



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-01-2026

CORAM

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No. 29975 of 2024
and WMP No. 32675 of 2024

Preethi Sarafogi

Petitioner

Vs

1. Union Of India,
Represented by its Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan, Rajpath Area,
Central Secretariat,
New Delhi, Delhi-110 001.

2.The National Medical Commission,
Represented by its Secretary,
H3GG +9PC Dada Dev Mandir Road,
Block P, Sector 8, Dwarka,
New Delhi-110 077.

3.The Registrar,
Dr.M.G.R. Medical University,
69, Annasalai Road, Guindy,
Chennai-600 032.

4.The Director of Medical Education
and Research,
Thanjavur Medical College and
Hospital, Thanjavur.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the fourth respondent in his proceeding No.7747/ME-2/2024 dated



06.08.2024 and also that of the second respondent in its proceedings No.N-UD15(29)/17/2024-UGMEB1029113 dated 08.08.2024 and quash the same and direct all the respondents to permit the petitioner to undergo Bio-chemistry examination as a 5th attempt for the 1st year MBBS course.

For Petitioner: Mr.S.Selva Thirumurugan

For Respondents: Mr.V.Chandrasekaran,
Senior Panel Counsel for R1

Ms.Shubaranjini Ananth for R2

Ms.C.Latharani, Standing Counsel for R3

Mr.E.Sundaram
Government Advocate for R4

ORDER

The writ petition is filed with a prayer to call for the records on the file of the fourth respondent relating to the impugned order dated 06.08.2024 and that of the second respondent relating to the impugned order dated 08.08.2024, to quash the same, and to direct all the respondents to permit the petitioner to undergo the Bio-chemistry examination as the 5th attempt for the 1st Year MBBS course and to pass such further or other orders.

2. The case of the petitioner is that she passed her 12th Standard examination by securing 428 marks out of 500 in the year 2021. She appeared for the National Eligibility cum Entrance Test (UG), 2021, in which she scored 170 marks. The petitioner is a specially abled person with 42% locomotor



disability. Under the said reserved category, she was selected to undergo the MBBS course and was admitted for the academic year 2021–2022. She has been undergoing the course in the Thanjavur Government Medical College. After undergoing the 1st year MBBS course, she appeared for the examinations, wherein the candidates are required to clear three subjects, namely, Human Anatomy (Paper I and Paper II), Physiology (Paper I and Paper II), and Biochemistry (Paper I and Paper II).

3. The petitioner was not able to clear the examinations in the first attempt. In the first three attempts, the petitioner cleared Physiology. In the 4th and final attempt, she wrote both Human Anatomy and Biochemistry. She cleared Human Anatomy Paper I and Paper II. As far as Biochemistry, she failed. She scored 77 marks instead of the minimum required 80 marks. Under the said circumstances, citing the mandatory regulations of the National Medical Commission that no more than four attempts shall be allowed for a candidate to pass the First Professional Examination, the petitioner was sought to be discharged from the course. As a matter of fact, the petitioner made a representation claiming mercy and seeking one more attempt to clear the examination, which was also rejected by the second impugned order. Under the said circumstances, challenging both the orders, the petitioner is before this Court.



4. The writ petition is resisted by the respondent authorities by filing a counter affidavit. It is stated that the regulations are mandatory in nature and that even though the petitioner's physical condition exists, there is no question of any mercy or additional opportunity contrary to the regulations once the petitioner has availed all four attempts and could not clear the papers, even though she failed only by 3 marks, no authority or this Court can come to the rescue of the petitioner.

5. In the teeth of the said pleadings, when the Court heard the learned counsel for the petitioner and the respondents, the photograph of the petitioner was placed before this Court. The nature of the disability of the petitioner is stated to be "*multiple flexion in interphalangeal joints and other congenital deformities with dwarfism, with cranio-vertebral junction anomaly*", with 42% disability.

6. Considering the said facts, this Court referred the petitioner to the Medical Board constituted at the Rajiv Gandhi Government General Hospital, which deals with cases relating to admission into medical courses and other colleges. Accordingly, pending the writ petition, the petitioner appeared before the Medical Board and the following is the opinion of the Medical Board, which is extracted hereunder in toto for ready reference:-



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WP No. 29975 of 2024



“Proceeding of the Regional Medical Board, Rajiv Gandhi Government General Hospital, Chennai – 600 003.

No.139/RMB/RGGGH/2025 Held on 17.12.2025

Selvi: Preethi Saratogi 22 yr/F has appeared before the Regional Medical Board, Rajiv Gandhi Government General Hospital, Chennai – 3.

Orthopaedic Professor Opinion:

In view of Multiple Flexion in interphalangeal Joints and other congenital deformities with dwarfism with cranio vertebral junctional anomaly with 42 % disability. She may have difficulty in writing for long hours. Hence, she can provided one hour extension for her MBBS First Year examination.”

(emphasis supplied)

7. The learned counsel for the petitioner relied upon the judgment of the High Court of Andhra Pradesh at Amaravati in ***Jammula Nandasai Nithra*** versus ***State of Andhra Pradesh and others (2024 SCC Online AP 542)***, wherein, in a similar case, it was directed that the respondent should consider the petitioner therein as a special case and permit the fifth attempt. Paragraphs 10 to 12 of the said judgment are extracted hereunder for ready reference:-

“10. At this juncture, this Court feels its appropriate to extract clause XII of the guidelines issued by the Department of Empowerment of persons with Disabilities (Divyangana) vide Office Memorandum dated 29.08.2018, which reads as under:-

“XII. The word "extra time or additional time" that is being currently used should be changed to "compensatory time" and the same should not be less than 20 minutes per hour of examination for persons who are allowed use of scribe/reader/lab assistant. All the candidates with benchmark disability not availing the facility of scribe may be allowed



additional time of minimum of one hour for examination of 3 hours duration. In case the duration of the examination is less than an hour; then the duration of additional time should be allowed on pro-rata basis. Additional time should not be less than 5 minutes and should be in the multiple of 5.

11. From the above, it is clear that the guidelines allow additional time of minimum one hour, for examination of 03 hours duration; but, do not specify the maximum time limit.

12. In view of the same, taking into consideration the fact that the 5th attempt is going to be the last attempt of the petitioner and treating the case of the petitioner as a special case, on sympathetic and humanitarian grounds, this Court feel it appropriate to direct the respondents to provide 30 minutes additional time to the petitioner, in addition to the 60 minutes time which was already granted as per University letter dated 27.12.2021. However, it is made clear that the concession given to the petitioner would apply only to the petitioner in view of the circumstances as explained above and only to the present academic year and the same cannot be treated as precedent.”

8. Per contra, the learned counsel appearing on behalf of the National Medical Commission relied upon the judgment of the High Court of Karnataka in ***Miss.Nishat R Koyal Vs. Union of India and another in W.P.No.23759 of 2025***, wherein it is held that no mercy or sympathy can be shown contrary to the regulations. There is no quarrel over the proposition that the Court cannot extend the number of attempts or show mercy contrary to the regulations. The regulations provide for four attempts. In this regard, it is essential to advert to Sections 3, 4, and 16(i) of the Rights of Persons with Disabilities Act, 2016 and the same are extracted hereunder for ready reference:-



“3. Equality and non-discrimination.—(1) *The appropriate Government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.*

(2) *The appropriate Government shall take steps to utilise the capacity of persons with disabilities by providing appropriate environment.*

(3) *No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim.*

(4) *No person shall be deprived of his or her personal liberty only on the ground of disability.*

(5) *The appropriate Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities.*

4. Women and children with disabilities.—(1) *The appropriate Government and the local authorities shall take measures to ensure that the women and children with disabilities enjoy their rights equally with others.*

(2) *The appropriate Government and local authorities shall ensure that all children with disabilities shall have right on an equal basis to freely express their views on all matters affecting them and provide them appropriate support keeping in view their age and disability.”.*

16. Duty of educational institutions.—*The appropriate Government and the local authorities shall endeavour that all educational institutions funded or recognised by them provide inclusive education to the children with disabilities and towards that end shall—*

(i) *admit them without discrimination and provide education and opportunities for sports and recreation activities equally with others;”*



9. Therefore, if four attempts are provided, the same should be four attempts of equal opportunities. In this regard, the State of Tamil Nadu had also issued G.O. Ms. No.8 dated 21.09.2021, whereby guidelines were issued for conducting examinations for persons with disabilities. Paragraph No. 4(iii) & (x) of the said G.O. are extracted hereunder:-

“4. Government after careful examination of the proposal of the State Commissioner for Persons with Disabilities/Director for Welfare of the Differently Abled in consultation with the Law Department have decided to issue the “Tamil Nadu Guidelines for conducting examinations for persons with Disabilities, 2021” as follows:-

*(iii) In case of a person with benchmark disability as defined under Section 2(r) of the Rights of Persons With Disabilities Act, 2016 in the category of blindness, locomotor disability (both arm affected BA) and cerebral palsy the facility of scribe/reader/lab assistant shall be given, if so desired by that person. In case of other category of person with benchmark disability, the provision of scribe/reader/lab assistant can be allowed on production of a certificate to the effect that, the person concerned has physical limitations to write including that of speed, and a scribe/reader/lab assistant is recommended to write examination on his behalf, from the Chief Medical Officer/Civil Surgeon/Medical Superintendent of a Government Health Care Institution as per proforma if so desired by that person (**Appendix -I**).*



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(x) The word “extra time or additional time” that is being currently used should be changed to “compensatory time” and the same should not be less than 20 minutes per hour of examination for persons who are allowed use of scribe/reader/lab assistant. All the candidates with disability not availing the facility of scribe may be allowed compensatory time of minimum of one hour for examination of 3 hours duration. In case, the duration of the examination is less than an hour, then the duration of compensatory time should be allowed on pro-rata basis. Compensatory time should not be less than 5 minutes and should be in the multiple of 5.”

10. Thus, it can be seen that physically disabled candidates have a right to insist upon a scribe/additional one-hour time in case of difficulty in writing depending upon their physical condition. In this regard, a perusal of the Medical Board’s opinion would show that, in view of the physical condition of the petitioner, she would certainly need an additional one hour to write the examination. The fact remains that the petitioner herself was not aware of her right. In this regard, the learned counsel on behalf of the National Medical Commission would point out the Government Order itself, which states that the candidate should ask for the facility. It is true that the G.O. provides for the same. At the same time, the learned counsel would also fairly placed the judgment of the Hon’ble Supreme Court in ***Avni Prakash vs. National Testing Agency (NTA) and others (2023) 2 SCC 286***, which elaborately deals with equality of opportunity for persons with disabilities. In this regard, it is relevant



to extract paragraphs 40, 41, 43, and 55, which read as follows:-

“40. Education plays a key role in social and economic inclusion and effective participation in society. Inclusive education is indispensable for ensuring universal and non-discriminatory access to education. The Convention on Rights of Persons with Disabilities recognises that inclusive education systems must be put in place for a meaningful realisation of the right to education for PwD. Thus, a right to education is essentially a right to Inclusive education. In India, the RPwD Act, 2016 provides statutory backing to the principle of inclusive education. Section 2(m) defines "inclusive education" as:

"2. (m) "inclusive education" means a system of education wherein students with and without disability learn together and the system of teaching and learning is suitably adapted to meet the learning needs of different types of students with disabilities;"

41. The RPwD Act, 2016 contains salutary provisions on the rights of PwD to inclusive education in Chapter III. Section 17, which forms a part of Chapter III, entails specific measures to promote and facilitate inclusive education for students with disabilities. Among other inclusive measures in Section 17, is sub-section (i) which prescribes a duty to make suitable modifications in the curriculum and examination system to meet the needs of students with disabilities. This duty can be fulfilled by providing extra time for the completion of examination papers and/or the facility of a scribe. The provision of inclusive education is not limited to children with disabilities but extends to adults with disabilities. Section 18 provides that the Government and local authorities are duty-bound to take measures to promote, protect and ensure participation of PwD in adult education and continuing



education programmes on an equal footing with others. Chapter VI prescribes special provisions for persons with benchmark disabilities, including reservations in higher educational institutions of not less than 5% seats under Section 32.

43. Above all, the RPwD Act, 2016 contains provisions mandating reasonable accommodation. The expression "reasonable accommodation" is defined in Section 2(y), which reads as under:

"2.(y) "reasonable accommodation" means necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others;"

The right to inclusive education is realised through the provision of reasonable accommodation. In Vikash Kumar, this Court emphasised that reasonable accommodation is at the heart of the principle of equality and non-discrimination espoused under the RPwD Act, 2016. The denial of reasonable accommodation to a PwD amounts to discrimination. It is the positive obligation of the State to create the necessary conditions to facilitate the equal participation of disabled persons in society. This Court observed thus (SCC p. 399, para 44)

"44. The principle of reasonable accommodation captures the positive obligation of the State and private parties to provide additional support to persons with disabilities to facilitate their full and effective participation in society. The concept of reasonable accommodation is developed in Section (H) below. For the present, suffice it to say that, for a person with disability, the constitutionally guaranteed fundamental rights to equality, the six freedoms and the right to life under



Article 21 will ring hollow if they are not given this additional support that helps make these rights real and meaningful for them. Reasonable accommodation is the instrumentality-are an obligation as a society- to enable the disabled to enjoy the constitutional guarantee of equality and non-discrimination."

55. This Court would eschew the course of dictating the manner in which the grievance should be rectified, leaving it to the discretion of the testing agency which is entrusted with the overall responsibility of conducting the examination. The first respondent took certain steps as noted above in Vaishanavi Vijay. Similarly, in the present case, we are of the categorical view that the first respondent cannot shirk or abrogate its responsibility to rectify the injustice which has been caused to the appellant. The first respondent may consider extrapolation of the marks awarded to the appellant or grant compensatory marks. Similar to the steps in Vaishanavi Vijay, the first respondent could also consider adopting a "no negative marks" scheme. We are not restricting the first respondent to only the above options and will leave the decision on the modalities of remedying the injustice caused to the appellant to the first respondent. The injustice which has resulted is clearly due to a breach in observing the entitlements due to the appellant under the RPWD Act, 2016."

(emphasis supplied)

11. Thus, on a combined reading of the provisions of the Act and the judgment of the Hon'ble Supreme Court of India, it would be clear that the facilities extended to persons with disabilities are not concessions bestowed upon them, but their inherent rights coupled with the duty of the respondents to provide such facilities. Even if a person with disability lacks awareness of her rights/requirements, it is the duty of the concerned invigilator or the concerned



college to check whether she is in a position to write the examination within three hours or whether she needs any additional time/scribe. In this case, unfortunately, the petitioner also did not realise that additional time was her right and that she could have sought the same. In any event, from the opinion of the Medical Board, it is clear that only if such additional time is provided, the same will be an equal opportunity. Therefore, all the four attempts so far taken by the petitioner cannot be treated as valid attempts, as equal opportunity was not provided to her. By permitting the petitioner now, this Court is not granting an additional or fifth attempt, but it will be the proper and meaningful equal opportunity to the petitioner and therefore, the regulations do not stand violated in this case.

12. In view of the above, the impugned orders cannot be sustained, as they were passed without taking into account the relevant provisions of the Act and the judgment of the Hon'ble Supreme Court of India in *Avni Prakash* cited supra and more particularly, the medical condition of the petitioner as opined by the Medical Board.

13. In view thereof, this writ petition is ***allowed*** on the following terms:-

(i) The impugned order in proceeding No.7747/ME-2/2024 dated 06.08.2024 and proceedings No.N-UD15(29)/17/2024-UGMEB1029113 dated 08.08.2024 shall stand set aside.



(ii) The respondents shall provide one more opportunity to the petitioner to write the Biochemistry Paper I and Paper II in the next ensuing examinations with an additional one hour time;

(iii) Since the petitioner also did not seek additional time earlier, and in view of the efflux of time, it is made clear that this shall be treated as a special and last opportunity for the petitioner to clear the examination. In the event the petitioner clears the examination, in all future ensuing examinations, the petitioner shall be provided with one hour extra time.

(iv) The authorities are directed to act on the web copy of the order without waiting for the certified copy of the order.

(v) Consequently, connected miscellaneous petition is closed. No costs.

06-01-2026

Neutral Citation: Yes
nsl



To

1. The Secretary,
Union of India,
Ministry of Health and Family Welfare, Nirman
Bhawan, Rajpath Area,
Central Secretariat,
New Delhi, Delhi-110 001.

2. The Secretary,
The National Medical Commission,
H3GG +9PC Dada Dev Mandir Road, Block P,
Sector 8, Dwarka,
New Delhi-110 077.

3. The Registrar,
Dr.M.G.R. Medical University,
69, Annasalai Road, Guindy,
Chennai-600 032.

4. The Director of Medical Education and Research,
Thanjavur Medical College and Hospital,
Thanjavur.



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D.BHARATHA CHAKRAVARTHY J.

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