

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9772 OF 2016

Aishwarya Timathi Chandekar minor through
father Timathi Lajras Chandekar

VERSUS

- 1] The State of Maharashtra
- 2] Directorate of Health service
- 3] Civil Surgeon, Ahmednagar
- 4] Nursing Course College,
Tarakpur, Savedi Road, Ahmednagar

Advocate for Petitioners : Mr. Gaurav L Deshpande
AGP for Respondents: Mr. S.G. Karlekar.

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**CORAM : R.M. BORDE &
K.K. SONAWANE, JJ.**

DATE : 30TH SEPTEMBER, 2016.

PER COURT:

1] Rule. Rule made returnable forthwith. Heard finally by consent of parties.

2] The petitioner is challenging the decision of the respondent No.2 rejecting the claim of the petitioner for admission to General Nursing Midwifery course (hereinafter referred to as, "the GNM" Course") at Nursing School at District Hospital at Ahmednagar, scheduled to commence from 1st October, 2016. The petitioner tendered an application seeking admission to revised GNM Course for the academic year 2016-17 on 23rd August, 2016

from amongst the Physically Handicapped category. The claim of the petitioner was considered and her name was enlisted in the list of candidates. The petitioner also appeared for the counseling on 3rd September, 2016 and tendered the necessary documents. By communication dated 6.9.2016, the petitioner was directed to get the Disability Certificate verified from the District Hospital at Ahmednagar. The certificate tendered by the petitioner was verified by the concerned Board at Civil Hospital, Ahmednagar and it was reported that the disability suffered by the petitioner is less than 40%.

3] The Directorate of Health Services has turned down the claim of the petitioner presumably on the ground that the Disability suffered by the petitioner is less than 40% and as such, she is not entitled to claim admission to the GNM Course from amongst the Physically Disabled Category.

4] On perusal of the admission rules published by the State of Maharashtra for the year 2016-17 and more specifically, Rule No.4 under title "Reservation for Physically Disabled", it is recorded that a candidate suffering from disability up to 40% in respect of one leg is entitled to be considered for admission from amongst the category of Physically Disabled persons. Admittedly, the disability suffered by the petitioner in respect of one leg is less than 40%. As such, under the rules framed by the State Government, the petitioner is entitled to get admission for the GNM Course.

5] Learned AGP appearing for the State submits that the list of candidates to be admitted is finalized and as such, it would be difficult to accommodate the petitioner.

5] Rejection of the claim of the petitioner by the respondent is erroneous. In the circumstances, we direct the respondent No.2 to admit the petitioner to the revised GNM Course at Civil Hospital, Ahmednagar or any other place. Since the petitioner's claim for admission is wrongly rejected, it would be for the concerned authority to take appropriate decision for accommodating the petitioner and for that purpose, if it is necessary to disqualify a less meritorious candidate, it would be for the concerned authority to take a decision in that regard.

6] Rule is made absolute in above terms. No orders as to costs.

[K.K.SONAWANE]
JUDGE

[R.M. BORDE]
JUDGE

grt/-