

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION 7233 OF 2022

Manthan Yudhishtir Sawai,
aged 19 years, r/o. Rampura Chauwk,
Wani, District Yawatmal, Maharashtra

.....PETITIONER

...V E R S U S...

1. Disability Certification Board,
through its Member
Dr. Manish Shrigiriwar,
having his office at All India
Institute of Medical Science,
Nagpur

2. Union of India,
through its Secretary for the
Ministry of Education,
Having Office at Shashtri Bhavan,
Dr. Rajendra Prasad Marg,
New Delhi

3. National Medical Commission
through its President for
Undergraduate Medical Education
Board, Having office at Pocket,
14 Sector 8, Dwarka Phase 1
New Delhi 110077, India

(respondent 3
deleted vide
court order dated
16.12.2022).

4. Competent Authority,
being Commissioner,
State CET Cell, having his/her
office at Excelsior Theater Building,
AK Nayak Marg, Azad Maidan,
Fort, Mumbai,
Maharashtra 400001,
email id: MAHARASHTRA.CETCELL@GMAIL.COM

5. Directorate General of Health
Services, Ministry of Health and
Family Welfare, Government

of India Email id: DGHS@NIC.IN
having office at Nirman Bhavan
Maulana Azad Road,
New Delhi 110 011

..RESPONDENTS

Mr. Nihalsing B. Rathod, counsel for petitioner.
Mr. N.S. Deshpande, DSGI for respondents 1, 2 & 5.

CORAM:- ROHIT B. DEO & M.W. CHANDWANI, JJ.

DATE : 04.07.2023

JUDGMENT (Per: Rohit B. Deo, J.)

Heard.

2. Rule. Rule made returnable forthwith.

3. It is common ground that the petitioner is suffering from physical disability (Cerebral Palsy) which respondent 1 – Disability Certification Board has certified as 73 percent. The petitioner appeared for NEET examination held for the academic year 2022-23 and secured 137 marks. In the normal course, the petitioner would have walked in in the list of candidates suffering from disability.

4. However, the petitioner was not included in the list of the candidates found entitled to admission from the candidates applying under the reserved category (reserved for candidate suffering from disability) on the premise that

the respondent 1 – Disability Certification Board was of the view that the petitioner was not eligible for admission in the medical course.

5. Our attention is invited to the Notification dated 13.5.2019 issued by the Medical Council of India in exercise of powers conferred by Section 33 of Indian Medical Council Act, 1956, framing the “Graduate Medical Education Regulations (Amendment), 2019.

6. It is clear from the Notification that person suffering from Cerebral Palsy between 40 to 80 percent disability are eligible for medical course. As a fact, persons with more than 80 percent disability can also be considered for admission on case to case basis after determining their functional competency.

7. In view of the unimpeachable case made out, interim order dated 23.11.2022 was passed which was modified vide order dated 16.12.2022. Pursuant to the interim order, the petitioner has secured admission in

Shri Bhausahab Hire Medical College, Dhule.

8. In view of the unambiguous provisions of the Regulations supra, we make Rule absolute in terms of interim order.

9. The petition is allowed in terms of prayer clause A, which reads thus:

(i) That the Hon'ble Court be pleased to issue writ order or direction in nature of writ of mandamus thereby quashing and setting aside the impugned certificate issued in favour of petitioner i.e. Manthan Yudhishtir Sawai by respondent No.1 Disability Certification Board at Annexure P 3 dated 4.10.2022, and thereby direct respondent 1 to issue fresh certificate in accordance with the law.

10. We further declare that the admission secured by the petitioner in terms of the interim order shall stand confirmed for all purposes.

(M.W. Chandwani, J.)

belkhede

Digitally Signed By: BELKHEDE
RAVINDRA SURESHRAO
District Judge
Signing Date: 06.07.2023 10:50

(Rohit B. Deo, J.)