

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

939 WRIT PETITION NO. 4604 OF 2018

UMESH BOJA KUTTI SATIYAN PUJARI
VERSUS
SANJAY BABURAO SAPKAL AND ORS.

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Advocate for Petitioner: Mr. Rajebhosale Sandeep B.
Advocate for Respondent No.3 : Mr. S.G. Chapalgaonkar

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***Coram : N.M. Jamdar, J.
Date : 30 November 2018***

Oral Order:

1 Heard the learned Counsel for the parties. It appears that the impugned order was passed without the reply of the petitioner/claimant.

2 The learned Counsel for the petitioner submits that due to the accident, that the petitioner has suffered a disability and in view of the disability, the reply could not be filed. The learned Counsel for the petitioner submitted that it is a fit case where opportunity should have been given to the petitioner before deciding the application for referring the petition to the medical board for examination. The learned Counsel submitted that there are various reasons in law and

fact why such course of action should not have been adopted, the learned Counsel for the respondents sought to justify the direction to examine the petitioner by the medical board.

3 As regards the opportunity to be given to the petitioner to contest the application filed, I am of the opinion that the same should be given to the petitioner. It is informed that the order directing the petitioner to appear before the medical board has not yet been implemented.

4 The order dated 24 October 2017 is quashed and set aside. The application filed by the respondent/insurance company regarding the medical examination of the petitioner is restored to file. The petitioner will file say to the application within a period of three weeks from today. Thereafter, the learned District Judge will decide the application on its own merits. All contentions of the parties as regard the application, are kept open. The Writ Petition is, accordingly, disposed of.

N.M. Jamdar, J.

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