



W.P.(MD)No.19363 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.19363 of 2024
and W.M.P.(MD)Nos.16416, 16418, 16420 & 16421 of 2024

Divina Princelin

... Petitioner

Vs.

- 1.State of Tamil Nadu,
Rep. By its Principal Secretary,
Department of Medical Education,
Secretariat, Chennai – 600 009.
- 2.The Secretary,
Medical Council of India,
Sector 8, Pocket -14, Phase-I,
Dwarka, New Delhi – 110 077.
- 3.The Director,
Medical Council of India,
Pocket – 14, Sector – 8,
Dwarka Phase – 1, New Delhi – 110 077.
- 4.Medical Counselling Committee (MCC),
Government of India,
Directorate of General Health Services,
Ministry of Health & Family Welfare,
Nirman Bhavan, New Delhi – 110 001.



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5.The Selection Committee,
Represented by its Secretary,
Directorate of Medical Education,
No.162, Periyar E.V.R.High Road,
Kilpauk, Chennai – 600 010.

6.The Issuing Authority,
Certificate of Disability for NEET Admissions,
Regional Medical Board,
Rajiv Gandhi Govt. General Hospital,
Chennai – 600 003.

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Declaration, to declare that the reduction of disability percentage from 45% to 29%, in the certificate issued by the Regional Medical Board, the sixth respondent herein is illegal and direct the respondents to admit the petitioner to apply for the counselling in MBBS Course for the academic year 2024-2025 under application No.240410450921 and Roll No.4107010640, under the PWD category possessing 45% disability, based on the certificate in certificate No.39733 dated 29.02.2024, treating the petitioner as one fulfilling all the eligible criteria for selection in the counselling for the MBBS course, by allowing the above Writ Petition.

For Petitioner : Mr.G.Aravinthan

For Respondents : Mr.T.Amjad Khan,
Govt. Advocate for R1

Ms.M.Sneha for R5 & R6



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ORDER

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This Writ Petition has been filed for issuance of a Writ of Declaration, to declare that the reduction of disability percentage from 45% to 29%, in the certificate issued by the Regional Medical Board, the sixth respondent herein is illegal and direct the respondents to permit the petitioner to apply for the counselling in MBBS Course for the academic year 2024-2025 under application No.240410450921 and Roll No.4107010640, under the PWD category possessing 45% disability, based on the certificate in certificate No.39733 dated 29.02.2024, treating the petitioner as one fulfilling all the eligible criteria for selection in the counselling for the MBBS course, by allowing the above Writ Petition.

2. Mr.T.Amjad Khan, learned Government Advocate takes notice for the first respondent and Ms.M.Sneha, learned counsel takes notice for the respondents 5 and 6. Considering the nature of the order proposed to be passed in this Writ Petition, notice to the respondents 2 to 4 is dispensed with.

3. By consent, this Writ Petition is taken up for final disposal at the admission stage itself.



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4. It is the case of the Writ Petitioner that by birth itself, the petitioner suffered Sprengel Shoulder (deformity) on the left side. A surgery came to be performed on 12.06.2008. The petitioner faced several difficulties during her school time. The petitioner's disability was assessed at 45% by the Government Medical College, Asaripallam, vide certificate No.39733 on 29.02.2024. The petitioner participated in the NEET Examination and her PwD category rank is 3441. When the petitioner given an application for counselling for the PwD candidates, the petitioner was referred to the 6th respondent, for obtaining disability certificate, wherein junior doctors only have assessed the disability and they assessed the petitioner's disability at 29%, whereas, the Government Medical College, Asaripallam has assessed the petitioner's disability at 45%. The Bench mark for the eligibility of MBBS UG Course for PwD category would be between 40% to 80%. According to the petitioner, the disability assessed by the 6th respondent is not correct. Challenging the same, the petitioner has filed this Writ Petition.

5. The learned Government Advocate appearing for the first respondent submitted that as per the prospectus, disability certificate has to be assessed only by the 6th respondent and the guidelines regarding admission of students with



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“specified disability” under the Rights of Persons with Disabilities Act, 2016, has been clearly set out in the prospectus. It is the contention of the learned Government that loco motor disability has been clearly defined and it is also shown in the prospectus. He further submitted that the petitioner is suffered only by Sprengel shoulder (deformity) and the same is not come under the loco motor disability. Hence, he opposed the Writ Petition.

6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. The petitioner has challenged the medical report mainly on the ground that earlier other the Government Medical College, Asaripallam has assessed the petitioner's disability at 45%, whereas now the disability has been assessed at the rate of 29% by the 6th respondent. The prospectus issued in this regard, as per G.O.(D)No.744, Health and Family Welfare Department, dated 15.07.2024, would clearly indicate the nature of the loco motor disability including specified disabilities (a to f), which reads as follows:



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S. No	Disability Type	Types of Disabilities	Specified Disability	Disability Range		
				Eligible for Medical Course, not Eligible for PwD quota	Eligible for Medical Course, Eligible for PwD Quota	Not Eligible for Medical Course
1		A.Loco motor Disability, including Specified Disabilities (a to f)	a. Leprosy Cured Person b. Cerebral Palsy c. Dwarfism d. Muscular Dystrophy e. Acid attack victims f. Other such as Amputation Pollomyelities, etc.,	Less than 40% disability	40%-80% disability Persons with more than 80 disability may also be allowed on case to case basis and their functional competency will be determined with the aid of assistive devices, if it is being used, to see if it is being low 80% and whether they possess sufficient motor ability as required to pursue and complete the course satisfactorily.	More than 80%

The petitioner though claims to be suffered more than 40% disability, the Board constituted at Rajiv Gandhi Govt General Hospital, as required under the said



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Government Order has assessed the petitioner's disability only at 29%. The report clearly indicates that the petitioner's category will not come under any of the loco motor disability including specified disabilities (a to f) as extracted above. Therefore, merely on different occasions, some other college has assessed the petitioner's disability at 45%, it cannot be said that the same percentage has to be assessed by the Board constituted specifically in this regard. When the Board as per the government Order has assessed the disability, it cannot be said that the disability assessed by some other college has to be taken. This Court is unable to substantiate such submission and I do not find any merits in this Writ Petition.

8. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No
Index : Yes/No
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