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

903 WRIT PETITION NO.6386 OF 2018

VIVEK LAXMIKANTRAO PEDGAONKAR
VERSUS
THE ZILLA PARISHAD HINGOLI, THROUGH ITS CHIEF
EXECUTIVE OFFICER AND OTHERS

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Mr G. S. Shete, Advocate h/f Mr S. G. Shete, Advocate for
petitioner;
Mr S. B. Pulkundwar, Advocate for respondent Nos.1 & 2;
Mr P. S. Patil, A.G.P. for respondent Nos.3 & 4

**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 14th October, 2021

PER COURT:

1. The learned Advocate for the petitioner Shri. S. G. Shete, has moved a circulation note dated 11/10/2021, setting forth the request of his client that he desires to withdraw this petition without prejudice to his rights regarding 'visual disability'.

2. The learned Advocate for the Zilla Parishad has strenuously pointed out certain aspects of the case and with his assistance we have gone through the record and three reports of three different Medical Boards.

3. Having considered the above, we find as follows :-

(a) The learned Division Bench of this Court passed an order on 01/08/2018, recording the contention of the petitioner that he is suffering from visual impairment to the extent of 40%. The concerned certificate dated 08/07/2014 was issued by the Ophthalmic Surgeon, Civil Surgeon and Resident Medical Officer, District Hospital, Hingoli. The Ophthalmic Surgeon is Dr. N. N, Kale; the Resident Medical Officer is Dr. D. N. More and the District Civil Surgeon is Dr. N. S. Mudam.

(b) The petitioner relied on the Government Resolution dated 15/05/2014 and the Circular dated 16/05/2009, issued by the State Government, to contend that once such a permanent disability medical certificate is issued by the Board, he should not be referred to any Medical Board for re-examination.

4. The learned Division Bench of this Court, in its order dated 01/08/2018, concluded in paragraph Nos.3, 4, 5 and 6 as under :-

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“3. We have considered the submissions canvassed by the respective parties.

4. The Government Resolution relied by the petitioner dated 06.10.2012 and circular dated 16.05.2009 cannot read as imposing total embargo on the powers of the authority to refer a particular candidate to the medical board, inspite of possessing the certificate of permanent disabled, if doubt is raised.

5. In case, the certificate is erroneously issued or is issued by fraud, the Government Resolution cannot be embargo to refer to the candidates to the medical board.

6. Before us there are two contrary reports issued by the board. The members of the committee who have issued the certificate are from the fraternity of the medical field.”

5. This Court realized that as the employer suspected the first report of the Medical Board, the petitioner was referred to a second Medical Board available with the J.J. Group of Hospitals. Vide the report dated 27/11/2017, the Medical Board indicated that the vision of the petitioner of both his eyes was perfect.

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Visual acuity was normal and the conclusion was that the percentage of permanent blindness is Zero.

6. As this Court faced a situation of two contradictory opinions of two different Medical Boards, it was ordered that the petitioner would be examined by a 3rd Medical Board from Aurangabad Government Medical College and Hospital.

7. The Medical Board at Aurangabad has submitted the confidential report dated 04/08/2018, indicating that the petitioner has no visual impairment. The Chair person of the Medical Board was the H.O.D. of the Ophthalmic Department.

8. In view of the above, this Court passed an order on 07/08/2018 observing in paragraph No.4, which reads as under :-

“4. Considering the report received from the committee of the Government Medical College and Hospital, Aurangabad, which clearly states that the petitioner does not suffer from any vision disability, the interim relief granted by us stands vacated.”

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9. Considering the above, it is apparent that the petitioner has played a fraud on the employer as well as on the Court. The possibility of the Medical Board, which submitted its report dated 08/07/2014, consisting of Dr. N. N. Kale, Dr. D. N. More and Dr. N. S. Mudam, being involved in such a fraud, needs investigation. In this backdrop, permitting the petitioner to withdraw the petition, would amount to turning a blind eye to such tricks played on the Court as well as on the employer.

10. In view of the above, this petition is dismissed by imposing costs of Rs.50,000/- (Rs. Fifty thousand) on the petitioner, which he shall deposit with respondent No.1 – Zilla Parishad, Hingoli, on or before 15/11/2021, failing which, respondent No.1 would be at liberty to deduct the said amount in three equal installments from the salary payable to the petitioner from the month of November 2021 to be paid in December 2021 and further two months.

11. In addition to this order, we direct the Chief Executive Officer, Zilla Parishad, Hingoli to immediately serve a charge-sheet cum show cause notice upon the petitioner and by following

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the due procedure laid down in law and the service conditions applicable, conduct the departmental enquiry against the petitioner for the fraud played by him. Such enquiry shall be concluded on or before 30/04/2022.

12. We find it appropriate to direct the Commissioner, Health Services, Mumbai and the Principal Secretary, Public Health Department, to initiate disciplinary steps against the Ophthalmic Surgeon Dr. N.N. Kale; the Resident Medical Officer Dr. D. N. More and the District Civil Surgeon, Hingoli, Dr. N. S. Mudam, for having issued a certificate which has turned out to be a fraudulent disability certificate. Such action shall be completed on or before 30/04/2022.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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