

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

WRIT PETITION NO. 8916 OF 2019

Khandare Akash Ganesh

.. Petitioner

Versus

Medical Council of India through

its Secretary General and others .. Respondents

Shri Sayyed Tauseef Yaseen, Advocate for the Petitioner.

Shri S. B. Deshpande, A.S.G. for Respondent Nos. 2.

Shri P. G. Borade, A.G.P. for the Respondent No. 3.

Shri M. D. Narwadkar, Advocate for the added party.

**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 22ND JULY, 2019.

FINAL ORDER :

. Leave to add party respondent. Mr. Deshpande, the learned A. S. G. waives notice for the respondent No. 2. Mr. Narwadkar, the learned counsel waives notice for the added party respondent.

2. Mr. Sayyed, learned advocate for the petitioner submits that the petitioner is throughout considered from Persons with Disability(PWD) quota. The petitioner was also referred to

the Dean, Sir JJ. Hospital, Mumbai and Grant Medical College ,Mumbai. The petitioner was examined by the said board. The certificate of disability is issued by the board on 03/07/2019. It is specifically observed by the board that the petitioner is eligible for PWD quota. The petitioner has 40% visual impairment. However, now the respondents are not considering petitioner from PWD quota for medical and dental course.

3. Mr. Narwadkar, learned counsel submits that guidelines are issued by the Medical Council of India on 4/2/2019 to the effect that persons with 40% or more visual impairment cannot be considered for medical and dental courses.

4. The certificate is issued by the board on 03.07.2019 thereby certifying that the petitioner is eligible for PWD quota. The presumption would be that the board is aware of the Notification dated 4/2/2019.

5. The relevant clause of the Notification reads thus :

B. Visual Impairment (*)	a. Blindness	Less than 40% disability (i. e. Category '0 (10%)', 'I' (20%)', 'II (30%)'	-	Equal to or More than 40% Disability (i. e. Category III and above
	b. Low vision Impairment (*)			
C. Hearing	a. deaf	Less than 40% Disability	-	Equal to or more

impairment @	b. Hard hearing			than 40%
(*) Persons with Visual impairment / visual disability of more than 40% may be made eligible to pursue Graduate Medical Education and may be given reservation, subject to the condition that the visual disability is brought to a level of less than the benchmark of 40% with advanced low vision aids such as telescopes / magnifier etc. @ Persons with hearing disability of more than 40% may be made eligible to pursue Graduate Medical Education and may be given reservation, subject to condition that the hearing disability is brought to a level of less than the benchmark of 40% with the aid of assistive devices. In addition to this, the individual should have a speech discrimination score of more than 60%				

6. Even if visual impairment is more than 40%, the person is eligible to pursue Graduate Medical Education and may be given reservation subject to the condition that the visual impairment is brought to the level of less than the benchmark of 40% with advanced low vision aid such as Telescope or Magnifier etc. The certificate of the board is not clear on the said aspect as to whether visual impairment can be brought down below 40% with the advanced low vision aids.

7. In view of that, we refer the petitioner once again to the board. The petitioner shall appear before the board on 24.07.2019. The board shall examine the petitioner and shall opine as to whether visual impairment can be brought down to the level less than the benchmark of 40% with advanced low vision aids such as

Telescope/Magnifier etc.

8. If the board issues the certificate that the visual impairment of the petitioner can be brought down below benchmark of 40% with advanced low vision aids, then the respondent shall consider the petitioner from PWD quota even for Medical and Dental admission for the ensuing round.

9. In view of the above, writ Petition is disposed of. No costs.

10. Parties to act on authenticate copy.

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

bsb/July 19