



WEB COPY



W.P.No.33192 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2022

CORAM:

THE HONOURABLE MR. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.33192 of 2022

Kathi Venkata Rajesh

...Petitioner

-Vs-

1.National Eligibility Cum Entrance Test UG
Shiksha Kendra – 2,
Community Centre Preet Vihar
Delhi – 110092.

2.Dr.MVS.Prakash, Chairman,
Special Medical Board,
Regional Inst. of Ophthalmology and Govt.
Ophthalmic Hospital, Egmore,
Chennai – 600 008.

3.Dr.Yogeshwari,
Member (Special Medical Board),
Egmore, Chennai - 600 008.

4.Dr.N.Sharmila,
Member (Special Medical Board),
Egmore, Chennai - 600 008.

5.The National Medical Commission,
Rep.by its Secretary,
Pocket – 14, Sector – 8,



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Dwaraka Phase – 1,
New Delhi – 110077.

(Suo moto impleaded by order dated 16.12.2022)

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus, calling for the records relating to the order dated 26.11.2022 made in Certificate No.2022-Nov/001630 passed by the 2nd to 4th respondents herein and quash the same and directing the respondents to reserve the suitable rank on PWD quota for the petitioners.

For Petitioner : Ms.P.Sumathi

For R1 : Ms.Subbharanjani Anandh,
Standing Counsel.

ORDER

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking to interfere with the order dated 26.11.2022 in Certificate No.2022-Nov/001630 passed by the 2nd to 4th respondents.



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2.The petitioner is the visually disabled person and his disability has been assessed at 40%. He claimed that he is a person with visual disability and qualified as person with disability. He applied in that particular category for UG NEET 2022 -2023. He appeared before the Madras Medical College. A Special Medical Board was formed as the Regional Institute of Ophthalmology and Government Ophthalmic Hospital, Egmore, Chennai. The petitioner was directed to appear and be evaluated by them regarding his vision. He was evaluated by the Special Medical Board and his visual disability was found to be 40%. If it is 40%, the possibility of joining the course would be, if with low visual and assistive devices in the case of locomotor, his eyesight improves. Unfortunately, the Special Medical Board had given an opinion and a final report that, even with assistance there was no improvement of the low vision.

3.The Special Medical Board also stated that he was not liable for PWD quota. That opinion of the Special Medical Board is interfered with. They can only assist the visual capacity of the petitioner and cannot give an opinion.



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4. But the guidelines are clear. The guidelines of the National Medical Commission, stipulate that a person with visual disability of 40% or more may be made eligible to pursue MBBS course, only if the visual disability is brought below the level of 40% with Low Vision Aids. The Special Medical Board had given a definite finding that the Vision of the petitioner could not be brought down below 40%. If it could not, then he stands disqualified and cannot be granted the necessary quota as person with disability. He cannot be admitted to the MBBS course. His vision has not improved with the low vision aids. He could not therefore be eligible to pursue the MBBS course.

5. Even though the petitioner challenges the report of the Special Medical Board that part of the report where the Special Medical Board has stated that he was not eligible to PWD quota is set aside, since they are not the competent authority to give such opinion.

6. But the fact that his vision cannot be improved, even with the low vision aids is a fact, which has to be taken into consideration and the petitioner is ineligible to join the MBBS course. This Court is



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unfortunately not able to come to the assistance of the petitioner. This

Writ Petition is dismissed. No costs.

7.This Court had examined the guidelines of the National Medical Commission. Though they are not made as a party, suo moto they are made as a party in the writ petition. Before the order copy is issued, the Secretary, National Medical Commission, Pocket – 14, Sector – 8, Dwaraka Phase – 1, New Delhi – 110077, is impleaded as the 5th respondent in the writ petitioner. The order copy may be issued including them as 5th respondent. Necessary amendment may be carried out by the Registry in the cause title.

16.12.2022

Index : Yes/No
Internet : Yes/No
smv



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C.V.KARTHIKEYAN. J.

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