

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Writ Petition No.26857 of 2017

Order: (per V.Ramasubramanian, J.)

Finding her case not being considered for admission to the MBBS course under the quota reserved for physically challenged persons, the petitioner has come up with the above writ petition.

2. Heard Mr. K.Papi Reddy, learned counsel for the petitioner and Mr. A.Prabhakar Rao, learned Standing Counsel for the 2nd respondent/University.

3. The petitioner applied for admission for MBBS courses in the States of Telangana and Andhra Pradesh, for the academic year 2017-18, claiming to be a person with locomotor disability to the tune of 63%. But the Medical Board constituted by the University rejected her claim on the ground that the deformity suffered by the petitioner was in the spine.

4. On 16-8-2017, this Court passed an interim order while issuing notice to the respondents. The interim order reads as follows:

“Pursuant to the order passed by us on 10-8-2017, the University has filed a counter along with the report of the Medical Board constituted by the University. The report simply says “Deformity of spine not eligible”. The said observation is neither here nor there. The Certificate issued by the Medical Board constituted under the Statute, indicates that there was congenital deformities of spine affecting the left lower limb. In fact, the Certificate issued by the Medical Board constituted under the Act is not at variance with the observations made by the Medical Board

of the University. When it is not at variance, we do not know how and why the percentage of deformity was not assessed. Therefore, we direct the Medical Board constituted by the University to re-assess the deformity. The candidate shall appear before the Medical Board tomorrow i.e. on 17-8-2017.

Post on 21-8-2017.

5. Pursuant to the said interim order, the petitioner was subjected to a second medical examination. The second medical examination led to another medical report dated 19-8-2017. The contents of this report read as follows:

“The candidate is suffering from congenital meningomyelocele, post operative status with deformity of left lower limb.

On evaluation there is a disability of 63% (sixty three percent) of which, disability of lower limb is 31% (thirty one percent) and disability of spine is 32% (thirty two percent).”

6. In view of the above, the petitioner did not qualify for admission under the quota reserved for physically challenged persons. The Supreme Court has already pointed out in a decision rendered on 18-01-2016 in **Chairman, Odisha Joint Entrance Examination v. Jasobanta Nayak** (Civil Appeal Nos.288-289 of 2016) that the Court cannot assess percentage of disability. It lies in the realm of experts. Therefore, the writ petition is dismissed. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

ABHINAND KUMAR SHAVILI, J.

12th October, 2017.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Writ Petition No.26857 of 2017
(per VRS, J.)



12th October, 2017.
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