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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.890 of 2022

M.Kalvikarasi
rep. by her Father/Natural Guardian,
J.Murugan

... Petitioner

vs.

1. The Secretary,
National Medical Commission,
Pocket 14, Sector - 8,
Dwaraka Phase -1,
New Delhi 110 007.
2. The Assistant Director General
(Medical Examination),
Medical Counselling Committee,
Room No.352, A - Wing,
Nirman Bhavan,
New Delhi - 110 011.
3. The Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R. Road,
Kilpauk, Chennai 600 010.
4. The District Collector,
Chennai Collectorate,
Singaravelar Maaligai,
62, Rajaji Salai,
Chennai 600 001.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the 3rd Respondent to consider the representation dated 16.11.2021 by referring the Petitioner's daughter to the Appellate Medical Board consisting of competent Doctors to re-assess her disability and issue fresh Disability Certificate in accordance with the MCI/NMC Guidelines and as per the Rights of Persons with the Disability Act, 2016.



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For Petitioner : Mr.A.Arumugam
For 1st Respondent : Ms.Shubaranjani Ananth
For 2nd Respondent : No appearance
For 3rd Respondent : Mr.D.Ravichander,
Special Government Pleader
Assisted by Mr.C.Jeyaprakash
Government Advocate

For 4th Respondent : Mrs.C.Sangamithirai,
Special Government Pleader

O R D E R

Minor Petitioner, who is a physically handicapped person, has come up with the above Writ Petition seeking a direction to the 3rd Respondent to consider the representation dated 16.11.2021 by referring her to the Appellate Medical Board consisting of competent Doctors to re-assess her disability and issue fresh Disability Certificate in accordance with the MCI/NMC Guidelines and as per the Rights of Persons with the Disability Act, 2016.

2. It is stated by the father of the minor Petitioner that, the Petitioner is a differently-abled person. She completed Higher Secondary Examination and had secured 543.89 marks. She appeared in the NEET examination under the Disability Quota with the aid of Disability Certificate issued by the District Medical Board, Government Hospital, Cuddalore, in the year 2008, certifying that, she suffered 50% disability, as she has under-developed fingers in her left hand, since her birth. She secured 288 out of 720 marks in the NEET examination and her category Rank is 1,57,461 and her rank under the category 'Persons with Disability' is 668.

3. It is further stated by the father of the minor Petitioner that, as per the Information Bulletin issued by the National Medical Commission, persons with disability have to obtain a Disability Certificate from the Regional Medical Board as listed in Appendix VIII-B of the Information Bulletin. As such, the minor Petitioner appeared before the Regional Medical Board, Rajiv Gandhi Government General Hospital, Chennai on 12.11.2021, wherein, she was examined and she was issued Disability Certificate and her disability was assessed as 55%. However, in the said Disability Certificate, it was declared that, the Petitioner is not eligible for admission in the Medical/Dental under misconception of MCI Gazette Notification.

4. Hence, a representation dated 16.11.2021 was made by the Petitioner's father to Respondents 3 and 4, seeking to



reassess the minor Petitioner's disability by referring her to the Appellate Medical Board consisting of competent Doctors and issue fresh Disability Certificate in accordance with the MCI/NMC Guidelines and as per the Rights of Persons with Disability Act, 2016. As no orders are passed on the said representation, the Petitioner is before this Court with the above Writ Petition.

5. Learned Special Government Pleader appearing for the 3rd Respondent, on instructions, submitted that, the Regional Medical Board is not the competent Authority to issue Disability Certificate and as per Rule 41 of the Tamil Nadu Rights of Persons with Disabilities Rules, 2018, the competent Authority to assess the disability of a disabled person and issue Disability Certificate is the State Commissioner for Persons with Disabilities.

6. Learned counsel for the Petitioner submitted that, this Court may direct the Petitioner to appear before the State Commissioner for Persons with Disabilities, who shall examine the Petitioner, assess her disability and issue a Disability Certificate to that effect and thereafter, the competent Authority may be directed to consider the case of the Petitioner based on her Disability Certificate and pass appropriate orders within a stipulated period.

7. Considering the facts and circumstances of the case and taking note of the submissions of the learned counsel on either side, this Court directs the minor Petitioner to appear before the State Commissioner for Persons with Disabilities, Kamarajar Salai, Chennai 600 005, within a period of two days from the date of receipt of a copy of this order. The State Commissioner for Persons with Disabilities shall examine the Petitioner, assess her disability and issue a Disability Certificate to that effect within a period of two weeks, thereafter. On production of Disability Certificate by the Petitioner, the 3rd Respondent herein shall consider the case of the Petitioner based on the Disability Certificate and pass appropriate orders in accordance with law within a period of one week thereafter.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected W.M.P.No.978 of 2022 is closed.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar



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5. The State Commissioner for Persons
with Disabilities,
Kamarajar Salai,
Chennai 600 005.(through FAX)

+1cc to Mr.A.Arumugham, Advocate Sr.3660

W.P.No.890 of 2022

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srg 21/01/2022