

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2931 OF 2017

Shri. Narayan Sudhakar Khambayat]
C/o Suresh Wagh,]
301 A Second Flr., Apana Ghar D-Group Soc.,]
Pump House, Andheri East,]
Mumbai-400 060]..Petitioner

Versus

- 1] State of Maharashtra,]
Through the Principal Secretary,]
Tribal Development Department,]
Govt. of Maharashtra, Mantralay,]
Vistar Bhavan, 1st Floor, Madam Cama Rd.]
Mumbai – 400 032.]
- 2] The President,]
Medical Board,]
Shri. Bhausahab Hire Govt. Medical College]
& Gen. Hosp. Malegaon Rd.,]
Chakkarwardi, Dhule, Dist- Dhule.]
- 3] The President,]
Board of Referees,]
Sassoon Gen. Hospital,]
B. J. Medical College,]
Dr. B. A. Road,]
Pune – 411 001.]
- 4] Mrs. Hemlata Bhikachand Gawhane,]
R/o: Shriram C.H.S. Ltd.,]
Nr. Manas Building, Ashok Nagar,]
Nasik - 422 012.]

5] Shri. Chandrakant Dagdu Pawar,]
Wardan, Goutam Boys Hostel,]
Near Sidharth Hospital,]
Sidharth Nagar, Goregaon (W),]
Mumbai – 400 062.]..Respondents

Mrs. Vidula S. Patil, Advocate for the Petitioner.

Mrs. R. A. Salunkhe, AGP for Respondent Nos.1 & 2.

Mr. Mahesh Deshmukh I/by Mr. Anoop U. Patil, Advocate for Respondent No.4.

Mr. Nitin P. Dalvi, Advocate for Respondent No.5.

CORAM : B. R. GAVAI &

N. J. JAMADAR, JJ.

DATE : 18th JANUARY, 2019

ORAL JUDGMENT (Per B. R. Gavai, J)

1] Rule. Rule made returnable forthwith. Heard by consent of the parties.

2] The Petitioner has approached this Court being aggrieved by the order passed by the Maharashtra Administrative Tribunal dated 15th February 2017. It will be relevant to refer to the order passed by the learned Tribunal :-

“1. Heard Shri. R. Kanojia, the learned Advocate for the Applicants, Smt. K. S. Gaikwad, the learned Presenting Officer for the Respondents and Shri. Khambayat, the Private Respondent.

2. Learned P. O. for the Respondents states as follows :-

- (a) Shri. Khambayat's case is cleared by Social Justice Department and his eligibility is to be re-examined by sending his case to the referral board/competent higher board for assessment of extent/percentage of disability.
 - (b) After receipt of report from the medical board, the decision would be taken.
 - (c) Four weeks time may be granted.
3. The steps for reference be taken within one week and report of action taken be furnished on the next date.
4. Steno copy and Hamdast is allowed to learned P. O. to communicate this order to the Respondents.”

3] It is the contention of the Petitioner that though the observations made in the impugned order vitally affects the rights of the Petitioner, the said order has been passed in a proceeding, in which the Petitioner was not even impleaded as party Respondent.

4] Mr. Nitin P. Dalvi, learned counsel appearing on behalf of Respondent No.5 and Mr. Mahesh Deshmukh, learned counsel appearing for Respondent No.4 fairly concede that the matter needs to be remanded with a direction to the learned Tribunal to decide the matter afresh after giving an opportunity of hearing to the Petitioner.

5] In that view of the matter, the impugned order is quashed and set aside. The rule is accordingly made absolute in the aforesaid terms. The matter is remitted to the learned Tribunal for deciding it afresh.

6] Needless to state that prior to the order being passed, which may adversely affect the Petitioner, learned Tribunal shall give an opportunity of hearing to the Petitioner. Taking into consideration that the appointments are stalled for a considerable period, the learned Tribunal is requested to decide the question within a period of four weeks from today.

[N. J. JAMADAR, J.]

[B. R. GAVAI, J.]