

**WRIT PETITION No.18221 of 2024**

Thupakula Pradeep Kumar

...Petitioner

Vs.

The Union of India and others

...Respondent(s)

Ms. Kota Krishna Deepthi representing Mr. Jada Sravan Kumar, Advocate(s)
for Petitioner.

Mr. Pasala Ponna Rao (Deputy Solicitor General), Mr. Vivek Chandra Sekhar
S, Advocate(s) for Respondent(s)

**CORAM : THE CHIEF JUSTICE DHIRAJ SINGH THAKUR
SMT JUSTICE VENKATA JYOTHIRMAI PRATAPA**

DATE : 20th August, 2024

P C :

The petitioner claims reservation under the Rights of Persons with Disabilities Act, 2016 in the category of visually impaired for which there is prescribed an overall reservation of 5%.

The petitioner was subjected to a medical examination by Regional Medical Board, Rajiv Gandhi Government General Hospital, Chennai, which has held the petitioner to be eligible to pursue the medical education but not eligible to claim PwD reservation as per the NMC norms.

Reference to the NMC norms notified by notification, dated 13.05.2019, would show that persons suffering from visual impairment with disability which is less than 40% are held entitled to undergo the MBBS course but not eligible for PwD quota. However, persons suffering from visual impairment/visual disability of more than 40% can also be made eligible to pursue the MBBS

course and may also be given reservation subject to the condition that the visual disability is brought to a level of less than the benchmark of 40% with advanced low vision aids.

In the present case, the certificate issued by the Medical Board declares the petitioner's disability at 40% and also certifies that the candidate is eligible to pursue the medical education but not eligible to claim PwD reservation as per the NMC norms.

What is stated in the medical certificate issued by the Medical Board is as under:

"Remark: CANDIDATE HAS CONGENITAL NYSTAGMUS AND VISION NOT IMPROVING WITH GLASSES BEYOND 6 BY 24 – N12 BOTH EYES.

Functional competency with the aid of Assistive devices in case of Locomotor*/visual*/Hearing* Impairment, if any: FUNCTIONALLY COMPETENT."

Learned counsel for the petitioner would submit that since the certificate states that the petitioner was "**functionally competent**" that would mean that the impairment of the vision could be brought down from the certified 40%, which is the benchmark disability, with the help of advanced low vision aids.

It is also stated that the conclusion drawn by the Medical Board that the candidate was eligible to pursue the medical education but not eligible to claim PwD reservation also was directly contradictory in terms inasmuch as if the norms of the NMC were to be applied on all fours to the case of the petitioner, then, with 40% visual disability, the NMC norms would not make eligible the petitioner to even otherwise undergo the MBBS course.

We, therefore, do find that the certificate issued by the Medical Board needs to be clarified further. However, considering the fact that the Medical Counselling Committee has already fixed a schedule for considering candidates under the said category, we feel it appropriate to direct the Medical

Counselling Committee to consider the case of the petitioner under the category of PwD quota prescribed as per Rules. However, in case the petitioner is found to make up the merit on such a consideration, the admission of the petitioner shall not be finalized till further orders.

List on 27.08.2024.

DHIRAJ SINGH THAKUR, CJ

VENKATA JYOTHIRMAI PRATAPA, J

Note: Issue CC today

(B/o)
Vjl