

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2234 OF 2007

SHIVSHANKAR MOTIRAM BHOSALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....
Advocate for Petitioner : Mr. S B Talekar
AGP for Respondent-State : Mr. D. B. Bhange
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**CORAM : A. V. NIRGUDE AND
V. K. JADHAV, JJ.**

DATED : 2nd SEPTEMBER, 2015

P.C. :-

1. The facts leading to this petition, in short, can be stated as under:

The petitioner suffers from blindness of left eye. He therefore, assumed that he is a physically handicapped person. He also obtained medical certificate to that effect from the Medical Board constituted by Civil Surgeon, Nanded, which certified that the petitioner suffers from 46% physical disability. On the basis of such disability certificate, the petitioner applied for the post of Krushi Sevak which was reserved for the persons with blindness or low vision, on 30th September, 2006. He appeared for examination and viva-voce test. He was selected and was recommended for appointment. The petitioner was then directed to appear before the

Medical Board in November, 2006, and the Medical Board issued a certificate dated 16.12.2006, stating therein that the petitioner suffers from only 30% disability. The employer, vide letter dated 21.12.2006, informed the petitioner that the petitioner cannot be given appointment as Krushi Sevak, a post reserved for physically handicapped, on the ground that his disability was found to be 30% i.e. less than 40%. In other words, it is stated that the post was reserved for physically handicapped person who had disability to the extent of 40% or more. The petitioner filed this petition alleging that the act of the Medical Board in issuing the medical certificate that the petitioner suffers from 30% disability is arbitrary, discriminatory, unjust and contrary to the norms fixed for the purpose.

2. The Government of Maharashtra submitted reply in which it is stated that when the petitioner was informed that he would not be appointed on the post which was reserved for physically handicapped, the petitioner requested the employer for medical examination from another Medical Board in December, 2006. The respondent No. 3 then forwarded the petitioner's application to the Director of Health Services, Mumbai, who arranged re-medical examination of the petitioner in January, 2007. The Medical Board, Mumbai then re-examined the petitioner and found the petitioner

medically unfit for the post of Krushi Sevak. In other words, this time, the Medical Board once again reiterated the opinion that the petitioner did not suffer from physical disability of more than 30%.

3. The Rules regarding disability are also annexed to the petition. The Rules mention that a person is visually impaired if he is totally blind or if he is partially blind. The partial impairment should be less than 6/60. In other words, the Rules clearly suggest that if a candidate's one eye is perfect but the other eye is completely blind, he would not be considered as physically handicapped.

4. The learned counsel for the petitioner still insists that the opinion of the Medical Board should be rejected because none of the Committee members was an Ophthalmic Surgeon. We are not inclined to go into the question as to how the Medical Board, in a particular case, should be constituted because the petitioner himself did not deny that his right eye is normal and his vision is perfect. The petition, therefore, cannot succeed.

5. The writ petition accordingly stands dismissed. No costs.

(V. K. JADHAV, J.)

(A. V. NIRGUDE, J.)