



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 22307 of 2024

An application under Articles 226 and 227 of the Constitution of India

Sumit Joshi

....

Petitioner

-Versus-

***The Director (SRKV), Ministry of
Ayush, Govt. of India, New Delhi
and others***

....

Opposite Parties

Advocates appeared in this case:

For Petitioner: Mr. Jaydeep Pal, Sr. Advocate.

For Opp. Parties: Mr. P.K. Parhi, DSGI along with
Mr. S.S Kashyap, Sr. Panel Counsel
(for O.P. Nos.1, 2 & 3)

Mr. Amitabh Mishra, Advocate
(for O.P. No.4)

Mr. Prabhu Prasanna Behera, Advocate
along with
Ms. Pragyan Nalini Nayak, Advocate
(for O.P. Nos.5 & 6)

CORAM:

**THE HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
AND
THE HON'BLE MR. JUSTICE SIBO SANKAR MISHRA**

J U D G M E N T

DECIDED ON 21.01.2026

PER MANASH RANJAN PATHAK, J.



The petitioner in the writ petition is a student, who has taken admission in the course for Bachelor in Ayurvedic Medicine and Surgery (BAMS) in the opposite party no.5-college. As has been stated in the writ petition he took his admission after the counselling was over, through the OJEE (Odisha Joint Entrance Examination). Though he had appeared in the National Eligibility-cum-Entrance Test (NEET), he could get a chance to get admission after the OJEE counselling was over, as intimated by letter dated 12.02.2023 issued by the Chairman, OJEE. The said letter forms part of the record, has been annexed to the writ petition as Annexure-3.

2. As the events unfolded, thereafter letter dated 03.06.2024 was issued by the Secretary-in-charge National Commission for Indian System of Medicine (Annexure - 5 to the writ petition). The said letter is under challenge. Contents of the letter are reproduced herein:

“To

The Dean,

Sri Sri College of Ayurvedic Science & Research Hospital,

Sri Sri University, Bidyadharpur, Arilo,

Ward No.3, Cuttack – 754006,

Odisha.

Email-deansscasrh@Srisriuniversity.edu.in

Sub: Cancellation of admission of students not admitted through counselling for batch 2022-23-reg.

Sir/Madam,

I am directed to bring to your notice that, all admissions in BAMS should be as per the Clause(i) of Sub Regulation(7) of Regulation(5) of National Commission for Indian System of Medicine (Minimum Standards of Undergraduate Education), Regulations, 2022 of BAMS which states:



“All seats irrespective of category (Central quota, State quota or Management etc.) except foreign nationals are to be admitted through counselling (Central or State or Union Territory) only, Direct admission by any means other than above specified shall not be approved.”

On verification of the data (admitted students for BAMS for the batch 2022-23) submitted by your college, with the data provided by the Odisha State Counseling Authority, the below mentioned students found to be, not allotted through the Odisha Counselling Authority. As per the above specified regulations, these below mentioned one student's admission cannot be approved by NCISM and you are instructed to cancel their admission and discharge the students from your college immediately to avoid further loss to students.

NEET Application No.	NEET Roll No.	Full Name	Date of Birth
xx	xx	xx	xx
220410862264	4501040057	SUMIT JOSHI	10-APR-2000
xx	xx	xx	xx

This is issued with the approval of competent authority.”

3. After issuance of the letter at Annexure - 5 addressed to the Dean of the Opposite Party Nos.5 and 6-Sri Sri College of Ayurvedic Research and Hospital, Godisahi Cuttack and Sri Sri University, Godisahi, Cuttack (hereinafter ‘the college’), the college issued certain directions to the petitioner-student cancelling his admission and discharging him from the college. By order dated 24.09.2024 the coordinate Bench passed the following interim order:

“2. A further time is being sought on behalf of opposite parties No.4 and 5 to file their counter affidavits.

3. List this matter on 29th October, 2024 within first five cases.

4. In the meanwhile, if counter affidavits are not filed, the Court shall impose cost. It is also expected that on the next date, opposite party No.1 shall make its stand clear.



5. Since the petitioner is pursuing his BAMS Course more than a year and his admission is not being approved now, under some direction of the National Commission for Indian System of Medicine, we direct that opposite party No.5-College shall permit the petitioner to attend the theoretical and practical classes till further orders.”

After the interim order was passed, the petitioner has continued his studies and appeared in some of the examination till date.

4. It is submitted by learned Counsel appearing for the petitioner that pursuant to the interim order passed on 24.09.2024, the petitioner student appeared in the examination. Since the issue involved was assigned to the Division Bench as per roster, the matter was listed before a coordinate Bench.

5. It is submitted by Mr. J. Pal, learned Counsel for the petitioner that in view of the protection granted by the Court and interim orders directing the authorities, petitioner has continued his studies and continues to do so in BAMS.

6. Today we have heard the learned Senior Counsel for the petitioner, Mr. Jayadeep Pal along with Ms. A. Pal, Mr. Parhi, learned DSGI along with Mr. Kashyap, learned Senior Panel Counsel for opposite party nos.1, 2 & 3, Mr. Amitabh Mishra, learned counsel for O.P. No.4, and Mr. P.P. Behera, learned counsel for opposite party nos.5 and 6 at some length. Upon hearing the learned counsel for the parties, we allow and dispose of the writ petition for the following reasons:



6.1. Though the Annexure-7 letter dated 29.07.2024 was issued by the opposite party nos.5 and 6-college pursuant to the letter dated 03.06.2024 issued by the opposite party no.2, upon perusal of the counter filed on behalf of opposite party nos.2 and 3 as well as opposite party no.1 it is apparent that the issue is not regarding the letter dated 03.06.2024 inasmuch as the petitioner-student took admission after the completion of the counselling by OJEE that was communicated by letter dated 12.02.2023. Section 9(6)(a) of the Orissa Professional Educational Institutions (Regulation of Admission and Fixation of Fee) Act, 2007 (hereinafter 'Act, 2007') is reproduced herein:

“(6) (a) Where seats for reserved category are left unfilled due to non-availability of candidates from a particular category in the list of JEE, such seats shall be filled up by candidates of same category from the merit list of All India Engineering Entrance Examination or All India Medical Entrance Examination, as the case may be, failing which such vacant seats shall be filled up by candidates not belonging to any reserved category in accordance with the merit list of JEE.”

6.2. The Section 9(6)(a) provides for giving admission to students in the available vacant seats after counselling by OJEE is over. The provision in the Act, 2007 is also supported by the view of the Hon'ble Supreme Court in the case of **State of Orissa v. Dr. Asim Kumar Mohanty; (1989) 3 SCC 549: AIR 1989 SC 1801** that the seats for admission should not be kept vacant/unfilled in professional courses. In view of the provision of section 9(6)(a) of the Act, 2007, Annexure-5 issued by opposite party No.1 and the



consequential Annexure-7 issued by opposite party Nos.5 & 6 would not have any application as far as studentship of the petitioner is concerned.

6.3. The Annexure-7, order dated 29.07.2024 being issued in the premises of issuance of the letter dated 03.06.2024 (Annexure-5) has to be set aside as the principle indicated in the letter dated 03.06.2024 is not applicable to the studentship/candidature of the petitioner for taking admission in the BAMS course in view of the section 9(6)(a) of the Act, 2007 and the law laid down by the Hon'ble Supreme Court in **Aswini Kumar Mohanty** (*supra*).

7. The writ petition is allowed. Annexure-5 the letter dated 03.06.2024 issued by Secretary, National Commission for Indian System of Medicine, Ministry of Ayush, Government of India-opposite party No.2 and Annexure-7 the notification dated 29.07.2024 issued by Opposite Party Nos.5 and 6-Sri Sri College of Ayurvedic Research and Hospital, Godisahi Cuttack and Sri Sri University, Godisahi, Cuttack are hereby set aside and quashed regarding their applicability to the petitioner in the facts and circumstances of the present writ petition. The interim orders passed earlier shall merge with this judgment allowing the writ petition.

8. The college authorities including the university-authorities shall allow the petitioner-student to appear in all the examinations, may be in the form of back papers/supplementary examination or otherwise that would be



permissible and allow the student reasonable time to prepare for examination.

9. No costs.

Manash Ranjan Pathak
Judge

Sibo Sankar Mishra
Judge

High Court of Orissa, Cuttack
The 21st day of January, 2026.

S.K. Parida, ADR-cum-APS