

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.1764 of 2018 and W.P.No.16477 of 2018
C.M.P.No.14192 of 2018

S.R.Harishankar (a minor aged 17 years)
rep.by his father and natural guardian
S.Ragu ...Appellant/Petitioner

-vs-

1. The Secretary,
Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai-600 010.
2. The Medical Council of India,
rep.by its Secretary,
Dwarka Phase-I, New Delhi. ...Respondents/Respondents

Appeal filed under Clause 15 of the Letters Patent, against
the order passed by this Court in W.P.No.16477 of 2018 dated
06.07.2018.

W.P.NO.16477 OF 2018:

The Write Petition filed under Article 226 of the
Constitution of India Praying for the Issuance of a write of
Mandamus to direct the respondent herein to consider the
candidature of the petitioner (S.R. Harishankar- Application No.
128194) in the 2018-19 MBBS under special quota (Physically
disabled person) by calling him for the Counseling under the
physically disabled persons quota (meant for filling up 122
vacancies) as per the Prospectus for the year 2018-2019.

For Appellant :: Mr.R.Selvakumar

For Respondents :: Mr.C.Munusamy, Spl.GP for R1

No appearance for R2

JUDGMENT

(Made by HULUVADI G.RAMESH, J.)

The case of the appellant is that he has not been considered under Special Quota (Physically Disabled Persons) to the MBBS Course for the academic year 2018-2019. There are 122 seats identified for Physically Disabled Persons, out of which, 21 alone had been called for counselling. According to the appellant, he is a Physically Disabled Person with 50% disability and that he has produced the necessary documents for counselling, and though the Medical Board was constituted, he was not given a seat under the Special Quota and he was directed to undergo medical examination and the Medical Officers were present in the counselling session, and they did not consider the case of the appellant.

2. With the above background, the appellant filed a writ petition before this Court in W.P.No.16477 of 2018 praying for issuance of a Writ of Mandamus to direct the respondents herein to consider the candidature of the appellant (S.R.Harishankar-Application No.128194) in the 2018-19 MBBS under Special Quota (Physically disabled persons) by calling him for the Counselling under the Physically disabled persons quota (meant for filling up 122 vacancies) as per the Prospectus for the year 2018-2019.

3. The learned single Judge dismissed the writ petition by order dated 06.07.2018 on the ground that the appellant sustained only 20% disability and since the extent of disability is less than 40%, the case of the appellant was not considered and hence the same does not require any interference.

4. Challenging the order passed by the learned single Judge, the present writ petition has been filed.

5. The learned counsel for the appellant has submitted that though the appellant is eligible to be considered for selection in the handicapped quota, having the prescribed disability certificate issued by the competent Medical Board, the first respondent had failed to consider the same.

6. The learned Special Government Pleader appearing for the first respondent has submitted that the learned single Judge has considered the matter in proper perspective and has passed the impugned order, which does not require any interference in the hands of this Court.

7. Heard the learned counsel on either side and perused the materials available on record.

8. It appears that on a representation made in the counselling centre by the appellant, taking note of the fact

that the appellant is a physically disabled person, his request was considered by the first respondent and he was sent for medical examination and the Special Medical Board found that the appellant has 20% disability. Since the extent of disability is less than 40%, the case of the appellant has not been considered. In respect of the two Certificates said to have been produced by the appellant, it appears that the second medical examination by Special Medical Board has come to a conclusion that the percentage of disability is only 20%. Only in view of the same, the learned single Judge has observed that this Court cannot sit in appeal over the conclusion of the appellate Board (second Medical Board) and come to a different conclusion. Further it is seen that the marks obtained in the NEET examination is 119, i.e., 50%, which does not conform to the requirements.

9. In view of the above stated circumstances, we find no error or infirmity in the order passed by the learned single Judge and accordingly the writ appeal stands dismissed. No costs. Consequently the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar

KM

To

1. The Secretary,
Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai-600 010.

2. The Secretary,
Medical Council of India,
Dwarka Phase-I, New Delhi.

+1cc to Mr.R.Selvakumar, Advocate SR.No.58039

+1cc to Mr.V.P.Raman, Advocate SR.No.5150

W.A.No.1764 of 2018 and
C.M.P.No.14192 of 2018

RJ (CO)

RMP (24/09/2018)