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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.6547 OF 2018**

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|-----------------------------|----------------|
| Joshua Jesse Levi & Anr.    | ...Petitioners |
| Vs.                         |                |
| State of Maharashtra & Ors. | ...Respondents |

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Ms.P.V. Thorat with Mr.Anukul Shetty for Petitioners.  
 Mr.A.B. Vagyani, Government Pleader, with Mr.V.N. Sagare, AGP for State.  
 Mr.Ganesh Gole for Respondent No.7/MCI.  
 Mr.Rui Rodrigues with Mr.Advait Sethana for Respondent No.4/UOI.  
 Mr.Vinod Mahadik with Mr.Pradeep M. Patil for BMC-Respondent No.8.

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**CORAM : NARESH H. PATIL AND  
G.S. KULKARNI, JJ.**

**DATE : 2<sup>nd</sup> JULY 2018**

**P.C.:**

The petitioners seek direction against the respondent authorities to consider them as eligible for admission to MBBS Course under persons with disability category namely “learning disability”.

2. The petitioners have participated in the central admission process for the MBBS Course. The petitioners have been provisionally admitted in the first round. The petitioner has obtained a disability certificate from the Regional Medical Board, Chennai. The report states that “he may be considered for admission under disability quota if his condition

of learning disability is eligible as per Medical Council of India norms.”

3. We have perused the guidelines framed by the Medical Council of India (in short, “MCI”) under the caption “Eligibility of Different Psychiatric Conditions” which reads as under:-

“Specific Learning Disability

At present, there is no method of quantifying the extent of disability in Learning Disability (LD), and the best information which can be produced is regarding the presence and absence of the disorder, and the type of learning disability. As is the policy of several institutions in India, a scribe or helper may be provided to the person with LD during his/her exam. In addition to this, the recommendations are:

Eligible for medical course, not eligible for PH quota : Any person with LD deemed fit for MBBS course by an expert panel.

Eligible for medical course, eligible for PH quota: Currently not recommended due to the above-mentioned lack of objective method/ quantification of disability to establish presence and extent of mental illness. However, the benefit of reservation/quota may be considered in future after developing better and uniform methods of disability assessment.

Not eligible for medical course : Cases of severe LD or serious dysfunction or disabling co-morbidity where reading and writing are impaired to such an extent as to hinder theoretical learning during the MBBS course or decided by Expert Panel.”

4. The learned Counsel appearing for the petitioners contends that by communication dated 19<sup>th</sup> June 2018, Dr. B. Srinivas, Assistant Director General (ME) of Health Services, has communicated to all the Health Secretaries/Principal Secretaries (Health)/Director Medical Education of all States as under:-

“As you are aware that Ministry of Social Justice has identified 21 Benchmark Disabilities making candidates who are suffering from any of these disabilities eligible to take the

benefit under 5% PH reservation. MCI which is a regulatory body has also communicated to all Counseling Authorities that all candidates who have any of these 21 Disabilities are eligible to take benefit of PH reservation. In pursuance of the communication from Ministry of Health and Family Welfare, MCI has submitted a comprehensive report regarding **Guideliners for Admission of Persons with Specified Disabilities.**

You are requested to go through this Report provided in the link (<https://mcc.nic.in/UGCounselling/Home/ShowPdf?.Type=E0184AEDDF913B076626646D3F52C3B49C39AD6D&ID=B1D5781111D84F7B3FE45A0852E59758CD7A87E5>) so that the PH candidates can be admitted keeping in view of these Guidelines according to the range of disability given by MCI. You are also requested to communicate the same to all Medical/Dental Colleges of your state.”

5. The learned Counsel appearing for the petitioners submits that Section 2(r) of The Rights of Persons With Disabilities Act, 2016 (for short, “the Act”) provides for persons which Benchmark Disabilities. Our attention is also drawn to Section 32 of the Act which prescribes reservation in higher education institutions of the Government or aided institutions of not less than 5% for persons with Benchmark Disabilities. It is submitted that learning disability is one of the 21 Benchmark Disabilities. It is submitted that the petitioner has obtained a Certificate from the Chennai Medical Board of an entitlement to participate in the admission process in the reserved category, “Learning Disability”.

6. The learned Counsel Mr.Rodriques appearing for Central Government-Union of India, submits that so far MCI has not determined the parameters for the extent of disability in the category namely

'learning disability' in the absence of such criteria, there cannot be recognition of the disability as per requirements of the Act and thus, it would not be permissible for the petitioner to participate in the admission of courses like MBBS as physically challenged/disabled persons.

7. The learned Government Pleader on behalf of the State submits that they are bound to follow the Directors of Government of India and the MCI. The learned Counsel for the respondent/Corporation submits that the Corporation has to take into consideration the MCI guidelines for admission of the candidates while admitting the candidates as per 21 Benchmark Disabilities as given in the report published by the MCI. Therefore, they are unable to give admission to the petitioners in the college allotted to the petitioners.

8. We have perused the relevant provisions of the Act and the material placed on record. One of the obstacles which comes in the way of such candidates is MCI guidelines as accepted by the Government of India, which specifically state that "there is no method of quantifying the extent of disability in Learning Disability. The Government of India has not taken a different stand than MCI. The Government of India has directed that while admitting students under the 21 Benchmark Disabilities, the MCI guidelines and regulations shall be followed. We

are dealing with the serious professional course of MBBS in the stream of medicine. The learned Counsel appearing for respondent-admission authorities submit that the respondents are bound by the guidelines issued by the MCI which in clear terms did not allow them to give any concession or provide any solution to the parties. In this view of the matter, we are not inclined to grant any relief to the petitioners.

9. The writ petition is accordingly rejected. No costs.

**[G.S. KULKARNI, J.]**

**[NARESH H. PATIL, J.]**