

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2370 of 2019

- Praveen Sahu S/o Shri Omprakash Sahu Aged About 18 Years R/o Village And Post Singibahar, Tehsil Farsabahar, District Jashpur Chhattisgarh

---- Petitioner

Versus

1. Union Of India Through Secretary Higher Education, Ministry Of Higher Education, And H R D , (Human Resource Development) New Delhi
2. All India Council Of Technicla Education, Through Chairman, Nelson Mandela Marg Vasant Kunj, New Delhi
3. State Of Chhattisgarh, Through Secretary Higher Education, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur, Chhattisgarh
4. Directorate Of Technical Education, Through Director, Indrawati Bhawan, Atal Nagar, Raipur, District Raipur Chhattisgarh
5. Joint Seat Allocation Authority (Joint Entrance Exam) Through Chairman, New Delhi
6. National Institute Technology, Rourkela, Through Director Rourkela, District Sundargarh Odisha
7. District Medical Board, Through Chairman, Jashpur, District Jashpur, Chhattisgarh

-----Respondents

For Petitioner : Shri Neeraj Pradhan, Advocate

For Respondents : Shri Avinash Singh, Panel Lawyer

Hon'ble Shri PR Ramachandra Menon, Chief Justice &
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

Per PR Ramachandra Menon,CJ

06.08.2019

1. The petitioner has moved this Court with the following prayers:

“10.1 That, this Hon'ble Court may kindly be pleased to call for the entire records of the case of petitioner.

10.2 That, this Hon'ble Court may kindly be pleased to quash the Seat cancellation letter dated 01.07.2019 (Annexure P-1).

10.3 That, this Hon'ble Court may kindly be pleased to grant admission in NIT Rourkela.

10.4 The Hon'ble Court may kindly be pleased to grant any other relief(s), as it may deem fit and proper in the facts and circumstances of the case.

10.5 The cost of the petition may be allowed in favour of the petitioner.”

2. When the matter came for consideration before this Court on 12.07.2019, we passed an order, whereby one seat was ordered to be reserved for the time being. The said order reads as follows:

“Shri Neeraj Pradhan, Advocate for the petitioner.

Shri V.P. Shukla, Advocate appears under the authority of Shri B. Gopa Kumar, Assistant Solicitor General for respondent Nos.1, 2, 5 & 6.

Shri Siddharth Dubey, Dy. Government Advocate for respondent No.3,4 & 7.

Learned counsel representing respondents No.1, 2, 5 & 6 submits, on the basis of instructions received, that the reason for cancellation of the seat, as mentioned in Annexure P-1, is in conformity with the Rule 13.4 of the Joint Seat Allocation Authority Business Rules, a copy of which is placed for consideration of this Court. Rule 13.4 reads thus:-

“13.4 Rules for candidates of Persons with Disabilities category

- Candidates applying under persons with disabilities (PwD) category should have minimum of 40% disability to be eligible for consideration under PwD subcategory.
- Persons with disabilities (PwD) category candidates must bring certificate issued by three-member Medical Board constituted by State or Central Government under Persons With Disability (PwD) Act (Annexure-VII)
- The Medical Board at the Reporting Center or Participating Institute will assess the bonafide of the

Certificate. Medical board at Reporting Center shall ensure that at least one of the three doctors who have signed the PwD certificate is a specialist in the particular field pertaining to the disability.

- In case there is serious doubt about percentage of disability/ genuineness of the certificate and/ or there is serious doubt regarding the candidate's ability to carry out all activities related to theory and practical worked as applicable to B.E./B.Tech/B.Arch/B.Planning courses, the medical board may refer the case to issuing authorities.”

On going by the said rule, it is stated that there has to be 40% disability and scrutiny of certificate has to be done by the Medical Board at the Reporting Centre or Participating Institute which admittedly has taken place. If the extent of disability or genuineness of certificate is doubted, it is for the Medical Board at the Reporting Centre or Participating Institute to have it referred to the Issuing Authority. In the instant case, the medical certificate produced is Annexure P-5 and reason stated in Annexure P-1 for cancellation of candidature is “Doctors have not endorsed the PWD status of the candidate”. Said reason apparently cannot be correct, insofar as the doctors have clearly endorsed PWD status in Annexure P-5, that the petitioner is having 40% permanent disability. It is also discernible from the said certificate that one of the doctors of the Medical Board who examined the petitioner is belonging to the field of specialization involved i.e. Dr. Anuranjan Toppo, MS (Orthopaedic). This being the position, it is not a case where the Medical Board at the Reporting Centre or Participating Institute was having any doubt with regard to the extent of disability or the genuineness of certificate, as no such doubt has been recorded in the Annexure P-1, but for simply stating that the doctors have not endorsed PWD status of the candidate. This virtually runs contrary to the

contents of Annexure P-5 certifying 40% permanent disability of the petitioner.

In the above circumstances, the respondents No.1, 2, 5 & 6 are directed to keep one seat in the relevant discipline as vacant for accommodating the petitioner, if he comes out successful in the writ petition.

Post it on 25.7.2019.

Certified copy today itself.”

3. Now, the version of the respondents has been put on record by filing an affidavit, by none other than the Assistant Solicitor General, also producing copies of relevant materials.

4. Learned Assistant Solicitor General submits that, as per the relevant rules, since the authorities were not satisfied with the certificate produced by the candidate, the writ petitioner was subjected to medical examination by the Medical Board at Rourkela and the Board consisting of three members has given the finding in the following terms:

- 1) There is no knee contracture of left knee.
- 2) There is no left foot drop.
- 3) Only equinus deformity on left foot is present and this deformity is a correctable deformity.
- 4) His disability is less than 40% (Forty percent)”

5. The learned Assistant Solicitor General points out that the candidate concerned is not a person with requisite extent of disability, so as to give the benefit earmarked to that category by providing a seat.

6. Learned counsel for the petitioner seeks our permission to withdraw the petition without prejudice to pursue other appropriate remedy in accordance with law.

7. Accordingly, petition is dismissed as withdrawn.

Sd/-
(PR Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

padma