

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4440 OF 2016

[Abheejit s/o Rajendra Bhombade .vs. The State of Maharashtra and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.S. Kshirsagar, counsel for the petitioner,
Mrs. Kalyani Deshpande, AGP for respondent nos.1 to 3.

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CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : AUGUST 09, 2016.

By this writ petition, the petitioner seeks a direction against the respondent no.2-The Director of Medical Education and Research to consider the claim of the petitioner in the category of person with disability on the basis of the certificate of the Medical Board of the Government General Hospital Khamgaon, to the medical course for the year 2016-2017.

The petitioner had applied for admission to the medical course and had undertaken the Common Entrance Test (CET). The petitioner belongs to the Other Backward Classes and also claims to be a person belonging to the 'physically challenged' category. The petitioner has scored 115 marks out of 200 marks and according to the petitioner, if the petitioner held to be physically disabled, the petitioner would be entitled to admission in one of the medical colleges. The petitioner has relied on the certificate issued by the Government General Hospital Khamgaon indicating the disability of the petitioner, that is visual impairment, to the extent of 48%. The claim of the petitioner was, however, rejected by the respondents on the ground that the petitioner suffered visual impairment only to the extent of 30% as per the duly constituted Medical Board, that is entitled to consider the extent of the disability, as per the rules for

admission for the year 2016-2017. Since the claim of the petitioner was rejected, the petitioner has filed the instant petition.

Since there were two contrary certificates, one issued in favour of the petitioner by the Medical Board in Government General Hospital Khamgaon showing 48% disability and the other Medical Board of Aurangabad showing the extent of disability as 30%, we had at the request of the learned counsel for the petitioner, permitted the examination of the petitioner by a third Board that is the Board at the Government Medical College and Hospital at Nagpur. Since a person with physical disability between 40% and 70% is entitled to admission in the category of 'physically challenged' persons and since there was a variance between the two certificates, the petitioner was examined by the duly constituted Board, in the Government Medical College and Hospital at Nagpur on 5.8.2016. The three member Board of the Government Medical College and Hospital at Nagpur has submitted the report/certificate in a sealed envelope. We have opened the envelope and we have found that the duly constituted Board at the Government Medical College and Hospital at Nagpur has found that the visual disability suffered by the petitioner is to the extent of 32%.

On a perusal of the report of the third independent Board, we are of the view that a direction cannot be issued to the respondents to consider the candidature of the petitioner for admission to the medical course from the category of physically disabled candidates. The petitioner has submitted a certificate that was issued by the Board in Government General Hospital Khamgaon that showed the disability to the extent of 48%. We have perused the said certificate. On the said Board, there was not a single ophthalmologist, though the physical disability claimed to have been suffered by the petitioner is visual

impairment. The duly constituted Board in the Government Medical College and Hospital at Nagpur comprised of the Professor and the Head of Department of Ophthalmology. The said independent Board has clearly opined that the disability suffered by the petitioner is to the extent of 32% only. Since a candidate with minimum 40% and maximum 70% physical disability could be considered for admission to the medical course from the category of physically disabled, the candidature of the petitioner was rightly rejected by the respondents.

As the relief sought by the petitioner cannot be granted, we dismiss the writ petition, with no order as to costs.

JUDGE

JUDGE

Gulande, PA

CERTIFICATE

“I certify that this order uploaded is a true and correct copy of original signed order.”

Uploaded by : A.S. Gulande, P.A.

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