



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO. 9211 OF 2024
(Board dt.27.08.2024)**

**SHAIKH SAMEENA BEGUM SHAIKH HAMID
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

...

Shri Nitin T. Tribhuwan, Advocate for the Petitioner.
Ms.Neha B. Kamble, AGP for Respondent No.1/State.
Shri P.D. Suryawanshi, Advocate for Respondent Nos.2 and 3/ZP.

...

**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 28th August, 2024

Per Court :-

1. We have heard the learned Advocates for the respective sides and perused the petition paper book with their assistance.

2. The issue falls in a very narrow compass. The son of the Petitioner has a locomotor disability. Today, he is 10 years old. In the first report, permanent disability is up to 42% as per the Disability Certificate issued by the Medical Authority at Beed dated 09.05.2022. In the second medical examination, the

disability turned out to be 0 %.

3. In our order dated 24.02.2023, passed in Writ Petition No.1519/2023 (***Hanuman Yashwant Sarvade and others vs. The State of Maharashtra and others***) and connected matters, we had observed in paragraph Nos.3 to 7, as under:-

- “3. In all there are 336 candidates, who presented medical certificates obtained from various authorities, declaring them to be 40% or more disabled. By way of an illustration, we note that some of the candidates, who claim to be suffering from hearing impairment, have procured certificates of they being 73% disabled. There are many, who claimed to be suffering from hearing impairment and have received certificates indicating more than 40% disability. The Zilla Parishad referred their cases to the Medical Board of the Swami Ramanand Tirth Rural Government Medical College and Hospital at Ambajogai, Dist. Beed, and upon examining such cases, for illustration, the person with hearing impairment, who was issued with a 73% disability certificate, is found to be 10% disabled and one of them, who had acquired 70% disability certificate, is found to be absolutely normal with 0% disability. It is in this backdrop that, these petitioners have been suspended by the Zilla Parishad on the ground of attempting to play a fraud on the employer.
4. Considering that, most of these petitioners had earlier acquired certificates from the Medical Board or a Committee of the Doctors, and since the Committee headed by the Dean of the Ambajogai Medical College has submitted a report, indicating much lower disability percentage and in some cases even 0% disability, that these petitioners are agreeable to abide by the Government Resolution

dated 14/09/2018, and are willing to be examined by the Medical Committee of the J.J. Hospital at Mumbai. Each of them states that the Zilla Parishad may issue them a covering letter and refer them to the J. J. Hospital on particular dates and they are willing to be examined by the Appellate Medical Board of the J.J. Hospital, Mumbai, comprising of the Dean, the Medical Superintendent and a Subject Expert, who is a Senior Professor.

5. *In view of the above, the learned Advocate for the Zilla Parishad submits that, the Zilla Parishad would issue a letter addressing the Dean of the J. J. Hospital, Mumbai, along with a copy of this order, and thereafter, issue letters to the individual petitioners and the similarly placed other teachers, to attend the medical examination by the Appellate Medical Board at the J. J. Hospital on particular dates and time.*
6. *In view of the above statements recorded, these petitions are disposed off. The impugned suspension orders stand set aside. It is made clear that, after the Appellate Medical Board of the J. J. Hospital, Mumbai, tenders it's report in a sealed cover, addressed to the Chief Executive Officer, Zilla Parishad, and that if any teacher is found to have suffered lesser or no disability amounting to a fraud, the Zilla Parishad will be at liberty to initiate appropriate disciplinary action. The petitioners are agreeable.*
7. *Pursuant to this order, if any of these petitioners/ candidates as like the petitioners, desire to confess and tender an apology to the Zilla Parishad and seek pardon, they are at liberty to do so within 15 days from today and in such cases, the lapse on their part may be condoned with a strict warning by the Zilla Parishad, with a rider that, they will never indulge in any such act in future. Insofar as those teachers, who have secured the job on the basis of their disability certificates, the Zilla Parishad is at liberty to refer them also, to the Appellate Board of the J. J. Hospital, as directed above."*

4. The learned Advocate for the Respondent/ Zilla

Parishad submits, on instructions, that after this Court passed the order on 24.02.2023 (supra), the Petitioner's son is yet to be referred to the Medical Board for medical examination in Sir J.J. Group of Hospitals, Mumbai. The Zilla Parishad is clueless as to how the Petitioner acquired the certificate from the Associate Professor, whose name appears from the signature to be Ankit and who has issued the Disability Certificate dated 28.12.2023. The learned Advocate points out the communication dated 29.12.2023 addressed to the Petitioner by the Medical Superintendent of Sir J.J. Group of Hospitals, Mumbai, stating that the son of the Petitioner has been medically examined by the Associate Professor of the Orthopedic Department.

5. In view of the above, the question is as to under what authority did the Associate Professor examine the son of the Petitioner to issue the Disability Certificate so as to be used by the Petitioner in this petition and seek restoration of the service conditions. Keeping in view the order dated 24.02.2023 (supra), if the Petitioner wanted her son to be examined by the Medical Board of Sir J.J. Group of Hospitals, Mumbai, she should have approached the Zilla Parishad for a letter recommending the case

for medical examination.

6. We had directed the Medical Board of Sir J.J. Group of Hospitals, Mumbai, to tender its report in a sealed cover addressed to the Chief Executive Officer, Zilla Parishad. This was to be done after the Zilla Parishad had forwarded a reference letter, referring a candidate for medical examination. Surprisingly, the Petitioner herself carried her son for medical examination, not by the Medical Board, but by the Associate Professor of the Orthopedic Department. The report is tendered to the Petitioner and the Zilla Parishad is not even aware that the Petitioner's son underwent any such purported medical examination.

7. In these peculiar facts and circumstances, we find that the report of the Associate Professor cannot be relied upon, which has been served on the Petitioner through the Medical Superintendent of the said hospital. So also, such method adopted by the Petitioner for getting her son examined, is not in tune with the directions of this Court in the order dated 24.02.2023 (*supra*).

8. In view of the above, **this Writ Petition is dismissed.**

9. We direct the Chief Executive Officer, Zilla Parishad, to place this order before the Dean of Sir J.J. Group of Hospitals, Mumbai. The Dean shall seek an explanation from the concerned Associate Professor and the Medical Superintendent, as regards the locus of the Associate Professor, to examine the son of the Petitioner. Considering the signature of the Associate Professor, our impression is that his name is Ankit. For convenience, the Chief Executive Officer, Zilla Parishad, would place the copy of the said communication dated 28.12.2023, addressed by the Associate Professor, Orthopedic Department, to the Medical Superintendent of the said hospital. The Dean shall call for an explanation from both these officers and considering their explanation, further course of action may be adopted by the Dean as may be permissible as per the service conditions applicable to these two officers.