

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6534 OF 2015

SHUBHAM SHYAMSUNDER BHUTADA THROUGH NATURAL
GUARDIAN SHYAMSUNDER GANESHLAL BHUTADA
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioner : Mr. R.F. Totala
AGP for Respondents: Mr. G.K.Thigle

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CORAM : S V GANGAPURWALA & V.K. JADHAV, JJ.
Dated: July 09, 2015

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PER COURT :-

1. Mr. Totla, learned counsel for the petitioner submits that petitioner is student and is a person with disability. Learned counsel submits that, petitioner has secured 70% marks in 12th standard. He appeared for the MH-CET-2015 examination and secured 130 marks out of 200. Petitioner applied under the Physically Handicapped Category for First Year Health Science Course for the academic year 2015-2016. Petitioner was referred to the Medical Board. Petitioner has appeared before the Medical Board. Name of the petitioner was not shown in the list of eligible candidates, however, it was shown that the petitioner was ineligible to get the admission from the Physically Handicapped Category. As per brochure, 3% seats are carved out for physically handicapped category candidates. Learned counsel submits that affidavit filed by the respondent along with certificate issued by the Medical Board states that petitioner has 15% disability whereas certificate obtained by the petitioner is also issued by the

Medical Board, which states that, petitioner has disability of 43%. Learned counsel submits that, Special Medical Board which has given certificate has nowhere given the details as to methodology which was adopted by them for calculating percentage of disability as 15%. Learned counsel submits that petitioner be referred again to the Medical Board for calculating the disability.

2. Learned AGP submits that all students who applied from the Physically Handicapped Category are referred to the Special Medical Board which comprises of Professor and Head Of Department of various faculties and upon clinical examination, said certificate is issued. No doubt can be raised in respect of the same.

3. We have considered submissions canvassed by the learned counsel for respective parties.

4. The candidates who had applied for admission from the Physically Handicapped Category are required to be referred to the Special Medical Board even as per the Medical Education and Drugs Department Information Brochure of MH-CET, 2015 annexures D clause No.(3). The petitioner was also one of them and was referred to the Special Medical Board. The Special Medical Board which had clinically examined the petitioner before giving certificate consists of Professor and Head of Department of Physiotherapy, Professor and Head of Department of Medicine,

Professor and Head of Department of Ophthalmology, Professor and Head of Department of ENT and Professor and Head of Department Orthopedics who was the Chairman of the said Board.

5. There is no animus on the part of the board against the petitioner. The said Special Medical Board consists of experts who have upon clinical examination of the petitioner given the said certificate. The minimum percentage required to be eligible for being considered for admission from person with disability is 40%. We would have accepted the case of the petitioner had the disparity in percentage of disability in certificate produced by petitioner and that issued by Special Medical Board had been less, however, percentage of disability which is certified by the experts i.e. Special Board is only 15% much less than minimum required disability.

6. In light of the above, case of the petitioner cannot be considered. Writ Petition, as such, stands dismissed. No costs.

(V.K. JADHAV, J.)

(S V GANGAPURWALA, J.)

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aaa/-