

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

60 WRIT PETITION NO.8545 OF 2019

AWEJ SADAKKHAN PATHAN
VERSUS
THE UNION OF INDIA AND OTHERS

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Advocate for Petitioner : Mr. Gastgar Santosh B.
AGP for Respondents/State : K.N. Lokhande
Advocate for Respondents : Mr. S.B. Deshpande
Advocate for Respondents : Mr. S.G. Karlekar for R/6

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**CORAM : S.V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**
DATE : 15.07.2019

PC. :-

Mr. Gastgar the learned counsel submits that the petitioner possesses 40% permanent physical impairment disability. The committee at Sub-District Hospital, Mukhed, Dist. Nanded has on 29.06.2018 given a certificate to the petitioner. The petitioner is diagnosed with High Myopia with Amblyopia Be.

2. The disability is mentioned as 40% as per Rule 18 and 19 of the Rights of Persons with Disabilities Rules, 2017 the said certificate is valid. The petitioner is required to be considered from the persons with disability category. The petitioner was referred to the Sir J.J. Group of Hospitals and Grant Govt. Medical College, Mumbai. In the certificate the disability is

mentioned as (BE) Myopia and the percentage of disability is not mentioned.

3. By hand it is written that the petitioner is not eligible for PWD quota, however the scoring of the printed portion it is stated that the petitioner is eligible for admission. The learned advocate submits that earlier already a certificate was issued by the Sub-District Hospital, Mukhed, Dist. Nanded in the prescribed format and the same is valid for all the purposes and there was no necessity to refer the petitioner to the assessment board.

4. We have heard Mr. Deshpande the learned A.S.G. and the learned A.G.P for the respondents. Clause 4 of the brochure reads thus:

“iv. Candidates under PwD category as per MCI guidelines:

5% seats of the annual sanctioned intake shall be filled by candidates falling under Persons with Bench Mark disabilities as per MCI Guidelines/Regulations in accordance with the Rights of Persons with Disabilities Act, 2016. If the seats reserved for the persons disabilities in a particular category remain unfilled on account of unavailability of candidates, the seats would be included in the Annual Sanctioned Seats for the respective category.

Candidates are required to consult the website of MCC (www.mcc.nic.in) and MoHFW (www.mohfw.nic.in) for latest information in this regard.

Candidates who consider themselves eligible for this category are advised to ensure their eligibility by getting themselves examined at any Government Medical College/District Hospital/Government Hospital. However, candidates may kindly note that in case of selection under PwD category, they will be required to produce Disability Certificate from one of the Disability Assessment Boards, constituted at the following four metro cities, before their scheduled date of counselling:

- (a) Vardhman Mahavir Medical college and Safdarjung Hospital, Ansari Nagar, Ring Road, New Delhi-110029n (Tel No. 011-EPABX:26730000, 26165032, 26168336, FAX: 011-26163072)
- (b) All India Institute of Physical Medicine and Rehabilitation, Hazi Ali Park, K. Khadya Marg, Mahalaxmi, Mumbai – 400034 (Tel No.91-22-23544341, 91-22-23544332, 91-22- 23515765, 91-22-23545358, Fax: 91-22-23532737)
- (c) Institute of Post Graduate Medical Education & Research, 244, Acharya J.C. Bose Marg, Kolkata-20. (Tel No. 033-22235181)
- (d) Madras Medical College, Park Town, Chennai-600003 (Tel No.044-25305301)

5. Considering the aforesaid clause the petitioner was referred to the Sir J.J. Group of Hospitals and Grant Govt. Medical College, Mumbai which is one of the disability assessment boards.

6. In the certificate issued by the board (Sir J.J. Group of Hospitals and Grant Govt. Medical College, Mumbai) the percentage of disability is not mentioned. It is not clear whether it is a case of permanent disability. The two reports placed before us are conflicting i.e. the one issued by the Sub-District Hospital, Mukhed and the one by the board. We direct the petitioner to appear before the board tomorrow i.e. on 16.07.2019 (Sir J.J. Group of Hospitals and Grant Govt. Medical College, Mumbai). The board (Sir J.J. Group of Hospitals and Grant Govt. Medical College, Mumbai) shall examine the petitioner tomorrow and specify as to whether the petitioner possesses the

impairment disability, if yes, the percentage of disability and also its conclusion. The same shall be done on 16.07.2019 itself and a certificate to that effect be issued immediately. The learned A.G.P. shall communicate this order to respondent no.7. Parties to act upon an authenticated copy of this order. Writ petition is disposed of. No costs.

[MANGESH S. PATIL, J.]

[S.V. GANGAPURWALA, J.]