

ITEM NO.29

COURT NO.1

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No.21942/2024

(Arising out of impugned final judgment and order dated 03-09-2024 in WPC No. 4918/2024 passed by the High Court of Judicature at Bombay at Nagpur)

OM RATHOD

Petitioner(s)

VERSUS

THE DIRECTOR GENERAL OF HEALTH SERVICES & ORS.

Respondent(s)

(With IA No.216286/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.216288/2024-INTERVENTION/IMPLEADMENT and IA No.216287/2024-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 18-10-2024 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Shadan Farasat, Sr. Adv.
Mr. Talha Abdul Rahman, AOR
Mr. M Shaz Khan, Adv.
Mr. Taha Bin Tasneem, Adv.
Mr. Sudhanshu Tewari, Adv.
Mr. Rafid Akhter, Adv.
Mr. Prannv Dhawan, Adv.

For Respondent(s) Mr. Gaurav Sharma, Sr. Adv.
Mr. Prateek Bhatia, AOR

Mr. Dhawal Mohan, Adv.
Mr. Paranjay Tripathi, Adv.
Mr. Rajesh Raj, Adv.
Ms. Ankita Dogra, Adv.

Ms. Archana Pathak Dave, ASG
Mr. Shashank Bajpai, Adv.
Ms. Sushma Verma, Adv.
Mr. Karunesh Kumar Shukla, Adv.
Mr. Gopi Chand, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 Pursuant to the previous order dated 3 October 2024, a five-Member Board of the All India Institute of Medical Sciences has submitted a report evaluating the disability of the petitioner. The report insofar as it is material, is reproduced below:

“The candidate was re-assessed with the assistive device (single hand crutch & motorised scooty). There was minimal to no change in most of the components for disability evaluation as per the GOI gazette (March 2024) with these assistive devices. The possibility of wheelchair usage was also explored which might be required for better efficiency in ambulation component in near future. However, there are no clear guidelines available to assess the disability with assistive devices as per the Govt. of India gazette guideline. Further it is to be noted that safety, efficiency and agility of movements are needed to independently use the devices and many times some manual support is also required which may not be available to the candidate at all times and may affect the safety of the candidate and the patients during the skills based training provided in the various setups in the labs and hospitals during the MBBS course training. The Board after careful evaluations of all possibilities concurs with the opinion of the previous medical board held at AIIMS Nagpur dated 13.08.2024 that the disability is above 80% even with consideration of assistive devices and also both upper limbs have significant involvement and hence the candidate is ineligible to pursue MBBS course.”

- 2 The above extract indicates that the Committee noted that there are no clear guidelines available to assess disability with assistive devices in terms of the guidelines issued by the Government of India. We do not find that there is any independent evaluation on:
- (i) the extent of the functional disability of the petitioner; and
 - (ii) the extent to which the use of assistive devices would have the potential to bring the extent of functional disability within permissible limits in terms of the government notification.
- 3 We note that in a recent judgment of this Court in ***Omkar Ramchandra Gond vs Union of India and Others***, rendered by a three-Judge Bench in Civil Appeal No 10611 of 2024, there is a reference to Dr Satendra Singh, the founder of an organisation by the name of Infinite Ability.
- 4 We are of the considered view that a domain expert from the area would sub-serve the ends of justice of a young student who seeks to pursue his career in medicine. The directions which were issued by this Court in ***Omkar Ramchandra Gond*** in that regard are of great relevance and are reproduced below insofar as is material to the present controversy:
- “(i) We hold that quantified disability per se will not disentitle a candidate with benchmark disability from being considered for admission to educational institutions. The candidate will be eligible, if the Disability Assessment Board opines that notwithstanding the quantified disability the candidate can pursue the course in question. The NMC regulations in the notification of 13.05.2019 read with the Appendix H-1 should, pending the re-formulation by NMC, be read in the light of the holdings in this judgment.
 - (ii) The Disability Assessment Boards assessing the candidates should positively record whether the disability

of the candidate will or will not come in the way of the candidate pursuing the course in question. The Disability Assessment Boards should state reasons in the event of the Disability Assessment Boards concluding that the candidate is not eligible for pursuing the course.”

- 5 In the above backdrop, we request Dr Satendra Singh of Infinity Ability to take up the assignment which has been entrusted to him by the present order and to assist the Court on whether notwithstanding the quantified disability, the petitioner can pursue the MBBS degree course. In arriving at his evaluation, Dr Satendra Singh is requested to examine the petitioner and to have due regard to such assistive devices and their potential to assist the petitioner to fulfill the requirements of the degree course in medicine.
- 6 The report of Dr Satendra Singh may be submitted to this Court by 21 October 2024.
- 7 List the Petition on 21 October 2024.

(CHETAN KUMAR)
A.R. -cum-P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar