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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 26th May, 2022

+ W.P.(C) 8386/2022

PRACHI KUMARI

..... Petitioner

Through: Mr. Amit Kaushik, Advocate.
versus

ITBP AND ORS.

..... Respondents

Through: Ms. Ritu Reniwal, SPC with Ms.
Sonali Gambhir, Mr. Shiva Narang
and Mr. Devvrat Yadav, Advocate,
(GP) for R-1 &2.**CORAM:****HON'BLE MR. JUSTICE SURESH KUMAR KAIT****HON'BLE MR. JUSTICE SAURABH BANERJEE****J U D G M E N T (oral)****CM APPL. 25242/2022 (exemption)**

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 8386/2022 & CM APPL. 25241/2022(stay)

3. By way of the present writ petition, petitioner seeks following reliefs:
 - a) to set-aside the decision dated 02.05.2022 of the respondent No. 1 declaring the petitioner as Unfit;
 - b) to direct the respondents to allow the petitioner to participate in the Documents Verification to be conducted;
 - c) to direct the respondent No.1 to place on record the medical record of the petitioner;



- d) to direct the respondents to medically re-examine the petitioner within a time bound manner;*
- e) to direct the respondents to stay the process of recruitment until the present petition is disposed;*
- f) to direct the respondents to reserve seats for the petitioner in the merit list which may be prepared during the pendency of the present Petition;*
- g) to direct the respondents to subject the final result which may be declared to the outcome of the present petition.*

4. Notice issued.

5. Learned Senior Panel Counsel for respondents accepts notice.

6. Learned counsel for the petitioner submits that during the Detailed Medical Examination, the petitioner was found as unfit due to Hazy B/L lower lobe with Prominent Vascular marking (? Covid Infection). Thereafter, the petitioner opted for Review of Medical Examination before the Review Medical Board of the respondent no. 1, which referred her to a laboratory named Focus Imaging and Research Centre Pvt. Ltd., Delhi. After her examination at the Focus Imaging and Research Centre Pvt. Ltd., Delhi, the petitioner was declared Covid negative. However, in the Review Medical Examination, based on a medical split opinion dated 01.05.2022, the petitioner was finally declared as unfit on the ground of Early Small airway obstruction.

7. Since, there are two different medical opinions and without going into



the controversy, whether the petitioner is unfit or fit, we hereby direct the Incharge, R.R. Hospital to constitute a Medical Board to re-conduct the medical test of the petitioner within one week from today. The date of test shall be conveyed to the petitioner in advance, who shall appear before the said Medical Board on the date so fixed. It is made clear that if the petitioner is found medically fit by the Medical Board so constituted, she shall be allowed to join the selection process and in case, she is declared unfit, no further opportunity shall be granted to her and report of said Medical Board shall be considered final, since, the same have been admitted by the petitioner.

8. With the aforesaid directions, the present petition stands disposed of.
9. Pending application also stands disposed of.
10. Copy of this order be given *dasti* under signature of Court Master.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

MAY 26, 2022/So