IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE THIRTIETH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

WRIT PETITION NO: 29385 OF 2024

Between:

Mariyam Rashid Hussain, D/o. Mohd. Rashid Hussain, Aged. 18 years, occ. Student R/o. H.No. 22-3-947/33/A/1, Near Durushawar Hospital Purani Haveli, Charminagar, Hyderabad.

...PETITIONER

AND

1. The State of Telangana, rep. by its Principal Secretary, Medical and Health Services, Department, Secretariat, Hyderabad.
2. KalojiNarayana Rao University of Health Sciences, Warangal rep its Registrar.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of mandamus declaring the impugned communication dt. 18-10-2024 issued by the respondent No 2 declaring that the Petitioner is not eligible candidate under persons with disability (PWD) category for Admission into MBBS/BDS courses for the Academic year 2024-25 without assigning any reasons and contrary to the orders passed by this Honorable Court in W.P.No 27262/2024, is illegal, arbitrary, violative of Articles 14 and 21 of the Constitution of India, besides violative of principles of natural justice and consequently direct the respondent No.2 to consider the petitioner for Admission into MBBS/BDS course for the Academic Year 2024-25 under PWD category vide Roll No. 4201440342 by setting aside the communication dt. 18-10-2024.

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent No.2 to consider the petitioner for Admission into MBBS/BDS course for the Academic Year 2024-25 under PWD category vide Roll No. 4201440342 by suspending the impunged communication dt. 18-10-2024 issued by the 2nd respondent.

Counsel for the Petitioner : SRI PARSA ANANTH NAGESWAR RAO

Counsel for the Respondent No.1 : SRI R.NAGARJUNA,
ASST.GP FOR MEDICAL HEALTH FW

Counsel for the Respondent Nos.2 : SRI A.PRABHAKAR RAO,
SC FOR KNRUHS

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

Writ Petition No.29385 of 2024

ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. Parsa Ananth Nageswar Rao, learned counsel for the petitioner.

Mr. R.Nagarjuna Reddy, learned Assistant Government Pleader for Health, Medical & Family Welfare Department appears for respondent No.1.

Mr. A.Prabhakar Rao, learned Standing Counsel for Kaloji Narayana Rao University of Health Sciences appears for respondent No.2 (for short 'the University').

Ms. Gorantla Sri Ranga Pujitha, learned Standing Counsel for Medical Board of India appears through video conference.

2. In this writ petition, the petitioner has assailed the validity of the communication dated 18.10.2024, issued by the University, informing her that she is not eligible under Persons with Disability (PwD) category for admission to MBBS/BDS course for the academic year 2024-25.

3. Facts giving rise to filing of this petition briefly stated are that the petitioner suffers from disability of upper left limb upto 40%. The petitioner appeared for NEET (UG) 2024 examination. The petitioner secured an All India Rank of 863134 and was placed at serial No.2138 in the candidates belonging to PwD category. The petitioner was called to attend the Medical Board examination in Nizams Institute of Medical Sciences, Punjagutta (hereinafter referred to as 'NIMS') on 20.08.2024 at 9:00 a.m. The petitioner appeared before the Medical Board. The University issued a list of eligible candidates on 21.09.2024 under PwD category. In the aforesaid list, the name of the petitioner was not included. The petitioner thereupon sent an e-mail on 24.09.2024 to the University and contacted the University on 25.09.2024. The petitioner thereafter filed a writ petition *viz.*, W.P.No.27262 of 2024. The challenge to the validity of the list dated 21.09.2024 was made on the ground that the petitioner has been assessed only quantitatively and quantification of the

disability is not reflected in the report. The petitioner assailed her assessment *inter alia* on the ground that the report submitted by the Medical Board with regard to her disability is bereft of any reasons. The petitioner expressed her willingness to appear before the Medical Board once again. This Court, in the light of the decision of the Supreme Court dated 22.09.2023, passed in Writ Petition (Civil) No.856 of 2023 (**Bambhaniya Sagar Vasharambhai v. Union of India**), disposed of W.P.No.27262 of 2024 on 16.10.2024, directing the petitioner to appear before the Medical Board along with a copy of the order on 17.10.2024. The Medical Board was directed to examine the petitioner and to assess the disability of the petitioner afresh by assigning valid and cogent reasons in the light of observations made in the order passed by this Court.

4. In compliance of the aforesaid directions, the petitioner appeared before the Medical Board on 17.10.2024. The Medical Board re-assessed the disability of the petitioner and

again found her ineligible under the PwD category. Hence, this writ petition.

5. Learned counsel for the petitioner submits that the disability of the petitioner does not entitle her to perform the functions of a Doctor. It is further submitted that the concept of reasonable accommodation has to be invoked while assessing the disability of the petitioner. In support of his submissions, reliance has been placed on the decision rendered by a three-judge Bench of the Supreme Court dated 15.10.2024, passed in Civil Appeal No.10611 of 2024 (**Omkar Ramchandra Gond v. The Union of India**).

6. On the other hand, learned Standing Counsel for the University submits that there is no assisted device available with which the functioning of the left hand of the petitioner can be improved and in view of the opinion expressed by the Medical Board, the petitioner is not eligible to be considered under the PwD category. It is also submitted that all seats to

MBBS course for the academic year 2024-25 have been filled up and therefore, at this point of time, no relief can be granted to the petitioner.

7. We have considered the rival submissions made on both sides and have perused the record.

8. Rule 3(IV)(b) of the Telangana Medical & Dental Colleges Admission (Admission into MBBS & BDS Courses) Rules, 2017 (hereinafter referred to as 'the Rules'), provides that the University shall constitute a Medical Board comprising of Professors of Orthopedics and General Medicine Departments from Government Medical Colleges including NIMS. The aforesaid provision requires the candidate to appear before the Board constituted for assessment of percentage of disability as per norms of the Government. The aforesaid provision further provides that the decision of the Medical Board constituted by the University is final in all respects. The Appendix "H – 1" to the Rules enumerates the

guidelines regarding admission of students with "Specified Disabilities" under the Rights of Persons with Disabilities Act, 2016, with respect to admission in MBBS Course. The relevant extract of Appendix "H – 1" is extracted below for the facility of reference:

<table>
<tr><th rowspan="2">Sl. No.</th><th rowspan="2">Disability Type</th><th rowspan="2">Type of Disabilities</th><th rowspan="2">Specified Disability</th><th colspan="3">Disability Range</th></tr>
<tr><th>Eligible for Medical Course, Not Eligible for PwD Quota</th><th>Eligible for Medical Course, Eligible for PwD Quota</th><th>Not Eligible for Medical Course</th></tr>
<tr><td rowspan="7">1</td><td rowspan="7">Physical Disability</td><td rowspan="7">A. Locomotor Disability, including Specified Disabilities (a to f)</td><td>a. Leprosy cured person*</td><td rowspan="7">Less than 40% disability</td><td rowspan="7">40-80% disability Persons 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</td><td rowspan="7">More than 80%</td></tr>
<tr><td>b. Cerebral Palsy **</td></tr>
<tr><td>c. Dwarfism</td></tr>
<tr><td>d. Muscular Dystrophy</td></tr>
<tr><td>e. Acid attack victims</td></tr>
<tr><td>f. Others such as Amputation, Poliomyelitis, etc.</td></tr>
<tr><td colspan="6">* Attention should be paid to loss of sensations in fingers and hands, amputation, as well as involvement of eyes and corresponding recommendations be looked at</td></tr>
<tr><td colspan="6">** Attention should be paid to impairment of vision, hearing, cognitive function etc. and corresponding recommendations be looked at</td></tr>
<tr><td colspan="6">*** Both hands intact, with intact sensations, sufficient strength and range of motion are essential to be considered eligible for medical course</td></tr>
</table>

9. Thus, from a perusal of Appendix "H – 1", it is evident that both hands of the candidate suffering with disability have

to be intact with sensations and sufficient strength and range of motion are essential to be considered as eligible for medical course. The Medical Board, in its report dated 18.10.2024, has held as under:

> "1.Nature of Disability:- Birth Palsy of left upper limb involving left shoulder and hand with hypoplastic left upper limb with paralytic dislocation of left shoulder which is flail. Left forearm is pronated with Weak Supination. Left Wrist active dorsiflexion is not possible. Hand Grip is Weak. Wrist Movements are marginally restricted.
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> 2. Percentage of Disability:- 40% (Forty Percent.) (According to "Guidelines for Evaluation of Various Disabilities issued by Govt. of India 2001/2002 & GO.No.115 dated 30.07.1991")
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> 3. **Remarks.** Ms. Mariyam Rashid Hussain has Birth Palsy of Left Upper limb, with Flail shoulder and Paralytic dislocation of Left shoulder and weakness of Hand grip. The normal functions of Upper limb requires active Shoulder movements and Strength. Since the Petitioner does not have good and adequate shoulder and