

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9040 OF 2016

Shri Yogesh Kishor Khalane .. Petitioner
V/s
The State of Maharashtra & Ors .. Respondents

**WITH
WRIT PETITION NO. 9299 OF 2016**

Rajnandinee Pravin Mane .. Petitioner
V/s
The State of Maharashtra & Ors .. Respondents

**WITH
WRIT PETITION NO. 9322 OF 2016**

Miss Nikita Sanjiv Gaikwad .. Petitioner
V/s
The State of Maharashtra & Ors .. Respondents

Mr. Sachin S. Gite for the petitioner in WP No.9040/2016.
Ms. Puja V. Thorat for the petitioner in WP No.9299/2016.
Mr. Chetan Damre i/b Mr. Aashish I. Satpute for the petitioner in WP No. 9322/2016.
Mr. C.P. Yadav, A.G.P. for the respondents.

**CORAM: DR. MANJULA CHELLUR, CJ. &
M.S. SONAK, J.**

DATE : 7th SEPTEMBER 2016

P.C.:

By these three writ petitions, the petitioners have approached this Court claiming eligibility to appear for the counseling under the category of “Physically Handicapped” based on the certificates issued in their favour by various Government Hospitals as indicated by the respondent Authority.

2. The Special Medical Board is constituted by respondent no.1 Authority. According to the petitioners, the certificates issued by the Special Medical Board with reference to each candidate cannot be taken into consideration since the certificates issued by the Government Hospitals alone have to be taken into consideration.

3. In terms of the norms / guidelines indicated by Medical Council of India, physical disability of a person has to be assessed by the Special Medical Board. This is with reference to locomotory disability suffered by the person claiming to come under “Reserved Category”.

4. We have opined on 25th August 2016 that other than the guidelines laid down by the Medical Council of India, no other guidelines could be relied upon and since there was conflict between the certificate issued by the Government Hospital and the Special Medical Board, Pune, we directed the Dean of J.J. Group of Hospitals

and Grant Medical College to examine the writ petitioners based on the special guidelines contemplated by the Medical Council of India. In terms of the same, the writ petitioners in the above three writ petitions come within the percentage of disability so as to attract the eligibility criterion to appear for counseling. Depending upon the merit of the candidate when compared to the other physically challenged person, a merit list has to be prepared by the respondent Authority based on the outcome of counseling and accordingly admit the student. It is made clear that the present opinion of the Court is not a positive direction to admit the writ petitioners, but it is a direction to consider the candidature of the writ petitioners as eligible candidates for the purpose of counseling. The selection and admission is purely based on merit.

5. With these observations, the writ petitions are disposed of directing the respondent Authority to fix a date for counseling of the writ petitioners.

(M.S. SONAK, J.)

(CHIEF JUSTICE)