

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION(CIVIL) NO. 29275 OF 2024

KABIR PAHARIA

...PETITIONER(S)

VERSUS

**NATIONAL MEDICAL COMMISSION
AND OTHERS**

...RESPONDENT(S)

ORDER

1. The petitioner herein being a person with benchmark disabilities (for short “PwBD”) aspires for admission to MBBS Course.

2. The petitioner passed Secondary School Examination/Class Xth in 2022 with 91.5% marks and class XIIth exams with 90% marks. He appeared for the National Eligibility-cum-Entrance Test (for short “NEET”) UG 2024 Examinations in the category of

SC/PwBD candidate. The deformities suffered by the petitioner in his body are as below:-

“congenital absence of multiple fingers in both hands as well as involvement of left foot (2nd and 3rd toe), the extent whereof has been assessed at 42%.”

3. Despite the structural disadvantages referred to above, the petitioner performed exceedingly well in the examination scoring 542 marks and secured a category rank of 176. It may be stated that the cut-off marks for these subcategories were 143-127. Having made the cut-off for the SC/PwBD category with flying colours, the petitioner staked his rightful claim for the next stage which requires the issuance of a Certificate of Disability for NEET Admissions (“NEET Disability Certificate”) by a designated ‘Disability Certification Centre’. Accordingly, the petitioner approached the Vardhman Mahavir Medical College-Safdarjung Hospital, New Delhi (for short “VMMC-SJ Hospital”) for medical assessment. Even though, the VMMC-SJ Hospital assessed the petitioner’s disability at 68%, it concluded that under the NMC/MCI guidelines, the petitioner was not entitled to pursue the medical courses. The conclusions drawn by the certifying body in the certificate dated 19th August, 2024, are reproduced below for ready reference:-

“Conclusion: Based on quantification of disability The candidate is not eligible to pursue medical courses (as per NMC norms).

Remark: BILATERAL UPEER (sic) LIMB INVOLVEMENT

The Disability Certification Board certifies that the candidate is not eligible for admission in Medical/Dental courses and to avail 5% PwD reservation as per the NMC/MCI Gazette Notification.”

4. Aggrieved by his disqualification from admission in the MBBS course on the ground of benchmark disabilities, despite standing high in merit, the petitioner approached the High Court of Delhi by filing Writ Petition (Civil) No. 12165 of 2024.

5. The learned Single Bench of the High Court directed the All-India Institute of Medical Sciences, New Delhi to constitute a Board of three experts to reassess the petitioner’s disabilities and to give an opinion as to whether the petitioner would be able to pursue medical courses and perform as a Doctor. In compliance, the petitioner was subjected to reassessment by the Medical Board constituted at AIIMS, New Delhi and the report was submitted to the learned Single Judge, who upon perusal thereof, concluded that the petitioner was ineligible to pursue medical courses. Accordingly, the writ petition was dismissed *vide* order dated 10th September, 2024.

6. The petitioner assailed the decision of the learned Single Judge by filing Letters Patent Appeal No. 967 of 2024. The Division Bench of the High Court of Delhi passed an order dated 27th

September, 2024, and directed a fresh evaluation of the petitioner's disabilities by a newly constituted medical Board. The three-member medical Board constituted at the AIIMS reiterated the conclusions of the earlier Medical Board and again declared the petitioner ineligible to pursue the medical courses as per the prevailing NMC norms. Upon receiving the report, the learned Division Bench of the Delhi High Court *vide* impugned judgment dated 12th November, 2024, endorsed the view of the board and dismissed the Letters Patent Appeal preferred by the petitioner. The said judgment is subject matter of challenge in this petition.

7. Mr. Rahul Bajaj, learned counsel representing the petitioner, contended that the impugned judgment and the decisions of both the medical Boards are inherently flawed inasmuch as neither the medical authorities nor the High Court duly adverted to the crucial concepts of assistive devices and reasonable accommodation to which the petitioner is entitled, under the Rights of Persons with Disabilities Act, 2016 (for short 'Act of 2016'). The vital factors, i.e., the academic excellence of the petitioner, his performance in the NEET examination, the high placement in merit, were totally glossed over while denying relief to the petitioner. Shri Bajaj relied upon the judgments of this Court in ***Om Rathod v. Director***

General of Health Sciences, 2024 SCC OnLine SC 4283 and **Anmol v. Union of India & Ors. 2025 SCC OnLine SC 387**, to urge that the salutary principles provided under Article 41 of the Constitution of India read with the Act of 2016 clearly entitle the petitioner to seek medical education as both these judgments expressly recognize the concepts of assistive devices and reasonable accommodation. By availing these moderations as provided under the decisions of this Court, the petitioner would be well equipped to perform his duties as a Doctor.

8. Learned counsel submitted that in the case of **Om Rathod** (*supra*), despite the fact that the candidate was not having both hands, he was held entitled to undergo the MBBS course pursuant to an assessment made by Dr. Satendra Singh, a specialist in the field.

9. Learned counsel submitted that Dr. Satendra Singh, while undertaking the functional assessment of the candidate Shri Om Rathod posed four questions for assessing his ability to undergo MBBS course and concluded that all the questions had to be answered in negative. The relevant excerpt from **Om Rathod's** judgment is quoted below: -

“11. Dr Satendra Singh submitted his report on 20 October 2024. This Court duly furnished the report to the second

respondent, National Medical Council, on 21 October 2024 to enable them to formulate their response. The report by Dr Satendra Singh outlined the functional disability of the appellant to be an inability to stand independently which may prove limiting in clinical rotations in surgical settings. The report suggested solutions to enable the appellant in such cases. The report further suggested clinical accommodations for the appellant to reduce the barriers he may encounter. The report determined the accommodations necessary for the appellant to be reasonable and in compliance with existing norms. The report formulated four questions and answered them as follows:

“a) Would the proposed accommodation result in a failure to meet the NMC CBME's inherent requirements? Not in my opinion

b) Would the accommodation legitimately jeopardize patient safety? Not in my opinion

c) Would the proposed accommodation result in the improper waiver of a core requirement of the CBME? Not in my opinion

d) Would the proposed accommodation pose an undue hardship on the medical college (budgets wise)? Not in my opinion”

10. In his report, Dr. Satendra Singh quoted that the father of Neurosurgery Harvey Cushing emphasized way back in 1912 that motor skills are often the least important part of the work.

11. Learned counsel submitted that the petitioner in the case of **Anmol** (*supra*) was suffering from locomotor disability assessed at 50% with club foot right lower limb and Phocomelia (a congenital defect which causes severe limb shortening or loss of long bones), in left middle ring finger through middle phalanx with right middle index finger through middle phalanx. The candidate also suffered from speech and language disability assessed at 20%.

12. Mr. Bajaj contended that the petitioner herein is having much better physical/locomotor attributes and is well equipped as compared to the two candidates in the cases of **Anmol** (*supra*) and **Om Rathod** (*supra*). He also scored much higher marks than these candidates in NEET (UG) examination 2024-2025. Anmol had obtained rank 2462 in the PwD category, whereas the petitioner herein secured 176 rank and thus, he is much better placed than the candidates in the above-referred cases.

13. He submitted that the assessment made by the medical Board of the petitioner's capability to take the medical degree course and his disqualification on the anvil of NMC norms is illegal and unsustainable in view of the law laid down by this Court in the judgments referred to *supra*.

14. He, therefore, urged that a direction deserves to be issued to have a reassessment done of the petitioner through Dr. Satyendra Singh on the *ratio* of the above referred judgments and to mandate the respondents to grant admission and accommodate the petitioner in the MBBS (UG) Course 2024-2025.

15. Relying upon the order dated 17th April, 2023, passed in the case of **Vibhushita Sharma v. Union of India**, Writ Petition (Civil) No.793 of 2022, learned counsel submitted that in case, this Court

is not inclined to grant admission to the petitioner in the 2024-2025 MBBS Degree course, a suitable direction deserves to be issued to the respondents to admit the petitioner in the academic session 2025-2026 treating him to be NEET (UG) qualified.

16. *Per contra*, learned counsel representing the Union of India and National Medical Commission urged that the Commission is under the process of revising its guidelines in compliance with the judgments in the cases of **Om Rathod** (*supra*) and **Anmol** (*supra*). Three meetings have already taken place, and the process is expected to be finalised before counselling for the next academic session commences. They thus, urged that the petitioner will not be prejudiced, if the consideration of this matter is deferred till the new guidelines are put in place.

17. We have given our thoughtful consideration to the submissions advanced at bar and have gone through the material placed on record.

18. *Prima facie*, we find substance in the submission of the learned counsel representing the respondents that the process for revising the guidelines in terms of this Court's decisions (*supra*) is underway and a final outcome is expected before the counselling

session for MBBS (UG) 2025-2026 commences. However, we are not inclined to defer the proceedings at this stage.

19. Denying relief to the petitioner on this premise would be totally unjustified in view of the ratio of this Court's judgments in **Om Rathod** (*supra*) and **Anmol** (*supra*). Merely because the NMC is under the process of revising the guidelines, the petitioner's fate cannot be allowed to hang in a limbo in spite of the fact that he has performed exceedingly well in the NEET (UG) 2024 examination and stood high in the merit in his category.

20. In view of the above, we hereby direct that a fresh Medical Board shall be constituted at the All-India Institute of Medical Sciences, New Delhi comprising of five Doctors/specialists. One of the Board members shall be a specialist in locomotor disabilities and one member shall be a Neuro-Physician.

21. The petitioner shall be intimated a suitable date for assessment by the Board within the next seven days. He shall appear before the Board on the appointed date whereupon the Board shall undertake a fresh assessment of the petitioner's disabilities with due deference to the ratio of this Court's judgments in **Om Rathod** (*supra*) and **Anmol** (*supra*). The Board's

report shall be forwarded to this Court in a sealed cover on or before 15th April, 2025.

22. List this matter on 16th April, 2025.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANJAY KAROL)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI;
APRIL 02, 2025.