



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No.10839 of 2025**

*In the matter of the application under Articles 226 and 227 of the Constitution of India.*

**Dr. Smruti Snigdha Sahoo                      ...      Petitioner**

**- Versus -**

**State of Odisha and others                      ...      Opposite Parties**

Advocate(s) appeared in this case:-

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For Petitioner                      ...      M/s.Avijit Mishra & K. Prajswal

For Opposite Parties                      ...      Mr. Dayanidhi Lenka,  
Additional Government Advocate  
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**CORAM: HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA**

**JUDGMENT**  
**26.06.2025**

**Aditya Kumar Mohapatra, J.**

1. In course of hearing of the matter today in Court, a copy of letter dated 24<sup>th</sup> June, 2025 issued by the Director, Medical Education & Training, Odisha, was produced on behalf of Mr. R.C. Mohanty, learned Standing Counsel. On perusal of the



aforesaid letter, it appears that the D.M.E.T., Odisha has instructed Mr. R.C. Mohanty, learned Standing Counsel not to appear in this matter as the matter is to be conducted by the Law Officers of the Advocate General, Odisha. The letter is taken on record. Accordingly, the appearance of Mr. R.C. Mohanty, learned Standing Counsel is dispensed with.

2. The genesis of the dispute involved in the present writ petition lies in the conduct of the Opposite Parties in rejecting the prayer of the Petitioner to grant her NOC to pursue her fellowship programme in Musculoskeletal (MSK) Radiology at Ganga Hospital, Coimbatore.

3. The Petitioner, who is a doctor by profession, is working as a Medical Officer in DHS Cadre and at present continuing in post PG bond services. She has approached this Court by filing the present writ petition assailing the legality and validity of a decision of the Opposite Parties communicated to her vide Letter No.6224 dated 10.04.2025 issued by the Director of Medical Education & Training, Odisha. By virtue of the impugned letter dated 10.04.2025 under Annexure-6 to the writ petition, the



request of the Petitioner for grant of NOC in her favour to pursue her fellowship programme has been turned down by the Opposite Party No.2.

4. The factual matrix involved in the present writ petition, in a nutshell, is that the Petitioner, who possesses an MBBS Degree, pursuant to the publication of prospectus of National Eligibility-cum-Entrance Test (Postgraduate) 2020 submitted her candidature for admission into Post Graduate Medical Course in MD/MS/Diploma and MDS Courses. The Petitioner participated in the examination and came out successful. Accordingly, she was allotted a seat in the discipline of Radiodiagnosis in the Government Medical College, i.e. S.C.B. Medical College and Hospital, Cuttack. At the time of her admission, the Petitioner was required to execute a bond to work for two years after completing the post-graduation course as per the Government of Odisha, Health & Family Welfare Department Resolution dated 03.02.2017.

5. The Petitioner, on successful completion of her post-graduate course in the subject of Radiodiagnosis, was posted as a



post PG bond doctor in the year 2023 and at present continuing as such as a Senior Resident in the Department of Radiology at S.C.B. Medical College and Hospital, Cuttack. Such continuance as a Senior Resident is pursuant to the bond executed by the Petitioner at the time of her admission into the PG course.

6. While continuing her post PG bond service, the Petitioner came across an advertisement issued by Indian College and Radiology and Imaging for pursuing different fellowship programmes. The Petitioner applied for fellowship programme in Musculoskeletal (MSK) Radiology. After participating in the selection process, the Petitioner got selected for the fellowship programme and, accordingly, she was issued with a letter dated 10.03.2025 whereunder she has been asked to join at Ganga Hospital, Coimbatore to pursue such fellowship programme. After receiving letter dated 10.03.2025 under Annexure-2, the Petitioner requested Opposite Party No.2 for issuance of NOC in her favour to enable her to pursue the aforesaid fellowship programme vide her mail dated 11.03.2025 under Annexure-3.



The letter under Annexure-2 reveals that the Petitioner was required to join the institute on 01.04.2025.

7. Since no decision was taken on the request of the Petitioner for issuance of NOC, the Petitioner initially approached this Court by filing W.P.(C) No.8055 of 2025. The said writ petition was disposed of vide order dated 20.03.2025 directing the DMET, Odisha to consider the case of the Petitioner in the light of the direction issued in the case of Dr. Pragyna Paramita Das and others vrs. State of Odisha and others in W.P.(C) No.17461 of 2022 decided on 11.08.2022 within a period of ten days. Despite order dated 20.03.2025, no decision was taken by the Opposite Party No.2, for which, the Petitioner was compelled to file CONTC No.1740 of 2025.

8. While the aforesaid contempt proceeding was pending before this Court for final hearing, the Opposite Party No.2, vide letter No.6224 dated 10.04.2025, communicated the decision of the Dean and Principal, S.C.B. Medical College and Hospital, Cuttack thereby informing that the request of the Petitioner for grant of NOC to pursue fellowship programme has been rejected



on the ground that the fellowship in Musculoskeletal Radiology is not in the list of NMC approved courses as per conditions laid down in the Resolution dated 29.01.2024 of the H&FW Department, Government of Odisha. Challenging the rejection of the request of the Petitioner for grant of NOC vide letter dated 10.04.2025 under Annexure-6 to the writ petition, the Petitioner has approached this Court for the second time by filing the present writ petition.

9. Learned counsel for the Petitioner, at the outset, contended that the request of the Petitioner for grant of NOC has been turned down by the Opposite Party No.2 with a malicious motive. Moreover, such rejection is highly illegal and arbitrary inasmuch as there is no such restriction in the bond executed by the Petitioner in the year 2020. Thus, it was argued that the conduct of the Opposite Party No.2 in rejecting the prayer of the Petitioner for grant of NOC is not only illegal, but also the same has been issued by the authorities with malice towards the Petitioner.



10. While elaborating his argument on the legality and validity of the decision under Annexure-6 thereby rejecting the Petitioners' request for grant of NOC, learned counsel for the Petitioner contended that at the time of admission into the P.G. Course in the year 2020, the Petitioner had executed the bond and the conditions of such bonds are the replica of the Resolution dated 03.02.2017 under Annexure-1 to the writ petition. Thus, in the absence of any condition in the bond prohibiting the Petitioner in pursuing any fellowship programme, the conduct of the Opposite Parties in rejecting the request of the Petitioner for grant of NOC in favour of the Petitioner, thereby enabling her to join the fellowship programme, is highly illegal and without having authority to do so.

11. Learned counsel for the Petitioner further argued that the malice of the Opposite Parties towards the Petitioner is evident from the fact that the Opposite Parties while granting such NOC in favour of some of the batchmates of the Petitioner in a selective manner. However, they have rejected the request of the Petitioner. In course of his argument, learned counsel for the



Petitioner specifically referred to the case of one Dr. Payal Agarwal, who was working as a Assistant Professor in the Department of Radio-diagnosis, SJ MCH, Puri. On the basis of the aforesaid fact, learned counsel for the Petitioner laying emphasis on the constitutional principle contained in Article 14 and 16 of the Constitution of India, argued that not only the Petitioner has been discriminated against, at the same time the conduct of the Opposite Parties can very well be termed as arbitrary exercise of power by the authorities. In course of his argument, learned counsel for the Petitioner also referred to the subsequent resolutions of the H&FW Department, Government of Odisha modifying the terms and conditions of the bond in the subsequent years. He would further argued that since the Petitioner is a signatory to the bond executed in the year 2020 which is based on the resolution of the year 2017 under Annexure-1, the Opposite Parties could not have rejected the prayer of the Petitioner for grant of NOC by referring to the bond of the subsequent years, i.e. of the year 2024. He further submitted that the Petitioner is bound by the bond which was





executed by him in the year 2020 and not of the subsequent year 2024 to which the Petitioner is not a signatory.

12. Learned counsel for the Petitioner in course of his argument, referred to the document which was filed subsequently at Flag-‘A’ of the brief. Such additional document is a copy of the reply dated 30<sup>th</sup> April, 2025. On a perusal of such reply, it appears that Dr. Payal Agrawal was issued with a NOC for higher study by distinguished her from the present Petitioner on the ground that she is a direct candidate whereas the Petitioner is an in service candidate under OMHS Cadre and that the Petitioner is a permanent Government employee as she was recruited on being recommended by the OPSC. Further, it has been stated that due to dearth of doctors in peripheral health institutions, Government has taken a policy decision not to issue NOC for courses not recognized by NMC. Similarly, copy of the letter dated 25<sup>th</sup> April, 2025 at Flag-‘A’ discloses that the Petitioner got admitted in P.G. Course 2020-23 Batch. Therefore, she will be governed by Resolution dated 09.12.2021. The Resolution dated 09.12.2021 superseded the earlier Resolution



dated 03.02.2017. The latest Resolution dated 29.01.2024 supersedes the earlier Resolution dated 09.12.2021. The additional documents filed by the Petitioner also includes a copy of the bond executed by the Petitioner on 20<sup>th</sup> June, 2020 as well as the copy of the Resolution dated 09.12.2021 and the Resolution dated 29.01.2024 along with the bond format prescribed by the Government. By referring to the additional documents, learned counsel for the Petitioner further contended that since the Petitioner has executed the bond on 20.06.2020, she will be governed and guided by the conditions contained in the bond itself not by subsequent changes brought into the bond condition by virtue of the Resolutions of the year 2021 and 2024.

13. A counter affidavit has been filed on behalf of the Opposite Parties No.1 and 2. The said counter affidavit has been sworn by the D.M.E.T., Odisha. The counter affidavit reveals that the Petitioner was initially appointed as a Medical Officer on being recommended by the OPSC and she joined at her new post of posting on 11.03.2020. Thereafter, the Petitioner got selected for P.G. Course at S.C.B. Medical College and Hospital, Cuttack and



she was allowed to peruse her P.G. Course vide letter dated 14.07.2020. After completion of her P.G. Course in the year 2023, the Petitioner was posted at S.C.B. Medical College and Hospital, Cuttack to serve the post P.G. bond service. While continuing in her post P.G. bond service, the Petitioner was selected for fellowship programme at Ganga Hospital, Coimbatore. The request for NOC was received by the Directorate on 25.03.2025. The request so received from the Petitioner was forwarded to the Government. The competent authority in the Government has rejected the prayer of the Petitioner.

14. The counter affidavit further reveals that the H&FW Department, Government of Odisha relying upon the Resolution dated 09.12.2021, particularly Clause-1(e) thereof, has rejected the prayer of the Petitioner for grant of NOC. Moreover, the fellowship programme for which the Petitioner has been selected does not find place in the list of NMC approved courses and that the hospital in question is outside the State. Hence, the



competent authority has decided not to issue NOC in favour of the Petitioner to pursue the fellowship programme.

15. Learned Additional Government Advocate appearing for the State-Opposite Parties, at the outset, argued that there is dearth of doctors in the State of Odisha, particularly in the faculty of Radiodiagnosis. Keeping in view the aforesaid position, the Government has taken a decision not to grant NOC to the Petitioner. Learned Additional Government, in course of his argument, specifically referred to the Resolution dated 09.12.2021 of the H&FW Department, Government of Odisha. Further, referring to Clause-1(e) of the Resolution, it was argued by the learned Additional Government Advocate that there exists a clear bar not to grant NOC for the programme for which the Petitioner has been selected and interested to pursue such programme. He further submitted that the Resolution dated 03.02.2017 has been superseded by the Government Resolution dated 09.12.2021. Subsequently, the Resolution dated 09.12.2021 has been further modified vide Resolution dated 29.01.2024 of the H&FW Department, Government of Odisha.



Since there exists a clear bar in the Resolutions of the year 2021 and 2024 and the Petitioner having made the request in the year 2025 for grant of NOC, the Opposite Parties have not committed any illegality in rejecting the request of the Petitioner for grant of NOC in favour of the Petitioner.

16. Learned Additional Government Advocate further elaborated his argument by saying that the Resolution dated 03.02.2017 lacks a clear definition of higher study. Therefore, a new Resolution dated 09.12.2021 was notified to clarify the position. Further, referring to the para-14 of the counter affidavit, learned Additional Government Advocate submitted that since the bond format in Appendix-I to Resolution dated 09.12.2021 were not altered, the students were not asked to submit fresh bond in terms of Resolution dated 09.12.2021. In such view of the matter, learned Additional Government Advocate submitted that the Petitioner is bound by Resolution dated 09.12.2021 and, as such, the Petitioner is not entitled to the NOC as requested by her.



17. In the context of grant of NOC in favour of Dr. Payal Agrawal, learned Additional Government Advocate contended that the Petitioner stand in a different footing, therefore, she cannot claim parity with Dr. Payal Agrawal. So far as Dr. Payal Agrawal is concerned, she is a direct candidate whereas the present Petitioner is a in service candidate under OMHS Cadre and, as such, she is a permanent Government employee. Accordingly, learned Additional Government Advocate contended that the writ petition being devoid of merit is liable to be dismissed.

18. Heard the learned counsel for the Petitioner as well as learned Additional Government Advocate appearing for the State-Opposite Parties.

19. On perusal of the pleadings of the respective parties and further taking into consideration the materials on record, this Court observes that two important issues are to be adjudicated in the present writ petition. Those are:-



- (i) Whether the Government is competent to regulate the service condition of the doctors by asking such doctors to execute service bond?
- (ii) Whether the Petitioner is to be governed by the terms and conditions of the bond which she had executed on 20.06.2020 and as to whether the conditions of the Resolutions of the year 2021 and 2024 are applicable to the Petitioner?

20. In reply to the first question as to whether the State is competent to regulate the service condition of the doctors through the service bond and as to whether such practice is legal and valid came up for consideration before the Hon'ble Supreme Court of India in the case of *Association of Medical Superspeciality Aspirants and Residents and Others v. Union of India and Others*, reported in *(2019) 8 SCC 607*. The argument advanced by the Petitioners in the said case was that the compulsory bonds placed a restraint on the rights of the doctors to carry on their profession and, as such, the same would be contrary to the Section 27 of the Contract Act. The Hon'ble



Calcutta High Court repelled the submission made on behalf of the Petitioners by holding that the compulsory bond does not amount to restrain on the professional activity of the appellants. While examining the validity of the judgment of the Calcutta High Court, the Hon'ble Supreme Court in para-39 of the judgment has categorically observed 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. Thus, the issue involved in the first question has been set at rest by virtue of the Hon'ble Apex Court referred to hereinabove.

21. Moving to the next question, i.e. as to whether the Petitioner would be bound by the conditions of the bond which she had executed on 20.06.2020, such a question is no more *res integra* in view of the judgment of the Hon'ble Supreme Court in ***Association of Medical Superspeciality Aspirants and Residents's*** case (supra). Therefore, the law is fairly well settled that it is well within the competence of the employer-Government to insist on service bonds at the time of taking





admission of the doctors into post graduation/superspeciality courses. However, such conditions are to be reasonable.

22. Now, therefore, only question that remains to be adjudicated as to whether the Petitioner shall be governed by the conditions of the bond dated 20.06.2020 which contained the clauses that was introduced by virtue of the H&FW Department, Government of Odisha Resolution dated 03.02.2017 under Annexure-1 to the writ petition. Moreover, this Court is also required to examine as to whether the conditions which were introduced subsequently by virtue of the Government Resolutions subsequently in the year 2021 and 2024 are applicable to the Petitioner or not?

23. Before answering the above question, this Court would like to examine the bond executed by the Petitioner on 20.06.2020. A copy of the bond that has been executed by the Petitioner has been filed along with the counter affidavit and marked as a Annexure-E/2. On perusal of the said bond which has been admittedly executed by the Petitioner, it appears that with regard



to the higher studies, the following conditions has been incorporated in the said bond:-

“provided further that, in case of selection for higher study this bond will be seized to be operative till the study is completed and will be deemed to be in force on the date of completion of higher study and accordingly, all the above mentioned clauses will be in operation for all purposes.”

24. Therefore, on a careful scrutiny of the bond executed by the Petitioner on 20.06.2020, it appears that there was no embargo with regard to the Petitioner applying for/joining in higher studies.

25. The aforesaid condition mentioned in the bond executed by the Petitioner on 20.06.2020 is nothing but a replica of Clause-1(a) of the Resolution dated 03.02.2017 of the H&FW Department, Government of Odisha. On a careful scrutiny of the Resolution dated 03.02.2027, this Court observes that there is no other condition with regard to the higher studies other than Clause-1(a). Thus, it is the admitted position that the Petitioner has executed the bond on 20.06.2020 pursuant to the Resolution of the Government dated 03.02.2017 and that there is no denying the fact that she will be governed and guided by such conditions.



26. Resolution dated 09.12.2021 which has been brought on record in the shape of an additional document at the time of hearing by the Petitioner reveals that the said Resolution supersedes all earlier resolutions/orders/executive instructions/guidelines. Clause-1(e) of the Resolution dated 09.12.2021 provides as follows:-

“e. In case a candidate gets opportunity for higher study immediately after completion of course, the bond ceases to operate and will come in to force after return from study. They shall submit a declaration in form of affidavit before JMFC as per format enclosed in Appendix-1, to that effect. In such cases the Pass certificate and CLC shall be released. Copy of such affidavit shall be sent to DHS and DMET Odisha. Higher study for above condition shall mean pursuing any course after MBBS/BDS like Post graduation, Superspeciality or post-doctoral courses which are included in the Regulations of MCI/NMC. Higher study shall not include any residency or fellowship course outside state. Participation in selection process for residency/contractual/regular faculties for Medical Colleges inside the state of Odisha under the State Government or PSU shall be allowed and the certificates shall be released.”

27. Along with the Resolution of the year 2021, learned Additional Government Advocate referred to the Resolution of the H&FW Department, Government of Odisha dated 29.01.2024



under Annexure-B/2 to the counter affidavit. On a close scrutiny of the Resolution under Annexure-B/2 to the counter affidavit, this Court observes that the same is also a Resolution in supersession of all earlier Resolutions and under Clause-1(f) it has been provided as follows:-

“f. In case a candidate gets opportunity for higher study immediately after completion of course, the bond ceases to operate and will come in to force after return from study. They shall submit a declaration in the form of an affidavit before JMFC as per format enclosed in Appendix-1, to that effect. Copy of such affidavit shall be sent to DHS and DMET Odisha. Higher study for above condition shall mean pursuing any course after MBBS/BDS like Post graduation, Super specialty or post-doctoral courses which are included in the Regulations of MCI/NMC. Higher study shall not include any residency or fellowship course outside state.”

28. On perusal of the impugned rejection letter dated 10<sup>th</sup> April, 2025 under Annexure-6 to the writ petition, it is seen that the request of the Petitioner which was considered by the Government pursuant to the order passed by this Court on 20.03.2025 in W.P.(C) No.8055 of 2025 has been rejected and a decision has been taken by the Government not to issue NOC in favour of the Petitioner although the impugned rejection letter



under Annexure-6 does not specifically state about the ground on which the same has been rejected. It has only been mentioned that since the fellowship programme is not in the list of NMC approved courses as per the conditions laid down in 2024 Resolution, the request of the Petitioner for grant of NOC has been rejected solely on that ground.

29. Now, therefore, the question that falls for consideration is as to whether the rejection of the request of the Petitioner for grant of NOC relying upon the Resolution dated 29.01.2024 is valid in law or not?

30. To answer the above question, this Court has to taken into consideration the factual background of the present case. The undisputed fact is that the Petitioner having selected for the P.G. Course in the year 2020 joined at S.C.B. Medical College and Hospital, Cuttack in the very same year as all in service candidate. However, she has also executed a bond on 20.06.2020 which is not disputed by either side. The condition of the bond which has been executed by the Petitioner is based on the Resolution dated 03.02.2017 under Annexure-1 to the writ



petition. As has been discussed earlier, there was no restriction with regard to the higher studies. Thus, the Petitioner on being selected for the fellowship programme submitted a request before the Opposite Parties for grant of NOC. Her request having been rejected by referring to the Resolution of the year 2021 and 2024, the Petitioner has approached this Court by filing the present writ petition.

31. The bond that has been executed by the Petitioner is not very uncommon in India, particularly in the field of service jurisprudence. Such service bonds are basically either undertaking given by the employee to abide by certain terms and conditions or they are in the nature of an agreement between the employer and employee imposing certain restrictions on the employee. Such restrictions imposed through the bond condition are to be valid and reasonable restricts. So far the bond and its conditions are concerned, the aforesaid dispute with regard to validity of the conditions mentioned therein has been set at rest by the Hon'ble Supreme Court in *Association of Medical Superspeciality Aspirants and Residents's* case (supra).



32. Furthermore, while upholding the validity of the compulsory bond, the Hon'ble Supreme Court has further observed that the doctors who have executed compulsory bond shall be bound by the conditions contained therein. For better appreciation, Paragraph-40 of the aforesaid judgment is quoted herein below:-

“40. The upshot of the above discussion is that the writ petitions and the appeals deserve to be dismissed. **Consequently, all the doctors who have executed compulsory bonds shall be bound by the conditions contained therein.**”

(Emphasis led on the highlighted portion)

33. It is needless to state here that the Petitioner shall be bound by the conditions to which she has agreed to and in respect of which a bond has been signed and executed by the Petitioner. In other words, the Petitioner shall be bound by the terms and conditions of the bond dated 20.06.2020. There is no quarrel or dispute with regard to the aforesaid fact. This Court would further like to observe here that be it an undertaking or an agreement, a person shall be bound by the conditions to which he or she has agreed to expressly. This is more so in the field of service law whether the service conditions are governed by



agreement or the rules by which the Petitioner agrees at the time of entering into service.

34. In the instant case, the Petitioner executed the bond on 20.06.2020 on the basis of the 2017 Resolution. Subsequently, conditions of the bond were changed by virtue of Resolution of the year 2021 and 2024. However, the Petitioner is not a signatory to the bond conditions suggested by the aforesaid two Resolutions. Therefore, there is no dispute that the Petitioner cannot be compelled to abide by the conditions introduced by virtue of the Resolution of the year 2021 and 2024. The aforesaid position is clear from Paragraph-40 of the judgment of the Hon'ble Supreme Court discussed hereinabove wherein the Hon'ble Supreme Court has led emphasis that all doctors who have executed compulsory bonds shall be bound by the conditions contained therein. Such finding of the Hon'ble Supreme Court supports the view taken by the this Court in the instance case.

35. Applying the aforesaid analysis and direction of the Hon'ble Supreme Court, this Court has no hesitation to come to a





conclusion that since the Petitioner has executed the bond on 20.06.2020, she shall be bound by the conditions of the bond dated 20.06.2020 and that the subsequent modification of bond conditions vide Resolution of the year 2021 and 2024 are not applicable to the Petitioner as neither she is a signatory to such bond conditions nor she has ever given her consent or willingness to abide by the conditions introduced vide Resolution of the year years 2021 and 2024.

36. In view of the aforesaid analysis of factual position, further keeping in view the settled legal position, this Court has no hesitation in coming to a conclusion that the Petitioner is bound by the bond dated 20.06.2020. Furthermore, the Clause-1(e) of 2021 and Clause-1(f) of 2024 Resolution are not applicable to the Petitioner. As such, the impugned rejection order dated 10.04.2025 under Annexure-6 is highly arbitrary and unsustainable in law. Accordingly, the decision vide Letter No.6224 dated 10.04.2025 under Annexure-6 is hereby quashed. Further, the Opposite Parties are directed to grant NOC in favour



of the Petitioner within a period of one week from the date of communication of a copy of this judgment by the Petitioner.

37. Accordingly, the writ petition stands allowed. However, the Opposite Parties shall pay cost of Rs.10,000/- (Rupees ten thousand) to the Petitioner.

38. Since inadvertently a different order was uploaded on the same date and the judgment was dictated orally in Court, this judgment may be uploaded by deleting the order which has been uploaded earlier.

***(Aditya Kumar Mohapatra)***  
***Judge***

Orissa High Court, Cuttack  
The 26<sup>th</sup> June, 2025/Debasis Aech, Secretary

**Signature Not Verified**

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