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W.P.No.29647 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.29647 of 2022
and W.M.P.No.29033 of 2022

Harshavarthini

.... Petitioner

-Vs-

1.The State of Tamil Nadu
rep.by its Principal Secretary to Government
Health & Family Welfare Department
Secretariat, Fort St.George
Chennai – 600 009.

2.The Director of Medical Education
Kilpauk, Chennai – 600 010.

3.The Selection Committee
Director of Medical Education
Kilpauk, Chennai – 600 010.

4.The Medical Council of India
Rep.by its Director, Pocket-8
Dwaraka, New Delhi- 110 007.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 3rd respondent to allot seat for MBBS admission course for the academic session of 2022-2023 based by notification issued by the 3rd respondent / Selection Committee dated 08.10.2022 forthwith.



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For Petitioner : Mr.D.Ashokkumar

For Respondents : Mr.U.M.Ravichandran
Special Government Pleader – for RR 1 & 2

Ms.M.Sneha, Standing Counsel – for R3

Ms.Shubharanjani Ananth
Standing Counsel – for R4

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the 3rd respondent to allot seat for MBBS admission course for the academic session of 2022-2023 based by notification issued by the 3rd respondent / Selection Committee dated 08.10.2022 forthwith.

2. The petitioner, after getting a rank in the UG NEET-2022, had applied to the respondents for getting admission in the first year MBBS under Differently Abled Persons quota. However, in that quota, the petitioner's candidature was not considered. The reason for not considering the candidature of the petitioner under the Differently Abled Quota is because, the disability must be not less than 40% but not more than 80% and if the disability is confirmed by the concerned Medical Board, then only such candidate would be considered under the said quota.



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3. In this context, it is to be noted that, the Medical Board has given a certificate that the petitioner has only 30% medical disability, whereas it must be between 40 to 80%. It is the case of the petitioner that, when the petitioner was examined by the Medical Board at Kallakurichi Government Hospital, they had given a certificate that the percentage of disability of the petitioner is at 40%, based on which the petitioner seeks the indulgence of this Court and that is how the writ petition has come up.

4. On 08.11.2022, when the writ petition was heard, this Court passed the following order.

" 4. The learned Standing Counsel for the Selection Committee would also submit that, the persons upto 40% disability would not be entitled to seek for admission and only the persons above 40% disability are eligible to seek for admission.

5. In this context, this Court feels that, in order to verify the same and to examine the petitioner to declare the exact percentage of disability, the petitioner can be sent for medical examination.

6. In this regard, the learned Special Government Pleader appearing for the first and second respondents shall get instructions as to when the petitioner can be examined by the



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Medical Board. The learned Standing Counsel appearing for the Selection Committee shall also get written instructions as to the afore stated and whether one seat in the second counseling can be reserved for the petitioner, provided if she is able to obtain a certificate from the Medical Board as to her percentage of disability, enabling her to come within the zone of consideration.

7. These aspects shall be ascertained and reported before this Court by the learned Special Government Pleader appearing for the first and second respondent and the learned Standing Counsel appearing for the third respondent / Selection Committee in the next date of hearing."

5. Subsequently, when the matter came up for hearing on 16.11.2022, further order was passed by this Court, which reads thus,

" The petitioner, at the time of making application through on-line for getting admission in First Year MBBS for the academic year 2022-23, has made the application under the Disabled Persons quota.

2. Even though it was claimed by the petitioner by producing medical certificate issued in this regard from Kallakurichi Government Hospital as 60% disability, the Selection Committee seems to have sent it for examination and to give the correct percentage and the disability, according to Ms.M.Sneha, learned Standing Counsel appearing for the Selection Committee, was considered and the Medical Board has given the certificate only for 30% medical disability, and since the eligibility for giving admission under Disabled Persons quota is



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above 40% and less than 80%, the petitioner was not considered to be eligible. In the meanwhile, the counselling for Disabled Persons Quota was over and unfilled seats were converted to general quota which were also filled up.

3. Subsequently, the petitioner had once again been examined by a medical team at Kallakurichi Government Hospital, where, this time the medical team has given the disability percentage of the petitioner as 40%. Therefore, as of now there are three different medical certificates, each one having different percentage of disability. Therefore, in order to come to a conclusive decision on this issue as to what is the actual percentage of disability of the petitioner, this Court wants to have a new medical board be constituted in this regard.

4. Accordingly a direction is given to the Dean, Rajiv Gandhi Government General Hospital, Chennai to constitute a medical board consisting of three new doctors, not a member of the earlier medical board and the petitioner can be examined by the said medical board and a certificate to that effect and the result / report shall be filed before this Court in a sealed cover on 22.11.2022.

5. Mr.U.M.Ravichandran, learned Special Government Pleader who takes notice for respondents 1 and 2, would ensure the compliance of the aforesaid direction and file the medical report in a sealed cover as stated supra. It is made clear that, on constituting the medical board again, a communication to the petitioner Ms.Harsharvathini (Mobile No.9789790515) and her counsel Mr.D.Ashok Kumar (Mobile No.9962557616) shall be sent to their mobile numbers, fixing a date to have the medical



examination at least 24 hours in advance, so that the petitioner can appear before the Medical Board for such examination.

6. Post the matter on 22.11.2022."

6. Pursuant to these orders, the petitioner was examined by the Medical Board constituted by the Rajiv Gandhi Government General Hospital on 22.11.2022. The report of the Medical Board, as directed by this Court, has been placed in a sealed cover for perusal today before this Court.

7. On perusal it is clear that, the medical team, after examining the petitioner has still found her disability only at 30% and the relevant portion of the finding given by the medical board reads thus,

" Percentage of hearing disability is 30%. The client does not come under the benchmark hearing disability category."

8. The report of the medical board has been shown to the learned counsel for the petitioner, who also has gone through the same.

9. Since the Medical Board has categorically given a certificate fixing the disability of the petitioner only at 30% and the minimum percentage of disability must be 40% and above, and since the petitioner has not reached that much percentage of disability, she cannot claim a seat under the quota for differently



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abled persons. Therefore, the rejection already made in this regard by the respondents, rejecting the petitioner's candidature under the Differently Abled Quota, is to be justified.

10. Hence, the writ petition fails, it is liable to be dismissed and it is accordingly dismissed. No costs.

30.11.2022

Index : Yes/No
Internet : Yes/No
KST
To

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R. SURESH KUMAR, J.

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