

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15180 of 2024

Dr. Zigu S. Krishn S/o Sri V.V. Radha Krishnan R/o Aathira West Talap, Near
Municipal Bus Stand, P.S.- Kunnur, District-Kunnur, Kerala- 670001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Additional Chief Secretary, Health Department, Bihar, Patna.
3. The Additional Chief Secretary, Health Department, Bihar, Patna.
4. The Director, Directorate of Medical Education, Vikas Bhawan, New Secretariate, Bihar, Patna.
5. The Director, Darbhanga Medical College and Hospital, Laheriasarai, Darbhanga.
6. The Principal, Darbhanga Medical College, Laheriasarai, Darbhanga.
7. The Officer on Special Duty, Health Department, Bihar, Patna.
8. The Union of India through the Executive Director and CEO, National Board of Examination in Medical Sciences, Ministry of Health and Family Welfare, New Delhi.
9. The President, National Board of Examination in Medical Sciences, Ministry of Health and Family Welfare, New Delhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ali Muqtadir Ahmad, Advocate Mr. Shailesh Kumar, Advocate
For the State	:	Ms. Vartika K. Kashyap, AC to AG
For the Resp. No. 8 & 9	:	Mr. Kumar Ravish, CGC Mr. Rohit Kumar, Advocate Mr. Ayush Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 08-01-2026

This Court has heard Mr. Ali Muqtadir Ahmad, learned Advocate for the petitioner, Ms. Vartika K. Kashyap, learned Advocate for the State and Mr. Kumar Ravish, learned Advocate for respondent Nos. 8 and 9.

2. This is the second round of litigation, as earlier the petitioner had approached this Court by filing C.W.J.C. No.



10663 of 2024 seeking a direction upon the respondents particularly, the Principal, Darbhanga Medical College, Laheriasarai, Darbhanga to issue/release the original certificate/documents said to have been illegally withheld by him and allow the petitioner to pursue further studies; the petitioner further sought a direction to the respondent authorities to adhere with the direction of the National Board of Medical Sciences in reference to the candidates allotted by the National Education Board to the Medical Colleges in the State of Bihar in regard to the conditions for admission in post MBBS DNB Course and Post Diploma DNB Course.

3. The afore noted writ petition came to be disposed of on 08.08.2024 with a direction to the petitioner to file a detailed representation before the Additional Chief Secretary, Health Department, Bihar, Patna along with all supporting documents, who had further been directed to pass reasoned and speaking order, in accordance with law, after giving proper opportunity to the petitioner. The claim of the petitioner was considered and finally turned down vide order contained in letter No.735(17) dated 16.08.2024, which is impugned herein.

4. The order impugned is said to have been passed without appreciating the terms and stipulations as mandated by



the National Board of Examination in Medical Sciences (in short 'NBEMS'). The petitioner also sought quashing of the order bearing Memo No. 848(17) dated 13.09.2024, issued under the signature of Officer on Special Duty, Department of Health, Patna whereby the petitioner has been posted as Medical Officer in view of the Departmental Letter No. 3(1) dated 03.01.2022, read with Resolution No. 450(1) dated 15.04.2017, as also the Corrigendum Letter No. 479(1) dated 26.04.2017 for three years at Sub-Divisional Hospital, Mahua, Vaishali. Besides the aforesaid reliefs, the petitioner also prayed for release of his original certificate/documents illegally withheld by the Principal of the College so that the petitioner may pursue further studies.

5. Mr. Ali Muqtadir Ahmad, learned Advocate for the petitioner before coming to the point of challenge has narrated the brief facts, inter alia, that the petitioner had successfully qualified the entrance examination (Post Diploma CET) for the post of Diploma DNB Course in Dermatology and has been allotted Darbhanga Medical College for the Session-2021-23. The petitioner joined the Course on 11.03.2022 and submitted all the original documents i.e. MBBS Degree Certificate, Diploma Certificate, Medical Council Registration Certificate, Diploma Mark-sheet as well as National Medical



Council Recognition Certificate, which were duly retained by the College.

6. At the time of admission, there was no information regarding the service bond on the official counselling Website and thus an information had sought for. The Principal, Darbhanga Medical College vide its Memo No. 4759 dated 17.12.2021 informed that the service bond for DNB/Diploma candidate is not applicable till now. However, any further decision by the Health Department, Government of Bihar in this regard will be communicated to the concerned. By the said letter, it is made clear that the service bonds are applicable for PG Degree and Diploma candidates only. Meanwhile, the Government of Bihar in the Department of Health vide its Memo No. 03(I) dated 03.01.2022, on a query made by the Civil Surgeon-cum-Member Secretary, District Health Society, East Champaran informed regarding the accreditation of the DNB Diploma Course in terms with the letter of National Board of Examination in Medical Sciences (NBEMS), New Delhi wherein the stipend fixed for the DNB Diploma course/students were directed to be paid, besides the other conditions as incorporated under the Resolution No. 450(1) dated 15.04.2017, read with Corrigendum Letter No.



479(1) dated 26.04.2017 prescribing to undergo service bond. Notwithstanding the aforesaid facts, the petitioner was coerced to sign the service bond at the time of admission in Post Diploma DNB in the Department of Dermatology by the authorities of the Darbhanga Medical College. Since, there was no time left for seeking clarification from the NBEMS, the petitioner immediately made a complaint before the National Board of Examination regarding the service bond. On receipt of the complaint, the NBEMS intimated the Principal of the Darbhanga Medical College that the students cannot be forced to deposit a bond, the copy of which is marked as Annexure-P/4 to the writ petition.

7. In course of pursuing the studies/training, the petitioner also informed the Additional Chief Secretary, Health Department about the coercive attitude by the authorities of Darbhanga Medical College to compel him to give a service bond, however, no decision was taken. Upon completion of the Post Diploma DNB Training in the Department of Dermatology for the Session 2021-23, the petitioner approached the Principal of the Darbhanga Medical College with a request to issue/release his original documents at the earliest. Nonetheless, any action was taken; however, the Principal of the College



sought a guideline from the concerned authorities of the State with regard to release of original documents/certificates submitted by the petitioner at the time of admission, but no decision could be taken in absence of the guideline. In the aforesaid premise, the petitioner had earlier come to this Court in C.W.J.C. No. 10663 of 2024 and on being dissatisfied with the order impugned passed in the purported compliance with the order of this Court, the petitioner preferred the present writ petition.

8. Learned advocate for the petitioner while assailing the impugned order has further urged that the concerned authority has failed to take into consideration the direction/instruction of the NBEMS, which categorically declares that the candidates pursuing the Post Diploma DNB course is not required to undergo a service bond and thus the action of respondent no.2 in rejecting the claim of the petitioner is wholly illegal, arbitrary, besides violation of Article 14 of the Constitution of India. The respondent authorities of the Health Department by issuing the letter of posting in favour of petitioner for three years has committed illegality and completely misunderstood the purport of Departmental Letter No. 3(1) dated 03.01.2022 that a Post Diploma DNB Course



candidate has to undergo compulsory service bond. At the time of admission in Post Diploma DNB Course, there was no provision for the candidate to undergo service bond and for the first time the Government of Bihar in the Department of Health vide Notification No. 640(1) dated 24.09.2024 has resolved and clarified that the course offered under DNB cluster such as Post MBBS DNB, Diploma DNB and Post MBBS Diploma, the bond will be applicable in terms of the Departmental Resolution dated 15.04.2017, read with corrigendum letter dated 26.04.2017 and Resolution dated 27.08.2019. Admittedly, the petitioner had taken admission in the Post Diploma DNB course for the Session 2021-23 and at that point of time there was no such prescriptions for compulsory service bond, hence the impugned order is fit to be set aside and the original certificates should be released in favour of the petitioner is the contention of the learned Advocate for the petitioner.

9. The respondent Union of India through NBEMS has ensured filing of the counter affidavit. The concerned respondent has taken note of communication made by the Darbhanga Medical College, Laheriasarai informing him that at the time of joining of a candidate there was no service bond for DNB/Diploma Course candidates. In the light of the aforesaid



facts, the NBEMS has instructed the training institute; i.e. Darbhanga Medical College that the candidate cannot be forced to deposit a bond. The letter dated 21.03.2022 issued by the NBEMS has been placed on record.

10. On the other hand, Ms. Vartika K. Kashyap, learned Advocate for the State has submitted that the State Government has taken a policy decision through Departmental Resolution No. 450(1) dated 15.04.2017 as well as its corrigendum Letter No. 479(1) dated 26.04.2017 to implement the bond system for taking three years compulsory service in the State of Bihar from passing Post Graduate candidates of the State Medical Colleges and in case of not extending the compulsory service, the candidates are liable to pay Rs.25,00,000/- (Twenty five lac) along with entire salary paid as one lump sum amount. The aforesaid policy decision has been taken on account of compelling circumstances, as several students used to leave their courses midway after taking admission in PG course/Post Diploma Course resulting into abrupt vacancy of the seats in the subjects and also led to paucity of Specialist Doctor in the State. In the light of the aforesaid resolution, the petitioner with the open eyes filled up the bond papers at the time of taking admission and thus the



petitioner cannot be allowed to turn around and challenge the conditions. Hence, the claim of the petitioner has rightly been rejected by the respondent no.2.

11. Besides the aforesaid submission, it is also submitted that the claim of the petitioner is also barred by the principles of estoppel, since the petitioner having fully aware/conscious of the terms and conditions of the bond, in question executed the same, while taking admission in the Post Diploma DNB Course. In the aforesaid premise, M/s Kashyap, learned Advocate for the State prays for dismissal of the writ petition.

12. Before dealing with the issue raised in the case at hand as to whether the petitioner, who had successfully completed the Post Diploma DNB Course is to undergo mandatory service bond only or; in his case there is any application of Government Resolution No. 450(1) dated 15.04.2017 read with corrigendum Letter No. 479(1) dated 26.04.2017 and as to whether the impugned order is legal or valid, it would be apt and proper to give an outline or conspectus of the issue.

13. It would be worth benefitting to take note of the decision rendered by the Apex Court in the case of *Association*



of Medical Super Speciality Aspirants & Residents & Ors. Vs. Union of India & Ors., reported in, (2019) 8 SCC 607. The controversy in the batch of the aforementioned cases was pertaining to the compulsory bonds to be executed for admission to postgraduate medical courses and super speciality courses.

14. The Notifications issued by the Department of Health and Family Welfare, Government of West Bengal imposing the condition of execution of compulsory bond at the time of admission to postgraduate courses and superspeciality courses were challenged in the High Court of Calcutta. By the notification, in question, the candidates who have completed postgraduate degrees/Superspeciality, they were directed to serve the State Government for a period of three years after successful completion of the courses, failing which they were directed to recompensate the State Government and a penalty amount of Rs 10 lakhs was to be paid. The said notification was modified and the condition pertaining to one year was increased to three years, besides the compensation was enhanced to Rs.30,00,000/- (Thirty lac). The learned Single Judge of the Calcutta High Court upheld the earlier notification dated 31.07.2013, however, the subsequent Notification dated 10.06.2014 was held to be arbitrary and unreasonable.



15. On challenge, the learned Division Bench of Calcutta High Court held that both the Notifications dated 31.07.2013 and 10.06.2014 are neither unreasonable nor arbitrary and thus set aside the judgment of the learned Single Judge insofar as it related to the Notification dated 10.06.2014 being quashed.

16. The Apex Court while parting with the case intrinsically dealt with various issues, inter alia, the competence/jurisdiction of the State Government and held that the States are free to legislate on the subject-matter of medical bonds. Executive authority of the State Government is co-extensive with that of the legislative power of the State Legislature. Even in the absence of any legislation, the State Government has the competence to issue executive orders under Article 162 of the Constitution on matters over which the State Legislature has the power to legislate. The Court held that the policy decision taken by the State Governments to utilize the services of doctors who were beneficiaries of government assistance to complete their education cannot be termed arbitrary. The notifications issued by the State Governments imposing a condition of compulsory service and a default clause are per se not unreasonable. The Court further held that the



government hospitals run by the State and the Medical Officers employed therein are duty bound to extend medical assistance for preserving human life. Failure on the part of a government hospital to provide timely medical treatment to a person in need of such treatment results in violation of his right guaranteed under Article 21 of the Constitution. The Government has a constitutional obligation to preserve human life. Good health of its citizen is its primary duty. The Government incurs huge expenditure in Government Medical Colleges, where fees charged from the students is meager and there is scarcity of the Super Speciality in the State. While balancing communitarian dignity vis-à-vis the dignity of private individuals, the scales must tilt in favour of communitarian dignity. Compulsory service bonds is to protect the fundamental right of the deprived sections of the society guaranteed to them. Objective of said policy to provide compulsory service bonds is to ensure that specialist healthcare is extended to have-nots also. In no circumstances compulsory employment for public purpose would amount of involuntary servitude.

17. The Apex Court further crystallized that the appellants who are required to work for a short period on a decent stipend cannot complain that they are made to perform



“forced labour”, especially after the appellants have taken an informed decision to avail the benefits of admission in government medical colleges and received subsidised education. By no means, the service rendered by the appellants in government hospitals would fall under the expression of “forced labour”.

18. With the aforesaid observation, the Apex Court finally held that the conditions of compulsory bonds for admission to postgraduate and superspeciality courses in government medical colleges are not in violation of Section 27 of the Contract Act, 1872 and accordingly dismissed the writ petitions/Civil Appeals with a direction to all the doctors who have executed compulsory bonds that they shall be bound by the conditions contained therein. However, the Apex Court further observed that certain State Governments have rigid conditions in the compulsory bonds to be executed by the appellants and felt need of uniformity in the matter pertaining to the compulsory bonds; hence suggested that suitable steps be taken by the Union of India.

19. Now coming to the case at hand, in order to answer the issue as to whether the Government Resolution No. 450(1) dated 15.04.2017 read with Corrigendum Letter No.



479(1) dated 26.04.2017 is applicable to the case of the petitioner, it is pertinent to observe that the National Board of Examinations in Medical Sciences (NBEMS) is an autonomous body under the Ministry of Health and Family Welfare, Government of India, and established in 1975 to standardizing postgraduate medical education and examination in India. The postgraduate degree awarded by the NBEMS is called the Diplomate of National Board (DNB) for specialty and Doctorate of National Board for superspecialty. The NBEMS has no concern with the subject matter of Medical bonds and it is the State Government, who are free to legislate on this subject matter. The Apex Court in the case of *Association of Medical Super Speciality Aspirants & Residents (supra)* has crystallized the aforesaid issue and held that the States are free to legislate on the subject-matter of medical bonds. In absence of any legislation, the State Government has competence to issue executive orders under Article 162 of the Constitution on matters over which the State Legislature has the power to legislate. In exercise of power under Article 162 of the Constitution of India, the Government of Bihar in the Department of Health by the order of the Governor has come out with Resolution No. 450(1) dated 15.04.2017 issued in



relation to implement service bonds executed by the candidates of P.G. courses. Bare reading of the Resolution dated 15.04.2017 as well as Corrigendum Letter No. 479(1) dated 26.04.2017 it is manifest that a candidate, who had successfully completed the Post Graduate Course shall be bound to undergo mandatory service bond and render services under the Government for three years, failing which they will have to return Rs.25,00,000/- and the stipend/salary, which have been received during the training course. It is also clarified that till such period their certificates/testimonials deposited at the time of admission shall be kept in the Medical College.

20. The contention of the learned Advocate for the petitioner that both the letters do not talk about the Post Diploma (DNB) course and, as such, the same would not be applicable in the case of the petitioner, in the opinion of this Court is wholly misconceived and not acceptable.

21. Post Diploma DNB course is a recognized Post Graduate level Medical qualification in India considered equivalent to MD/MS Degree for all practical and academic purposes. Since both the resolutions and its corrigendum categorically talk about all the candidates, who have taken admission in the PG Course in the Medical College of the State



Government and that arrangement shall be made applicable with effect from Sessions 2017-18 and there is no hesitation to hold that the same would also be applicable to the candidates of the Post Diploma DNB Course, which is obviously a recognized Post-Graduate level Medical qualification. Since the petitioner after being qualified successfully took admission in the department of Dermatology at Darbhanga Medical College in Post Diploma DNB course for the Sessions 2021-23, the aforementioned resolution would certainly be applicable in the case of the petitioner.

22. The Court further cannot lose sight of the fact that at the time of taking admission in the Post Diploma DNB course, he has duly filled up the bond paper and executed the same with an undertaking that after completion of Post Graduate course, he shall serve under the Bihar State Health Services/ Bihar Government for a period of three years, if he fails to serve the Bihar State Health Services/Bihar Government for a period of three years, he will be liable to pay Rs.25,00,000/- bond amount along with the salary/stipend amount paid to him. The copy of the bond is also marked as Annexure-R-7/C. The petitioner having taken a conscious decision availing the benefit of admission in Government Medical College and received subsidized education



now cannot be allowed to turn around and challenge the same, after completion of the course/training successfully.

23. Coming to the next contention of the petitioner that after the impugned order dated 16.08.2024, having been passed by the respondent no.2, the Health Department became wise enough and issued Notification No. 640(1) dated 24.09.2024 clarifying the position that the course offered under DNB cluster such as Post MBBS DNB, Post Diploma DNB and Post MBBS Diploma, the bond will be applicable in terms of the aforementioned departmental resolution; hence the notification would not apply retrospectively to the course conducted by the petitioner for the Sessions 2021-23, does not find merit consideration, as the notification dated 24.09.2024 is only clarificatory in nature, which made it clear that the Resolution No. 450(1) dated 15.04.2017 as well as Corrigendum Letter No. 479(1) dated 26.04.2017 and Resolution No. 278(1) dated 27.02.2019 stipulating the bond arrangement shall be applicable to the candidate of DNB Diploma Course, including Post MBBS DNB, Post Diploma DNB and Post MBBS Diploma of all the Government Medical Colleges, superspeciality and sadar hospitals, besides the remaining Medical Institutions, who would get further accreditation for the afore noted courses.



24. Before parting with the case, it would be also pertinent to remind the observation of the Apex Court in the case of *Association of Medical Super Speciality Aspirants & Residents (supra)* where the Apex Court emphasized that it is for the State to secure health to its citizens as its primary duty. No doubt the Government is rendering this obligation by opening government hospitals and health centres, but in order to make it meaningful, it has to be within the reach of its people, as far as possible, to reduce the queue of waiting lists, and it has to provide all facilities to employ best of talents and tone up its administration to give effective contribution, which is also the duty of the Government. The laudable objective with which the State Governments have introduced compulsory service bonds is to protect the fundamental right of the deprived sections of the society guaranteed to them under Article 21 of the Constitution of India.

25. The Court underscored that a contract entered into by Post Graduate Trainee to serve the Government for a few years under reasonable terms cannot be described as arbitrary and in violation of Section 27 of the Contract Act, 1872. However, the Court finally urged and felt the need of uniformity in the matter pertaining to the compulsory bonds and



thus suggested that suitable steps should be taken by the Union of India and the Medical Council of India to have a uniform policy regarding the compulsory service to be rendered by the doctors who are trained in government institutions.

26. In view of the aforesaid position of law, as discussed hereinabove and ruled by the Apex Court, this Court does not find any merit in the writ petition.

27. Accordingly, the same stands dismissed. However, there shall be no order as to cost.

(Harish Kumar, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	16.01.2026
Transmission Date	NA

