specifically to the Patna Dental College, Patna, provided that, in the event that the Dr. B.R. Ambedkar Institute of Dental Science and Hospital, Patna succeeds in the aforesaid Special Leave Petition (SLP) filed before the Hon'ble Supreme Court, the petitioner who has been transferred to Patna Dental College, Patna, will subsequently be transferred back to her original institution, i.e., the Dr. B.R. Ambedkar Institute of Dental Science and Hospital, Patna.

13. Considering the facts and circumstances of the case, it is admitted fact that the petitioner got admission in the college against stray vacancy, it is not denied by the learned counsels for respondents, the only objection raised by the respondents is that as per the information gathered from the State Government it was informed to the D.C.I. that the name of the petitioner was not mentioned in the allotted list of Bihar Combined Entrance Competitive Exam, therefore, the admission of such students cannot be accepted by the Dental Council of India. It is also an admitted fact that the petitioner is student of 4th year of the BDS course as such the equity is in favour of the petitioner and she is entitled to be transferred to another college.



14. Now after considering the submissions made by the Parties and on perusal of records, this Court deems it fit and proper to direct the State Government to take necessary steps to transfer petitioner to the 4th Year to Patna Dental College, Patna, within a period of four weeks from the date of receipt/production of a copy of this order.

15. Dr. B.R. Ambedkar Institute of Dental Science and Hospital, Patna, is hereby directed to issue the transfer certificate and necessary documents of the petitioner within ten days from the date of receipt/production of a copy of this order. If the said institute doesn't issue transfer certificate and necessary documents in given time then the Principal of Patna Dental College, Patna is directed to accommodate the petitioner without transfer certificate and necessary documents of the petitioner. Further, the Principal of Patna Dental College, Patna, is also directed to accommodate the petitioner in her respective semesters/years and permit her to attend classes at Patna Dental College, Patna. The Magadh University is directed to issue transfer certificate and necessary documents of the petitioner to the concerned University and, further the concerned University is instructed to conduct special examinations for the petitioner in her respective semesters/years, if necessary.



16. It is made clear that the aforesaid decision is subject to the final outcome of SLP (C) No. 3071 of 2024, wherein if the dispute in question is settled in favour of Dr. B.R. Ambedkar Institute of Dental Science and Hospital, Patna, the petitioner who has been transferred to Patna Dental College, Patna, pursuant to this order, shall be transferred back to her original institution, i.e., Dr. B.R. Ambedkar Institute of Dental Science and Hospital, Patna.

17. With the aforesaid direction, the present writ application stands disposed of.

(Anjani Kumar Sharan, J)

anand/-

AFR/NAFR	NAFR
CAV DATE	04.04.2025
Uploading Date	08.04.2025
Transmission Date	NA

