



**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**

DATED THIS THE 29TH DAY OF AUGUST, 2024

PRESENT

THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL

WRIT PETITION NO.104218 OF 2024 (EDN-AD)

BETWEEN:

MISS. DISHA D/O. NAGARAJ BHAT
AGE. 19 YEARS, OCC. STUDENT,
R/O. PRABHAT NAGAR, HONNAVAR,
DIST. UTTAR KANNADA,
NOW RESIDING AT. NISARGA LAYOUT,
DHARWAD-580008.

...PETITIONER

(BY SRI. SHIVARAJ S. BALLOLI, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
DEPARTMENT OF HIGHER EDUCATION,
VIDHAN SOUDHA, AMBEDKAR VEEDHI,
BENGALURU-560001.
REPRESENTED BY ITS PRINCIPAL SECRETARY
2. KARNATAKA EXAMINATION AUTHORITY
18TH CROSS ROAD, SAMPIGE RD,
MALLESHWARAM BENGALURU-560012
REPRESENTED BY ITS EXECUTIVE DIRECTOR
3. BANGALORE MEDICAL COLLEGE
AND RESEARCH INSTITUTE
K.R. ROAD, FORT, KALASIPALYAM,
BANGALORE-560001.
REPRESENTED BY ITS DIRECTOR/DEAN

...RESPONDENTS

(BY SRI. G.K. HIREGOUDAR, GOVERNMENT ADVOCATE FOR R1,
SMT. SURABI KULKARNI, ADVOCATE FOR R2,
NOTICE TO R3 IS SERVED)





THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO, I. ISSUE A WRIT OF CERTIORARI QUASHING THE IMPUGNED REPORT ISSUED BY THE 3RD RESPONDENT VIDE ANNEXURE-A. II. ISSUE A WRIT OF MANDAMUS DIRECTING RESPONDENT NO.2 TO ACCEPT THE PETITIONER'S CANDIDATURE UNDER THE VISUALLY IMPAIRED QUOTA AS PER THE REPORT FURNISHED BY THE GOVERNMENT HOSPITAL, DHARWAD AS PER ANNEXURE-H & ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT
AND
THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT)

Petitioner, who claims to be visually impaired beyond 40%, is knocking at the doors of Writ Court for voiding Ocular Examination Report dated 10.07.2024 and for a direction to the second respondent-Karnataka Examination Authority "to accept petitioner's candidature under the visually impaired quota as per the Report furnished by the Government Hospital, Dharwad..."

2. Learned counsel for the petitioner, in his usually persuasive way, argues that his client having scored 83.33% in the II P.U.C. is entitled to the grant of a seat in



disability quota under the category of "visually impaired", such impairment being more than 40%; the impugned Ocular Examination Report being demonstrably erroneous needs to be invalidated in view of other medical examination reports so that petitioner can secure a seat under the earmarked quota. Learned Government Advocate appearing for the official respondents resists the petition controverting the contention as to visual impairment and the entitlement of the petitioner to a seat under the quota system.

3. Having heard the learned counsel for the parties and having perused the petition papers, we decline indulgence in the matter inasmuch as a Collegium of three Doctors having glorious qualifications has issued Ocular Examination Report dated 10.07.2024 a copy whereof avails at Annexure-A is to the effect "**Visual Disability is 0% (Zero Percent) in view of 6/18 Vision in both eyes**". This Report is prepared after examining the petitioner as



per the protocol. There is no allegation of malafide or the like.

4. The three Doctors, who happen to the Members of the Collegium, are experts in the field of ophthalmology. They are not only the Doctors but Assistant Professors of ophthalmology imparting education to the medical students. They have glorious qualifications. To this is added their long experience. Their material particulars relevant for ascertaining the expertise are as under:

- (i) Dr. Shilpa Y.D. (RIO, MOH, BMCRI)
- (ii) Dr. Soumya Sharat (RIO, MOH, BMCRI)
- (iii) Dr. Sanjana S.M. (RIO, MOH, BMCRI)

The above being the position, judges who ordinarily lack such expertise have to show due difference to the learned and experienced, in the respective domains. The impugned Report partakes the character of expert opinion as contemplated under Section 45 of the Indian Evidence Act, 1872. This view gains support from the decision of



Apex Court in **Post Graduate Institute Vs. J.B.**

Dilawari¹. Paragraph No.8 of the decision reads as under:

"8. Specialization is the order of the day. About half a century back, a general medical practitioner was in a position to attend to all human ailments in accordance with the then known methods of treatment. Today for the purpose of medical attention the human body has been divided into several parts and expertise with regard to these has so developed that specialization has become the order of the day. Though the court, it is stated, is the expert of experts, it is proper to take note of its limitations. Realization of this situation has led to a series of pronouncements where this Court has reiterated the position that matters involving expertise should be left to be handled by expert bodies."

5. The vehement submission of learned counsel appearing for the petitioner that pursuant to order of this Court reports from other experts have been obtained and they support the version of his client is untenable. Soliciting report after report at the hands multiple experts would only create confusion & chaos in the litigation process and therefore is not desirable; buck has to stop somewhere and line has to be drawn as of necessity. The collegium of

¹ 1988 Supp SCC 355



experts which has issued the impugned report enjoys statutory recognition, being a designated body. This Court cannot conduct a race of opinions between the competing experts especially with the one which has statutory recognition, others lacking it. A Writ Court too in matters like this cannot run a race of opinions with the experts. An argument to the contrary if accepted would lay a wrong precedent that may breed more mischief outweighing the justice arguably due to the litigant.

In the above circumstances, this petition is liable to be rejected and accordingly it is, costs having been made easy.

**Sd/-
(KRISHNA S.DIXIT)
JUDGE**

**Sd/-
(VIJAYKUMAR A.PATIL)
JUDGE**

KMS, CT: VP
LIST NO.: 1 SL NO.: 30

