

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13969 OF 2024

Rushikesh Ukandrao Balkar

.. Petitioner

Versus

State of Maharashtra & Ors.

.. Respondents

UTKARSH
KAKASAHEB
BHALERAO

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**Mr.Ankul Seth a/w Amar Bodke, Harsh Ghangurde,
Aayushya G,** Advocates for the Petitioner.

Ms.Kavita N. Solunke, Advocate for Respondent No.3.

Mr.M.M.Pabale, AGP for State/Respondent No.1, 2 and 4.

**CORAM: B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

DATE : OCTOBER 10, 2024

P. C.

1. The above Writ Petition is filed seeking a direction to the Respondent Authorities to allow the Petitioner to fill up the application form for medical/dental courses under PwD category and to further change status of the Petitioner to PwD category. A further direction is also sought to the 4th Respondent Hospital to examine the Petitioner and issue the necessary disability certificate.

2. According to the Petitioner, he belongs to the PwD category and suffers from bilateral moderate mixed hearing loss as per the disability certificate issued by the Medical Authority, Buldhana, Maharashtra. According to this certificate he has a 45% permanent disability in relation to hearing. According to the Petitioner this entitles him to participate in the admission process to Medical/Dental Courses under the PwD category. However, at the time of filling of the Form for the NEET examination, inadvertently the Petitioner applied under the open category and not under the PwD category. Now since the results are declared he was informed that he cannot, at this stage, change his category to the PwD category. Hence the present Petition.

3. After hearing the learned counsel for the Petitioner as well as the learned advocates appearing for the Respondent we find that in almost identical facts another Division Bench of this Court in the case of ***Maitreyai Mahendra Garad V/S State of Maharashtra and Ors [Writ Petition No.9069 of 2023 decided on 21st July 2023]*** and in the case of ***Pranav Ajit More V/S State of Maharashtra and Ors [Writ Petition No.11111 of 2024 decided on 13th August 2024]*** granted reliefs to the petitioners therein. We agree with what is stated by this Court in the aforesaid two decisions and especially

with reference to the facts that in matters of education, and particularly educational reservation, and perhaps more significantly, in disability reservation, there should not be this kind of an approach to an otherwise eligible candidate. There is no doubt that the Petitioner will need a certificate of disability from one of the 16 recognized institutes, of which, Respondent No.4 is one such institute.

4. Considering these circumstances, we permit the Petitioner to not only apply, but we direct the State CET Cell to permit the Petitioner to change his Registration and to fill the Form in the PwD category and to submit the disability certificate in whatever mode is convenient, within 48 hours of the requisite certificate being issued to him by Respondent No.4.

5. The Petitioner shall apply to Respondent No.4 by tomorrow i.e. 11th October 2024 and present himself for being examined with reference to his disability.

6. Respondent No.4 is directed to urgently assess the Petitioner and thereafter issue the disability certificate, if found eligible. Whilst assessing the Petitioner in relation to his disability, the 4th

Respondent shall take note of and have due regard of the Notification dated 13th May 2019 in which it is specifically stated that persons with hearing disability of more than 40% may be made eligible to pursue the MBBS Course and may be given reservation, subject to the condition that the hearing disability is brought to a level of less than the benchmark of 40% with the aid of assistive devices. Further the 4th Respondent shall also examine whether the Petitioner's speech discrimination score is more than 60%. The Directorate of Medical Education and Research (DMER) will issue the necessary directions to Respondent No.4 to render all assistance to the Petitioner.

7. The above Writ Petition is disposed of in the aforesaid terms. However, there shall be no order as to costs.

8. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN,J.]

[B. P. COLABAWALLA, J.]