

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

WRIT PETITION NO. 8901 OF 2019

Awej Sadakkhan Pathan

.. Petitioner

Versus

The Union of India and Others

.. Respondents

Mr. S. B. Gastgar, Advocate for Petitioner.

Mr. P. G. Borade, AGP for Respondents/State.

Mr. S. G. Karlekar, Advocate for Respondent No. 6.

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

DATED : 24th JULY, 2019.

PER COURT:-

1. The petitioner is seeking admission to the medical / dental course from persons with disability category.

2. Mr. Gastgar, the learned Counsel submits that the petitioner is 40% visual impairment. The certificate to that effect is issued to the petitioner by the Sub-District Hospital, Mukhed, Dist. Nanded. The learned Counsel further submits that the petitioner was referred to the board in the office of the Dean, Sir J. J. Group of Hospitals and Grant Government Medical College, Mumbai (hereinafter referred as the 'board'). The board opined that disability range in percentage is not applicable. The petitioner thereafter had approached this Court by filing Writ Petition No. 8545 of 2019. In the said Writ Petition we had directed the board to re-examine the petitioner and issue fresh certificate. The petitioner was re-examined by the board. The

board issued a certificate. In the fresh certificate issued after re-examination, the board opined that the disability range is not applicable. Petitioner is not eligible for PWD quota. The petitioner has again filed present Writ Petition. The learned Counsel submits that the petitioner is a person with disability as per the definition under Section 2 (r) of the Right of Persons with Disability Act, 2016. The schedule under Clause Z (c) of Section 2 specifies visual impairment. The petitioner also fits into the category of persons with disability on account of visual impairment as per the schedule. According to the learned Counsel, the respondent has not produced the worksheet. The learned Counsel relies on the judgment of the Apex Court in case of ***Purswani Ashutosh (Minor) through Dr. Kamlesh Virumal Purswani Vs. Union of India and Ors. in Writ Petition (C) No. 669 of 2018 dated 24.08.2018.***

3. We have heard learned Counsel for the respondent. On 22.07.2019, we had directed the learned AGP to seek instructions *vis-a-vis* the certificate issued by the board on 16.07.2019. The same board had also earlier issued certificate on 28.06.2019. Both these certificates are consistent.

4. The learned AGP produced the opinion of the board. The same reads thus :

The Candidate Mr. Awej Sadakkhan Pathan was re-examined by the board (Sir J. J. Group of Hospital & Grant Government Medical College Mumbai) on 16.07.2019. His best corrected visual acuity is 6/9 both eyes. His fundus in both eyes is normal. He is not a visually

disabled person. His percentage of visual disability is zero percent. Hence he is not eligible for person with disabilities quota (PWD Quota). He is eligible for medical / dental courses as per MCI guidelines but not under PWD quota.

5. We would be guided by the opinion of the experts. We would not sit in appeal over the decision and opinion of the experts. The experts have re-examined the petitioner and have been opined that the petitioners' correct visual acuity is 6/9 both the eyes. His fundus in both eyes is normal. He is not visually disabled person. His percentage of visual disability is zero percent. Hence, he is not eligible for person with disabilities quota. He is eligible for medical / dental courses as per MCI guidelines but not under PWD quota.

6. In view of the fact that percentage of visual disability of the petitioner is zero as opined by the board twice, the contention of the learned Counsel for the petitioner cannot be accepted.

7. In case of Purswani Ashutosh (*supra*) the committee of experts opined that the visual disability of the petitioner was within the benchmark of the disability act. The committee further opined that the petitioner therein was not suitably fit to undertake the MBBS course as per the MCI requirements / guidelines. In the present case, the facts are otherwise. The committee of experts has opined that petitioner is not visually disabled person. He is eligible for medical / dental courses as per MCI guidelines but not under PWD quota.

8. In the light of the above, no relief can be granted to the petitioner.

Writ Petition is disposed of. No costs.

(MANGESH S. PATIL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.