



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **14.02.2025**

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THE HONOURABLE MRS JUSTICE N. MALA

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WMP.No.5791 of 2025

in W.P.No.5209 of 2025

Tarigonda Surya Maheedhar

... Petitioner

Vs.

1.The Union of India,

Represented by its Joint Secretary,
Ministry of Health and Family Welfare,
Having office at, Nirman Bhawan,
New Delhi – 110011.

2.Office of Medical Counseling Committee (MCC),

Represented by the Director General,
Directorate General of Health Services (DGHS),
Ministry of Health and Family Welfare,
Government of Health,
Having Office at,
Nirman Bhawan, New Delhi - 110108.

3.National Medical Commission,

Represented by its Secretary,
Having office at
Pocket – 14, Sector 8, Dwaraka Phase – I,
New Delhi – 110077.

4.Rajiv Gandhi Government General Hospital,

Represented by its Regional Medical Board,
Having office at,
GH Post Office, Poonamallee High Road,
3, Grand Southern Trunk Road,
Park Town, Chennai, Tamil Nadu – 600003.

... Respondents

For Petitioner(s):

Mr.Sriram Venkatavardan

**For Respondent(s):**

R1 & R2 : Mr.R.Rajesh Vivekananthan,
Deputy Solicitor General of India

R3 : Mrs.Subharanjani

R4 : Mr.E.Sundaram,
Government Advocate

* * * * *

ORDER

The petition in WMP.No.5791 of 2025 is filed to pass an order of interim direction directing the 2nd and 3rd respondents to permit the petitioner to provisionally register and participate in the ongoing counselling process arising out the National Eligibility cum Entrance Test (NEET) PG 2024 pending disposal of the writ petition.

2.The petitioner secured his M.B.B.S. Degree from Hebei Medical University, International Education College, Shijiazhuang, P.R.China. On 01.07.2019, the petitioner passed the Screening Test (FMGE) for Foreign Medical Graduate Examination conducted by the National Board of Examinations for the June 2020 Session. Subsequently, the petitioner was issued the Medical Registration Certificate dated 27.10.2020 by the Andhra Pradesh Medical Council bearing Registration No.APMC/FMR/111141 stating his qualification as M.B.B.S. The petitioner met with an accident on 10.07.2021 and underwent an



LT above Elbow Amputation, resulting in one arm disability. The petitioner despite his disability passed the National Eligibility cum Entrance Test (NEET) –

PG 2024 on 11.08.2024, and obtained a percentile score of 76.8745884 and rank 50064. The petitioner wanted to seek the benefit of 5% reservation for the persons with Benchmark Disabilities, as provided under Section 32 of the Rights of Persons with Disability Act, 2016. For the said purpose, the petitioner's disability was assessed and a Disability Certificate issued. At the time of assessment, the Post-Graduate medical Education Regulations, 2023 (PGMER 2023) were notified by the Government of India, which laid down the guidelines and the criteria for eligibility under PwD category for medical courses. The relevant guidelines with regard to locomotor disability is as follows:

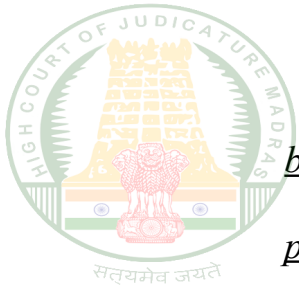
a. Less than 40% disability – Eligible for Medical course, Not Eligible for PwD Quota;

b. 40% - 80% disability – Eligible for Medical Course and PwD Quota;

c. More than 80% - Not Eligible for Medical Course.

However, the said Guidelines also state that

“[p]ersons with more than 80% disability may also be allowed on case to case basis and their functional competency will be determined with the aid of assistive devices if it is



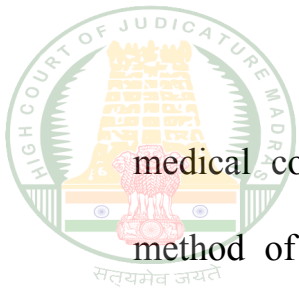
being used, to see if it is brought below 80% and whether they possess sufficient motor ability as required to pursue and complete the course satisfactorily.”

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3. Whiles, on 18.09.2024, the Regional Medical Board, Rajiv Gandhi Government General Hospital, the 4th respondent issued the “CERTIFICATE OF DISABILITY FOR NEET ADMISSIONS” to the petitioner, stating the following:

- a. Disability Type : Physical Disability
- b. Type of Disability : Locomotor Disability
- c. Specified Disability : Amputation
- d. Disability % : 90%

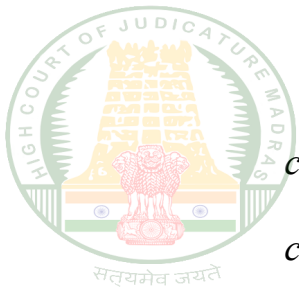
4. The Disability Certificate issued by the 4th respondent concluded that the petitioner was not eligible to pursue medical course as per NMC norms. According to the petitioner, the assessment of disability was based on the Quantification of Disability and not the functional disability. The petitioner states that while issuing the Disability Certificate the fourth respondent, did not take necessary steps to adjudge his functional competency but merely on the basis of the quantification of disability opined that the petitioner was ineligible for



medical course. The petitioner aggrieved by the erroneous and unscientific method of assessment of disability has filed the above writ petition for the aforesaid relief.

5.The Hon'ble Supreme Court of India in the case of Omkar Ramchandra Gond Vs. Union of India and Others reported in 2024 SCC Online SC 2860, while considering the similar issue held as follows:

“48. While interpreting the Regulations and Guidelines, as provided in Appendix H-1 to the notification dated 13.05.2019, as they stood for the academic year 2024-25, we are constrained, keeping in mind the salutary object of the [RPwD Act](#) and [Article 41](#) of the Directive Principles of State Policy, to direct that mere existence of benchmark disability of 40% or above (or such other prescribed percentages depending on the disability) will not disqualify a candidate from being eligible for the course applied for. 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 Board



concluding that candidate is not eligible for pursuing the course.

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49. The Disability Assessment Boards will, pending formulation of appropriate Regulations by the NMC, pursuant to the communication of 25.01.2024 by the Ministry of Social Justice and Empowerment, keep in mind the salutary points mentioned in the said communication while forming their opinion.

50. Pending creation of the Appellate body, we further direct that such decisions of the Disability Assessment Boards which give a negative opinion for the candidate will be amenable to challenge in judicial review proceedings. The Court seized of the matter in the judicial review proceedings shall refer the case of the candidate to any premier medical institute having the facility for an independent opinion and relief to the candidate will be granted or denied based on the opinion of the said medical institution to which the High Court had referred the matter.”

6.Following the aforesaid Judgment of the Hon'ble Supreme Court of India, a learned Judge of this Court in WMP.NO.1897 of 2022 in W.P.No.2177 of 2022



in his order dated 05.02.2025, directed the JIPMER, Puducherry to constitute a Disability Assessment Board and further directed that the Board shall include a

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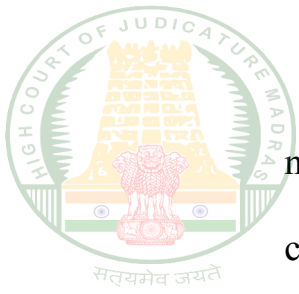
Doctor or a Health profession in the PwD category, as directed by the Director General of Health and Services on 24.03.2022. The learned Judge thereafter issued certain directions in paragraph No.13 of the order. In consonance of the aforesaid order following directions are issued:

“13.Registry is directed to mark a copy of this order to the Director, JIPMER, Puducherry. It is also open to the petitioner and the respective respondents to inform JIPMER about this order.

(a) The Director of JIPMER shall constitute a Medical Board and inform the petitioner to appear before it within a period of four weeks from the date of receipt of a copy of this order;

(b) The Disability Assessment Board so constituted shall submit its report to this Court within a period of four weeks thereafter;

(c) At the time of examination, the Assessment Board shall eschew from the Benchmark model and shall positively record whether the disability of the writ petitioner will or will



not come in the way of the candidate pursuing the medical course.

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(d) In case the Disability Assessment Board comes to a conclusion that the candidate is not eligible, it shall specifically state the reasons as to why it is coming to the said conclusion;

(e) The petitioner can communicate the order to JIPMER using the good offices of the Deputy Solicitor General of India, Madras High Court.

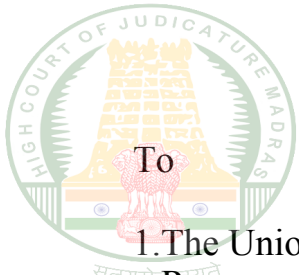
7.I am also inclined to issue an interim direction directing the second respondent to permit the petitioner to provisionally register and participate in the ongoing counselling process arising out the National Eligibility cum Entrance Test (NEET) PG 2024 pending disposal of the writ. It is made clear that the orders passed herein are subject to the result of the writ petition.

8.Post the main case on 17.03.2025

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NOTE: ISSUE ORDER COPY ON 14.02.2025



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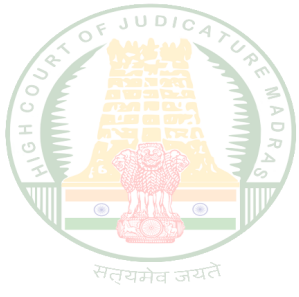
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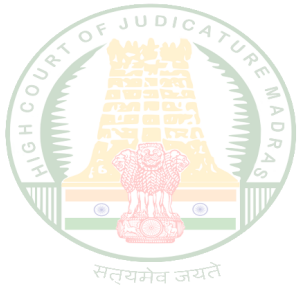
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WMP.No.5791 of 2025 in W.P.No.5209 of 2



N.MALA, J.,
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WMP.No.5791 of 2025 in W.P.No.5209 of 2



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