

GAHC010204912024



2024:GAU-AS:10705

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

Case No. : WP(C)/5158/2024

SADIA TASHNIMA AHMED
D/O- SAIF UDDIN
VILLAGE- SINGIA GAON
MOUZA- JURIA
DIST.- NAGAON
P.S.- NAGAON SADAR
PIN- 782124
ASSAM.

VERSUS

THE STATE OF ASSAM AND 8 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE HEALTH
AND FAMILY WELFARE DEPARTMENT
GOVT. OF ASSAM
DISPUR-781006
GUWAHATI.

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
HEALTH AND FAMILY WELFARE DEPARTMENT
DISPUR- 781006
ASSAM.

3:THE DIRECTOR GENERAL (ME)
GOVT. OF INDIA
DIRECTORATE GENERAL OF HEALTH SERVICES
NIRMAN BHWAN
NEW DELHI- 110011.

4:THE DIRECTOR OF MEDICAL EDUCATION
ASSAM
SIX-MILE

KHANAPARA
GUWAHATI- 781022.

5:PRINCIPAL CUM CHIEF SUPERINTENDENT
GAUHATI MEDICAL COLLEGE AND HOSPITAL
BHANGAGARH
GUWAHATI- 781032.

6:THE SELECTION COMMITTEE
REPRESENTED BY ITS CHAIRMAN
AT GAUHATI MEDICAL COLLEGE
BHANGAGARH
GUWAHATI- 781032.

7:THE CHIEF COMMISSIONER
DEPARTMENT OF EMPOWERMENT OF PERSONS WITH DISABILITIES
MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT
GOVERNMENT OF INDIA
NEW DELHI
PIN- 110003.

8:JOINT DIRECTOR OF HEALTH SERVICES
NAGAON
P.O. AD P.S. NAGAON SADAR
ASSAM.

9:MEMBER
DISTRICT MEDICAL DISABILITY BOARD
NAGAON, ASSAM.

Advocate for : MR. M K DAS
Advocate for : SC
HEALTH appearing for THE STATE OF ASSAM AND 8 ORS

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 04.11.2024

Heard Mr. M.K. Das, learned counsel for the petitioner. Also heard Mr. B. Gogoi, learned standing counsel, Health Department for the respondent Nos. 1, 2, 4, 5, 6 & 8 and Mr. R.K.D. Choudhury, learned Deputy Solicitor General of India, for

the respondent Nos. 3 & 7.

2. The petitioner, in the present writ petition, is having a 50% Permanent Disability Certificate with regard to Locomotor, which was issued by the Competent Authority on 27.08.2018. The petitioner appeared in the NEET-UG-2024 Examination for the Assam State Quota for admission into the MBBS/BDS Course under the disability quota. Thereafter, the Director of Medical Education, Assam issued an Admission Notice dated 29th August, 2024 directing all the candidates provisionally selected under the PWD Category to report with all the relevant certificates-in-original to the Office of the Principal-cum-Chief Superintendent, Gauhati Medical College & Hospital, Guwahati for verification of their disability status by the Medical Board on 2nd September, 2024. In the provisional select list of candidates (Round 1) for the Assam State Quota issued by the Director of Medical Education, Assam on 29th August, 2024, the name of the petitioner appears at Serial No. 1036 and she is placed in Gauhati Medical College, Guwahati under the PWD Quota. Pursuant to the Admission Notice dated 29th August, 2024, the petitioner appeared before the constituted Medical Board on 02.09.2024. Thereafter, the Director of Medical Education, Assam issued another Admission Notice dated 6th September, 2024, wherein the eligible candidates under PWD (DIVYANG) Category for admission into the MBBS/BDS Course in the Government Medical and Dental Colleges of State of Assam for the Session-2024 were reflected. As the Roll Number of the petitioner did not appear in the said Admission Notice dated 6th September, 2024, the petitioner is before this Court by way of the present writ petition.

3. The learned counsel for the petitioner submits that as the petitioner has a 50% Permanent Disability Certificate with regard to Locomotor, the petitioner should have been selected after undergoing medical test constituted for the said

purpose. However, the case of the petitioner has been rejected without following the procedures laid down in the Amendment Notification dated 13.05.2019 issued by the Board of Governors in supersession of the Medical Council of India, particularly, Appendix-H1.

4. Considering the controversy involved with regard to the percentage of disability of the petitioner, this Court on 28.10.2024 had requested the Authorities in the All India Institute of Medical Sciences (AIIMS), Guwahati to assess the disability of the petitioner in terms of the disability certificate issued to her by the competent authority. Accordingly, the petitioner was directed to appear before the said Medical Board on 30.10.2024.

5. In terms of the request made by this Court on 28.10.2024, the Authorities in the AIIMS, Guwahati constituted a Medical Board and examined the petitioner in terms of the Amendment Notification dated 13.05.2019, particularly, Appendix-H1. Thereafter, the Medical Board, AIIMS, Guwahati, in respect of the petitioner, recorded its comments as 20% Locomotor Disability in left upper limb and normal right hand function.

6. The Medical Board constituted by the Principal-cum-Chief Superintendent, Gauhati Medical College & Hospital, in terms of the Communication dated 29.08.2024 from the Director of Medical Education, Assam also examined the petitioner and found her having 20% Locomotor Disability.

7. The Medical Board constituted by the Authorities in the AIIMS, Guwahati is an independent Body, which was constituted on the request made by this Court. The said independent Medical Board, AIIMS, Guwahati also found that the petitioner has 20% Locomotor Disability. Therefore, in terms of Appendix-H1 to the Notification dated 13.05.2019, the petitioner is eligible for medical course, however, not under the PWD Quota.

- 8.** Mr. B. Gogoi, learned standing counsel, Health Department, submits that the petitioner has been given provisional placement only on the basis of her application made under the PWD Category and accordingly, all the other seats have been filled up by other candidates on merit.
- 9.** Accordingly, considering that the petitioner is having only 20% Locomotor Disability, the petitioner would not be eligible for consideration under the PWD Quota and accordingly, this writ petition is rejected.
- 10.** Interim order, passed earlier, stands vacated.

JUDGE

Comparing Assistant