



सत्यमेव जयते

न्यायालय मुख्य आयुक्त विकलांगजन
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities
सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment
Case No. 4847/1011/2015 भारत सरकार / Government of India

Dispatch No.....

03 2017

In the matter of :

Dr. Ashwani Mudgal,
C/o Mrs. Bhibha Das, 0827
Old Assam University Building,
Vill : Ghungoor,
Dist. Cachar,
Assam – 788 014
Email:<drashwanimudgal@gmail.com>

..... Complainant

Versus

Ministry of Health & Family Welfare, 0828
(Through Director General of Health Services),
Nirman Bhawan,
New Delhi – 110 011

..... Respondent 1

Medical Council of India,
(Through Secretary) 0829
Pocket No.14,
Sector 08, Dwarka,
New Delhi – 110077

..... Respondent 2

Ministry of Health & Family Welfare,
(Through Dy. Secretary (CHS), 0830
Nirman Bhawan,
New Delhi – 110 001

..... Respondent 3

Date of Hearing : 29.11.2016

Complainant – Absent

Respondent 1, 2 and 3 – Absent

Date of Hearing : 02.02.2017

Present :

1. Dr. Ashwani Mudgal - Complainant absent
2. Shri Shikhar Ranjan, Law Officer – Representative on behalf of Respondent No. 2
3. Respondent No. 1 and Respondent No. 3 – Absent.

ORDER

The above named complainant filed a complaint dated 17.07.2015 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act' regarding reservation to persons with disabilities in surgical jobs.

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2. The complainant submitted that he is currently doing his post graduation in MS Orthopaedics from Silchar Medical College, Assam (Batch 2013). He was allotted this seat through merit based online counseling from All India Post Graduate Entrance Examination (AIPGME). All medical and surgical fields are given 3% horizontal reservation for OPH and are reserved for OPH and earmarked by AIPGME. He further submitted that though persons with disabilities are given reservation to do their post graduation in any field whether medical or surgical, they are selected only after thorough medical examination done by reputed medical team. The persons with disabilities are not given same reservation in jobs for Senior Resident Doctors after post graduation and are termed incapable of performing surgical operations. He further submitted that the Government hospitals/Institute like ESI specifically mention reservation for OPH in jobs for non-surgical fields, namely (i) MD general medicines, (ii) MD Psychiatry, (iii) MD Radio Diagnosis (iv) MD Anesthesia, MD Pediatrics and (vi) MD Pathology. He further submitted that he has earned his surgical branch through merit but if no job is available in any sector, it will be a waste of this MS Orthopedics degree, manpower and financial resources.

3. The respondent No.1 vide letter no. U-12021/55/2015-MEC dated 26.10.2015 submitted that the grievances as raised by the applicant is out of purview of their Directorate as their Directorate is responsible only for allotment of seat and college to the candidates in terms of the All India PG quota seats. Reservation for Physically Handicapped candidates in Senior Residency is implemented by Institutions and Directorate has no role in this matter.

4. The complainant vide his email dated 21.01.2016 submitted that Directorate General of Health Services (DGHS) and Medical Council of India had clarified that there is no restriction in training and practicing of physically disabled doctors in any field whether surgical or non-surgical fields, but various Institutes and Hospitals are still not providing the reservation in surgical fields. Only reservation is given to non surgical fields.

5. The respondent No.1 vide letter no. U-1201/55/2016-MEC dated 19.03.2016 further reiterated that the grievances raised by the complainant in his e-mail dated 21.01.2016 pertains to Ministry of Health & Family Welfare and Medical Council of India. The Directorate has no role in the matter.

6. The matter was taken up under Section 59 of Act with the Dy. Secretary (CHS), Ministry of Health & Family Welfare and the Secretary, Medical Council of India vide this Court's letter dated 19.07.2016.

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7. Upon considering respondent No.1's replies dated 26.10.2015, 19.03.2016 and 17.06.2016 and no reply received from the respondent No. 2 & 3, thereafter, a hearing was scheduled on 29.11.2016, but the complainant and the Respondents did not appear in the hearing. The case was adjourned to 06.01.2017 and thereafter re-scheduled to 02.02.2017.

8. The complainant did not appear during the hearing on 02.02.2017.

9. During the hearing the representatives of the Respondent No. 1 and No. 3 were absent Respondent no. 2 submitted that in Medical Council of India, graduate and post graduate medical education reservation for persons with disabilities with locomotor disability of lower limb is provided. The relevant provision is as under ;

" 3% seats of the annual sanctioned intake capacity shall be filled up by candidates with locomotor disability of lower limbs between 50%to 70%

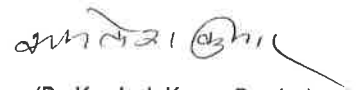
Provided that in case any seat in this 3% quota remains unfilled on account of unavailability of candidates with locomotor disability of lower limbs between 50% to 70% then any such unfilled seat in this 3% quota shall be filled up by persons with locomotor disability of lower limbs between 40% 50% - before they are included in the annual sanctioned seats for General Category candidates.

Provided further that this entire exercise shall be completed by each medical college/ institution as per the statutory time schedule for admissions and in no case any admission will be made in the MBBS course after 30th of September."

Further as far as issue of recruitment is concerned, the matter falls within the domain of state authorities.

10. After hearing the parties and perusal of the records available, the Court directed the respondents that as per DoP&T norms 3% reservation for persons with disabilities should be followed by all Institutions and State authorities.

11. The case is disposed off.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities