

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

110+240

**CWP-8923-2022 (O&M).  
Date of decision: 07.09.2022.**

**Pawan Kumar**

**...Petitioner**

**Versus**

**State of Haryana and others**

**...Respondents**

**CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

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Present: Ms. Amrita Garg, Advocate, for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

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**VINOD S. BHARDWAJ. J.**

**CM-13932-CWP-2022**

The instant application has been filed under Order 6 Rule 17 read with Section 151 of the Civil Procedure Code seeking amendment of the petition and to incorporate an amended prayer (ii) as under:-

*“(ii) issuance of an appropriate writ, order or direction in the nature of ‘mandamus’ directing the respondents to constitute ‘The Assessment Board’ and ‘the Authority’ as mandated under clause 2 and 4 of Section 38 of the Act respectively.”*

Notice in the application.

Learned counsel appearing on behalf of the State has no objection to the aforesaid prayer being granted.

Accordingly, the instant application is allowed and amendment in the form of incorporation of additional prayer is permitted.

The amended prayer clause attached as Annexure A-1 along with the instant application is taken on record.

The Registry is directed to tag the same at appropriate place.

#### Main case

The prayer made in the present case was for setting aside the order dated 05.08.2021 (Annexure P-7) passed by respondent No.2 whereby the petition moved by the petitioner seeking constitution of Board was disposed of as having been fully satisfied.

Learned counsel appearing on behalf of the State has made a reference to the communication received from the office of Director General, Social Justice & Empowerment Department, Haryana, vide memo No.11713/SJE/2022 dated 07.09.2022, stating that the Assessment Board in terms of the provisions of the Rights of Persons with Disabilities Act, 2016, has already been constituted to assess the disability. He further states that since the Assessment Board for assessing the disability of the person has already been constituted by the

Civil Surgeon, Civil Hospital, Gurugram, in the event of petitioner producing his son before the Assessment Board, the appropriate proceedings in accordance with law for determination of the disability shall be undertaken by the Assessment Board. It is thus, contended that no further cause of action survives in the present petition.

In view of the aforesaid communication received from the office of Director General, Social Justice & Empowerment Department, Haryana, as well as the statement made by the learned State counsel, on instructions from the Director General, Social Justice & Empowerment Department, Haryana, duly communicated to him by the official present in the Court today, the present writ petition is disposed of directing the Assessment Board to carry out the assessment of the son of the petitioner upon being produced before it in accordance with law. It has further been pointed out by the official present from the Department that 'authority' as stated in Clause 2 of Section 38 of the Rights of Persons with Disabilities Act, 2016, vests in the District Social Welfare Officer.

Needless to mention that in the event of an application being submitted by the petitioner, the competent authority shall take appropriate steps in accordance with law for referring the same to the Assessment Board for determination of the disability of the son of the petitioner.

**September 07, 2022**  
***rajarora***

**(VINOD S. BHARDWAJ)**  
**JUDGE**

**Whether speaking/reasoned : Yes/No**  
**Whether reportable : Yes/No**