

psv

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

WRIT PETITION NO.7960 OF 2018

Miss.Tuba Asif Momin through
her Father

...Petitioner

Vs.

The State of Maharashtra & Ors.

...Respondents

Mr.Rahimtulla M.Momin for Petitioner.

Mr.Ganesh Gole, for Respondent No.4/MCI.

Ms.Kavita Solunke, AGP for Respondent Nos.1 to 3.

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

DATE : 30th JULY 2018

P.C.:

The petitioner claims that she suffers from Locomotor disability of 52%. She participated in the admission process of MBBS course. It is admitted that first and second round of MBBS Course is over. She seeks direction to the respondents to consider her candidature for the admission process.

2. We have perused the record placed before us. The Court considered the case in Writ Petition No.7777 of 2018 which is of similar nature and dealt with the issue by an order dated 26th July 2018. We have perused the said order placed before us. The petitioner presented

herself before the Board designated by Medical Council of India (for short, "MCI"). After examining the candidate, the Board opined that the petitioner is suffering from congenital deformity bilateral hand / absence of great toe and has permanent physical Impairment (PPI) and she is eligible for reservations as prescribed in Rights of Persons with Disabilities Act, 2016.

3. Taking into consideration the guidelines set out by the MCI, the learned Counsel appearing for the respondents submits that the petitioner is not entitled to consider for admission of MBBS Course as there is involvement of both upper limbs which disentitles the petitioner. The relevant portion of the recommendation is reproduced as under:-

"There will be NO BLANKET BAN on consideration of Candidates having locomotor disability in relation to upper limbs, but only those candidates having involvement of upper limbs in such a manner that

- i) the Non-Dominant upper limb is involved with mild weakness, shortening, deformity etc., but the hand is structurally intact, mobile (not stiff) and functional, sensations are preserved, condition is painless, and non-progressive in nature may be considered as ELIGIBLE;
- ii) the dominant upper limb is NOT INVOLVED and is structurally intact, mobile (not stiff) as well as normally functional may be considered as ELIGIBLE.
- iii) a candidate with loss of a digit or stiffness/deformity in non-dominant upper extremity but intact, mobile and functional thumb with preserved sensations may be considered as ELIGIBLE.

Candidates with following locomotor disability are NOT ELIGIBLE for consideration for admission to Medical Courses when there is:

- i) Involvement of whole body;
- ii) Involvement of three limbs in any combination (both lower limbs + one lower limb OR one lower limb + both upper limbs);
- iii) Involvement of both upper limbs;
- iv) Extent of locomotor disability more than 80%;
- v) Involvement of both lower limbs of such an extent that the candidate is unable to sit, stand, walk, and/or bend due to significant pain, stiffness, weakness, deformity etc.
- vi) Involvement of a single upper limb which is the DOMINANT UPPER LIMB (which is right upper limb in a majority of persons) to an extent that the candidate has loss of thumb, cannot hold an object satisfactorily, has significant weakness/deformity/stiffness of joints, or the limb is lacking normal sensations.”

4. In the facts of the case, taking into consideration all the relevant factors more precisely MCI guidelines and the view expressed by the Medical Board, we are not inclined to interfere with the matter.

5. The petition is dismissed.

[G.S. KULKARNI, J.]

[NARESH H. PATIL, J.]

issued a Certificate of Disability which states as under:-

“the petitioner is suffering from congenital deformity bilateral hand / absence of great toe and has permanent physical Impairment (PPI) and she is eligible for reservations as prescribed in Rights of Persons with Disabilities Act, 2016”.