

GAHC010182242023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4755/2023

MD. SHAHENSHAH ALAM @ SHAHENSHAH ALAM
S/O- MD. AKBAR ALI, VILLAGE- NAGAJAN, P.O. KHARUPETIA, P.S.
KHARUPETIA, DIST.- DARRANG, ASSAM, PIN- 784115

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, MEDICAL EDUCATION AND RESEARCH DEPARTMENT,
DISPUR-06

2:THE DIRECTOR OF MEDICAL EDUCATION
ASSAM
SIX MILE
KHANAPARA
GUWAHATI-2

Advocate for the Petitioner : MR. N H LASKAR

Advocate for the Respondent : SC, HEALTH

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 11.09.2023

Heard Mr. N.H. Laskar, learned counsel for the petitioner and Mr. B. Gogoi,
learned counsel for the respondents in the Health Department of the

Government of Assam.

2. The petitioner Md. Shahenshah Alam @ Shahenshah Alam has instituted this writ petition seeking a direction to the respondents to consider his admission under the PwD quota in the ongoing admission to 1st year MBBS/BDS course in the Government Medical and Dental Colleges of Assam for the session 2023. The petitioner is assessed to be a physically disabled person by the medial board constituted in the Gauhati Medical College and Hospital to asses physically disabled persons for the purpose of admission to the 1st year MBBS/BDS course in the Government Medical and Dental Colleges of Assam.

3. A report of the medical board which has been produced by Mr. B. Gogoi, learned counsel for the respondents in the Health Department shows that the petitioner had been assessed to be suffering disability in relation to his left hand where the medical opinion is that 'fixed abduction deformity-left thumb; MP joint of left index finger stiffness weakness of grip strength; mild left ankle stiffness'. Mr. B. Gogoi, learned counsel for the respondents in the Health Department opposes the prayer in this writ petition by relying on the amendment notification dated 13.05.2019 of the Board of Governors of Medical Council of India that if the physical disability is 'both hands intact, with intact sensations, sufficient strength and range of motion are essential to be considered eligible for medical course' and submits that the medical opinion regarding the disability of the petitioner do not satisfy the requirement of having intact sensations, sufficient strength and range of motion for being eligible for medical course.

4. We have perused the medical opinion rendered by the medical board constituted in the Gauhati Medical College and Hospital, but a reading of the opinion does not make it discernible that an examination had been conducted with regard to 'intact sensations, sufficient strength and range of motion', in

respect of the petitioner.

5. In view of the above, the ends of justice would be met upon the petitioner being placed before a special medical board comprising of experts in the orthopaedic as well as in the neurology department to make an assessment of the petitioner regarding intact sensations, sufficient strength and range of motion as to whether the nature of his disability would disentitle him to admission in a medical course or in spite of his disability, he would still be entitled.

6. As it is a matter of medical admission where the last date would be 30.09.2023, we direct the Principal of Gauhati Medical College and Hospital to constitute the aforementioned specialized board of experts immediately and as agreed on 18.09.2023 and for the purpose, the petitioner shall appear before the Principal of Gauhati Medical College and Hospital at 11 a.m. on 18.09.2023. Depending on the outcome of the expert medical opinion, the entitlement of the petitioner for admission to the 1st year MBBS/BDS course in the Government Medical AND Dental Colleges of Assam would be determined by the authorities.

Writ petition stands disposed of as indicated above.

JUDGE

Comparing Assistant