



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10187 Of 2023

Vandana B. Pagar .. Petitioner.
v/s.
The State of Maharashtra & Others .. Respondents.

Mr. Sanjay P. Shinde with Mr. Prathamesh T. Bhanuwanshe, for the
Petitioner.

Mr. S. B. Kalel, AGP for Respondent Nos. 1 to 5- State.

**CORAM: SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA, JJ.
DATE : 23rd AUGUST, 2023.**

PC:-

Heard learned Counsel for the Petitioner and learned Counsel
for the Respondents-State.

2 By this Petition, Petitioner is seeking mandamus to the
authorities to once again to conduct necessary tests on Petitioner's eyes,
spinal cord and ears by a special and independent team of doctors. The
reasons put forward by the Petitioner for seeking such a relief is that her
multiple disability which was of 42% on 1st November, 2021, is now
certified to be a disability of 19% by the latest Disability Certificate dated
20th July, 2023 issued by the competent authority, which is incorrect. In
other words, the Petitioner submits that her disability continues to be in
the range of 40% overall and it cannot be shown as reduced by the
doctors.

3 We must say that said submission of the Petitioner is incorrect. Neither the Petitioner nor the learned Counsel for the Petitioner, nor this Court, nor learned AGP is expert in medicine and physiology and, therefore, none of us is in a position to form any opinion about suffering of any disability by the individual and to show its percentage. It is only an expert in the field who can consider this issue and give his opinion in the matter. Such opinion is already there in the nature of three Disability certificates dated 1st November, 2021, 30th May, 2022 and 20th July, 2023.

4 The first disability certificate issued by the competent authority dated 1st November 2021 shows that at that time, the multiple disabilities suffered by the Petitioner were 42%, which were divided into loco motor disability of 18% and low vision disability of 30%.

5 Second disability certificate dated 30th May 2022 shows that the multiple disabilities suffered by the Petitioner were of 40%.

6 Third disability certificate dated 20th July 2023 shows that the multiple disabilities suffered by the Petitioner are of 19% with loco motor disability of 10% and low vision of 10%.

7 The first certificate dated 1st November, 2021 comes with remarks of the competent authority. They show that in the opinion of the Doctors, the condition of the Petitioner is likely to improve. The last disability certificate dated 20th July, 2023 also has a remark which shows that the condition of the Petitioner is not likely to improve. The last disability certificate is consistent with the first disability certificate which has indicated that condition of the Petitioner is likely to improve, and

indeed disability condition of the Petitioner has improved so as to reduce it to 19% as per the last disability certificate. But, this is not liked by the Petitioner and she is unhappy with such certification.

8 According to learned Counsel, there is no improvement in the percentage of the disabilities of the Petitioner, and that is why the Petitioner is seeking her re-examination by the competent doctors.

9 The said grievance of the Petitioner could have been considered appropriately by this Court had there been any material available on record or atleast pointed out to us by the Petitioner to enable us to come to the conclusion that the last certificate contains manifest error of judgment on the part of the competent authorities. Such material has not been produced on record by the Petitioner nor the same has been pointed out to us by the learned Counsel for the Petitioner.

10 In such circumstances, we are of the opinion that this Petition virtually questioning the wisdom and opinion of Doctors issuing the Disability Certificate dated 20th July, 2023, without any basis to contradict them cannot be entertained by this Court.

11 In the result, the Petition stands dismissed with liberty to the Petitioner to obtain another disability certificate on her own.

(FIRDOSH P POONIWALLA ,J.)

(SUNIL B. SHUKRE,J.)