



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

954 WRIT PETITION NO. 11656 OF 2024

Suraj Limbraj Berkile

VERSUS

The Government Of India Through Director And Others

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Advocate for the Petitioner : Mr. Urgunde Suhas P.

AGP for Respondent/State : Mr. R.S. Wani

...

CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.

DATE : 17.10.2024

PER COURT :

Heard both sides.

2. The petitioner, suffers from visual disability and assessed to have a benchmark disability by the concerned disability committee vide certificate dated 03.04.2023, to be suffering from 75% permanent disability in relation to his both eyes. As per the guidelines issued for the purpose of assessment of specified disability in accordance with the provisions of the Rights of Persons with Disabilities Act, 2016, and notified by the Government of India on 04.01.2018.

3. When he approached the Board, constituted for assessment of the eligibility of the persons differently abled to undertake medical course in terms of the Guidelines of 2019, the Board has assessed his disability as 'low vision with 1% disability' and certified that he was eligible to undertake medical education but not eligible to claim PwD reservation as per those norms.

4. The petitioner is seeking that respondent-Board is directed to undertake his reassessment in the light of divergence of the opinion of the

Board with that of the disability certificate issued under the PwD Act.

5. Indeed, there is a vast difference in the assessment of the disability by the notified medical authority (Exh. A1) and the one by the Board (**Exh.A-7**)

6. However, bearing in mind the Guidelines of 2019, as far as the specified disability of low vision is concerned, a person possessing equal to or more than 40% disability is not entitled to even undertake a medical course. If he has less than 40% disability, then only he is eligible to undertake a medical course, but is not eligible to PwD quota. Even this stipulation comes with a rider that while making an assessment of the disability, if the disability can be brought down below 40% with advanced aid, the person would be entitled to and eligible to pursue medical education.

7. If the petitioner, going by the certificate of disability issued by the notified medical authority, is expecting the assessment to be 40% or more he would loose the chance of undertaking medical education. If it is less than 40%, at least he would be entitled to undertake medical course, may not be through PwD quota. Therefore, his request for his reassessment, apart from a serious objection as to justiciability of the assessment done by the requisite Board, would not lead to any result as the petitioner is anticipating.

8. The benchmark disability provided under the Disabilities Act is 40%. With a specified disability of low vision, the petitioner would not be able to even undertake medical education, which otherwise now, atleast he is found entitled to.

9. The writ petition is dismissed.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-