

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

2 WRIT PETITION NO.10675 OF 2022

VAIBHAVI AMBADAS KARVAR
VERSUS
THE DIRECTOR OF MEDICAL EDUCATION AND RESEARCH AND
OTHERS

Advocate for Petitioner : Mr. Patil Hanmant V.
AGP for respondent Nos. 1 and 7: Mrs. R.P. Gour
Advocate for Respondent 4 to 6: Mr. R.R. Bangar
Advocate for Respondent No.2 : Mr. M.D. Narwadkar
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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 17th OCTOBER, 2022.**

PER COURT :-

1. The petitioner girl student, is suffering from congenital deficiency of fingers of both the hands. The left hand has only three fingers and two fingers are missing. The ring finger is stunted up to the first phalange. Index finger is also stunted up to second phalange. The thumb is missing. So far as her right hand is concerned, the little finger is completely missing. The ring finger has only one phalange. The middle finger has two phalanges and the third phalange up to the nail is deformed. The thumb and the index finger are normal.

2. We have personally seen the colour photograph of both upper limbs of the candidate. For the sake of clarity, we are attaching the photograph to our order as annexure "X" and the said photograph

would be a part and parcel of this order. If certified copy of the order is sought, the photograph would also be supplied.

3. We have perused the judgment of the Hon'ble Supreme Court (Three Judges Bench) dated 4.10.2019, delivered in writ petition (C) 885 of 2019, filed by **Vidhi Himmat Katariya and others vs. The State of Gujarat and others**, more particularly, paragraphs 8 and 9, which read as under:-

"8. Now so far as the submission on behalf of the petitioners that while denying admission to the petitioners the State Government and/or authorities have not considered the relevant parameters and have not considered that the respective petitioners are able to perform well is concerned, it is required to be noted that in the present case all the expert bodies including the Medical Board, Medical Appellate Board and even the Medical Board of AIIMS, New Delhi consisting of the experts have opined against the petitioners and their cases are considered in light of the relevant essential eligibility criteria as mentioned in Appendix 'H' – 'Both hands intact, with intact sensation, sufficient strength and range of motion'. Therefore, when the experts in the field have opined against the petitioners, the Court would not be justified in sitting over as an appellate authority against the opinion formed by the experts – in the present case, the Medical Board, Medical Appellate Board and the Medical Board of AIIMS, New Delhi, more particularly when there are no allegations of mala fides.

9. In view of the above and for the reasons stated above, the present petitioners are not entitled to the reliefs as prayed. Hence, all the writ petitions filed under Article 32 of the Constitution of India deserve to be dismissed and are accordingly dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs."

4. We have also considered the observations of this court (Principal Seat at Bombay) made in the order dated 08.02.2021, passed in Writ petition (St.) No. 539 of 2021, filed by **Anita Prakash Shinde vs. Union of India and others**, wherein this court has observed in para 17 as under:-

“17 Article 19(1)(g), which provides for the citizens’ right to practice any profession, or to carry on any occupation, is also subject to reasonable restrictions generally imposed by the State by making a law, in the interests of the general public and particularly, by prescribing professional and technical qualifications necessary for practicing any profession or carrying on any occupation. Prescribing professional and technical qualification of a degree in medicine and eligibility criteria for enrolling for a degree course do come within these permissible restrictions.”

5. In view of the above, the writ petition stands dismissed.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

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