



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

S.B. Civil Writ Petition No. 10944/2023
CNR: RJHC010535512023 | URN: CW / 23274U / 2023

Mukul Vairagi S/o Pawan Kumar Vairagi, aged about 21 years,
Resident of Vairagi Mohalla, Dholi Magari, Udaipur, Rajasthan.

----Petitioner

Versus

1. State of Rajasthan through the Secretary, Medical and Health Department, Government of Rajasthan, Jaipur.
2. The Director, Medical Education, Government of Rajasthan, Jaipur.
3. The Chairman, Neet, Under Graduate Medical and Dental Admission/ Counselling Board 2023, Government Dental College, Subhash Nagar, Behind P.B. Hospital, Jaipur.
4. Medical Council of India, through its President, Pocket 14, Sector 8, Dwarka, New Delhi, 110077
5. Medical Counseling Committee, Directorate General of Health, Services (DGHS), Ministry of Health and Family Welfare, Government of India, Nirman Bhawan, New Delhi.

----Respondents

For Petitioner(s) : Dr. Rakesh Kumar Sinha
For Respondent(s) : Mr. N.S. Rajpurohit, AAG assisted by
Ms. Kanchan Jodha.
Mr. Siddharth Tatia (for resp-NMC)

HON'BLE DR. JUSTICE NUPUR BHATI

J U D G M E N T

14/08/2026

1. The instant writ petition has been filed by the petitioner under Article 226 of the Constitution of India with the following prayers:

“(i) The respondents may be directed to unblock the petitioner from the online process so the petitioner may fill his choice for counseling.

(ii) That the respondents may kindly be directed to permit the petitioner for counseling for admission to NEET



UG (Medical/Dental) Admission/Counseling 2023 (MBBS, BDS) under 5% separate reservation to the PwBD candidates.

(iii) The respondents be directed to issue allotment letter for admission in MBBS course to the petitioner after conducting counseling as prayed aforesaid.

(iv) That the respondents may be directed to keep one seat reserve as per the PwBD category for the petitioner in any Government Medical College for MBBS course.

(v) Any other appropriate order or direction, which this Hon'ble Court considers just and proper in the facts and circumstances of this case, may kindly be passed in favour of the petitioner;

(vi) Costs of the writ petition may kindly be awarded to the petitioner."

2. Brief facts of the case are that the petitioner applied for and appeared in the NEET UG MBBS/BDS examination 2023 (held on 07.05.2023) under the PwBD (Persons with Disabilities) category, suffering from locomotor disability of the upper limbs though opting against a scribe as he could write properly. After scoring 268 marks out of 720 (result declared on 13.06.2023), the petitioner, pursuant to the Medical Counseling Committee's notice dated 05.07.2023, obtained a disability certificate from Vardhman Mahavir Medical College & Safdarjung Hospital, New Delhi on 26.07.2023, which recorded 66% locomotor disability but appended a note stating he was "not eligible to pursue medical course due to congenital deformity of left upper limb." Despite the petitioner's name appearing at serial No.26 in the provisional PwBD category list issued by the Chairman NEET, Rajasthan, and despite having 66% disability (within the 40-80% eligibility range as per notification dated 04.02.2019), the petitioner was blocked from participating in online counseling solely because of the aforementioned restrictive note in the disability certificate. The petitioner submitted representations before respondents No.5 & 6



requesting inclusion in PwBD category counseling, contending that only the left hand was affected while the right hand was fully functional. Challenging the eligibility criteria in Appendix H-I of the Information Booklet (requiring both hands intact with sufficient strength and range of motion) as being introduced after the examination and violative of the Rights of Persons with Disabilities Act, 2016, and apprehending irreparable loss to his career and future with the first round of counseling scheduled from 20-25 July 2023 and second round registration from 09-14 August 2023, the petitioner has preferred the present writ petition seeking permission to participate in the online counseling process for admission in medical course under the PwBD category.

3. Learned counsel for the petitioner submits that in view of guidelines issued by NMC, the petitioner was subjected to assessment of his functional disability before the Designated Centre i.e. Vardhman Mahavir Medical College & Safdarjung Hospital, New Delhi; the said Designated Centre, after examining the petitioner, concluded that the petitioner is not eligible to pursue medical course. He submits that as the certificate of disability for NEET admission dated 26.07.2023, did not contain any reason therein for declaring the petitioner as ineligible, therefore, this Court vide order dated 04.02.2026 directed the respondents to re-assess the disability of the petitioner from a designated centre at Rajasthan and in compliance of the directions dated 04.02.2026 the petitioner has been subjected to re-assessment of his disability at the Designated Centre, however, the petitioner was examined at SMS Medical College, Jaipur Rajasthan by the Medical Board constituted on 18.02.2026, wherein, the Board examined



the clinical simulations, while also assessing the petitioner's functional competency and recorded that functions of his left hand were grossly impaired and that he is performing most of the activities with considerable difficulty and the Board certified that the petitioner was not eligible for pursuing the MBBS Course.

4. Learned counsel for the petitioner further submits that the aforesaid conclusion of the Medical Board is arbitrary and unsustainable, inasmuch as the Medical Board has not disclosed any specific functional deficiency or assigned reasons explaining as to how petitioner's disability prevents him from pursuing the MBBS Course. It is further submitted that constitution and assessment undertaken by the Board is not in conformity with the directions issued by the Hon'ble Apex Court in the case of **Anmol v. Union of India & Ors.**, reported in **2025 SCC OnLine SC 387**, decided on 21.02.2025. It is contended that no person with disability or expert conversant with the rights of the persons with disability was included in the Board. He submits that the petitioner is presently pursuing the 3rd Year of MBBS Course at RNT Medical College, Udaipur and has successfully cleared his first MBBS Exams held in August, 2024 and second MBBS Exams held in July, 2025 and secured first division in both the years. He also submits that first year and second year MBBS exams comprise of both, theory and practical examinations.

5. Per contra, learned AAG and learned counsel appearing for respondent No.5- Medical Counseling Committee jointly submit that the petitioner was examined thoroughly pursuant to directions issued by this Court and the Medical Board comprising expert doctors including Professor in Orthopaedic, assessed his



functional competence through clinical simulations. It is submitted that having regard to the impairment of petitioner's left hand, and the requirement of the medical profession involving patients' safety, the Medical Board has rightly declared him ineligible to pursue the MBBS Course. They further submitted that the members of the Board possess sufficient expertise in assessing the disability and, therefore, the petitioner cannot question to the conclusion or constitution of the Medical Board.

6. I have considered the submissions made by counsel for the parties and have perused the material available on record.

7. The issue before this Court is whether the Medical Board's conclusion declaring the petitioner ineligibility to pursue the MBBS Course satisfy the parameters laid down by the Hon'ble Apex Court in the case of **Omkar Ramchandra Gond v. Union of India & Ors. : 2024 SCC Online SC 2860** (decided on 15.10.2024). The relevant paragraphs of the said judgment reads as under:

"53. For the reasons set out hereinabove,

(i) We hold that quantified disability per se will not disentitle a candidate with benchmark disability from being considered for admission to educational institutions. The candidate will be eligible, if the Disability Assessment Board opines that notwithstanding the quantified disability the candidate can pursue the course in question. The NMC regulations in the notification of 13.05.2019 read with the Appendix H-1 should, pending the re-formulation by NMC, be read in the light of the holdings in this judgment.

(ii) 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 Boards concluding that the candidate is not eligible for pursuing the course.

(iii) 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.

(iv) 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."

8. Thus, this Court finds that the Hon'ble Apex Court in the case of Omkar Ramchandra Gond (supra) held that disability Board is required to positively determine whether the disability of a candidate would come in the way of pursuing the course and in the event of a negative conclusion, most record cogent reasons indicating as to how and to what extent, the disability prevents the candidate from pursuing the course. The Hon'ble Apex Court has further held that decision of disability assessment Board giving 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.

9. In the case in hand, this Court finds that the respondents had subjected the petitioner for assessment of functional competence before the designated centres and thereafter, in compliance of the order dated 04.02.2026 passed by this Court, the petitioner was again subjected to the designated centres for assessment of functional competence however, the designated centres without assigning reasons and without indicating whether the disability of the petitioner will come in way from pursuing the course in question, declared the petitioner ineligible to pursue the MBBS Course.



10. This Court also takes into consideration the judgment passed by the Hon'ble Apex Court in the case of Anmol (supra), wherein the Hon'ble Apex Court has reiterated the requirement of individualized assessment and directed that the assessment must also consider whether the candidate with the aid of modern scientific tool and devices can pursue the MBBS programme. However, the Medical Board, has merely recorded that petitioner's left hand functions are 'grossly impaired' and that he performs 'most of the activities with considerable difficulty'. The report neither identify or disclose the specific functional competency, which the petitioner fail to perform, nor it explain now the impairment prevents him from pursuing the MBBS course. Thus, the report does not disclose the necessary nexus between the functional limitations noticed by the Board, and the ultimate conclusion of ineligibility. The requirement of a reasoned determination, as laid down in the case of Omkar Ramchandra Gond (supra), has not been satisfied. The relevant paragraphs of the judgment in the case of Anmol (supra) reads as under:

"29. Having set out the legal position governing the situation, we have no hesitation in concluding that the report of the five members of the All India Institute of Medical Sciences cannot be the basis to deny the appellant's admission to the MBBS Course. Firstly, the report does not satisfy the test laid down in Omkar Ramchandra Gond (supra) and Om Rathod (supra). The functional assessment as contemplated in the said two judgments is not borne out by the report of five members. Secondly, as mandated or required in both Omkar Ramchandra Gond (supra) and Om Rathod (supra), reasons have not been assigned by the five members of the Board for denying the appellant his right to pursue the MBBS Course. Thirdly, the need to assess beyond the quantified disability and the need to opine whether the individual with a disability aided by modern scientific tools and devices can enter the MBBS program has not been fulfilled by the five members of the Board. This is apart from the fact that the five members of the Board have recorded statements in the nature of disclaimers as set out hereinabove.

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45. Before we part, there is one important aspect which needs to be considered. In the judgment of





15.10.2024 in Omkar Ramchandra Gond (supra) a direction was given to the National Medical Commission to issue revised regulations and guidelines in supersession of the guidelines of 13.05.2019 with regard to admission of students with specified disabilities under the RPwD Act with respect to the MBBS Course. This Court had also directed the NMC to consider the communication of the Ministry of Social Justice and Empowerment dated 25.01.2024. Pursuant to the judgment in Omkar Ramchandra Gond (supra), the National Medical Commission assured this Court during the course of hearing in Om Rathod (supra) that it will constitute a new committee of domain experts to comply with the judgment in Omkar Ramchandra Gond (supra). Noting the assurance of the NMC, this Court directed that the Committee to be so constituted will include persons with disability or one or more experts conversant with the disability rights. A further direction was given that fresh guidelines will be put in place applying the principles set out in the judgments."

11. The report also does not indicate that the Board considered as to whether the petitioner's functional limitation would be addressed through assistive devices, adaptive techniques or other reasonable accommodation. This aspect assumes significance in view of specific observations of the Hon'ble Apex Court in the case of Anmol (supra) requiring the assessment beyond quantified disability and consideration of modern scientific tools and devices. Further, the National Medical Commission, pursuant to the aforesaid judgment, issued its public notice dated 19.07.2025 containing interim guidelines for assessment of PwBD candidates for admission to MBBS Course for the Academic Session 2025-26. The guidelines specifically contemplate assessment of dominant hand functionality including ability to write and hold instruments using dominant or aided hand. The relevant portion of the guidelines reads as under:

**"APPENDIX-A
Self-Certification Affidavit**

(To be filled by all applicants applying under PwBD Category)

Name of Candidate: _____

NEET Roll No.: _____

NEET Score: _____

UDID No.: _____

Disability Type:

- Locomotor
- Hearing



- Visual
 - Cognitive/SLD/
 - *Others: _____(Please specify)
- Disability Percentage as per [UDID card]: _____
- Assistive Devices Used (if any): _____

Essential Functional Competencies:



Competency Area	Description	Candidate Declaration (✓/x)
A. Communication	• I can communicate clearly and empathetically with people using assistive devices.	
B. Hearing	• I can hear and respond to speech in both quiet and noisy environments, with or without hearing aids or cochlear implants. • I undertake to fulfil the eligibility criteria set under Form Appendix-B	
<u>C. Dominant Hand Functionality</u>	• <u>I can write and hold instruments using my dominant or aided hand.</u> • <u>I undertake to fulfill the eligibility criteria set under Appendix-C and D</u>	

12. This Court also considered the submission made by counsel for the petitioner that petitioner’s right hand is dominant hand and functionally competent hand, however, the Medical Board report does not disclose any assessment to this aspect. The said omission is material, particularly when the disability relates to petitioner’s left hand. Thus, the Medical Board was under obligation to ensure that self certificate/affidavit is being submitted by the petitioner and simultaneously, the Board should have assessed functionality of the dominant hand. The Public Notice dated 19.07.2025 is taken on record.

13. As regards the constitution of Medical Board and the respondents’ contention that the Board comprised of expert doctors including Professor (Orthopedic), this Court finds that nothing has been placed on record to establish that any member possess specialized expertise concerning the rights of the person with disability contemplated by the directions of the Hon’ble Apex Court in the case of Anmol (supra). The



expertise in orthopedic, by itself cannot be presumed to establish expertise in its rights, more particularly when the report does not demonstrate that the assessment was undertaken in accordance with functional and disability rights. This Court is conscious that it cannot substitute its own medical opinion for that of a Medical Board. Interference in the writ petition is, however, confined to the legality and adequacy of the decision making process. The impugned reports (Annex.5 and Annex.3 dated 17.02.2026), given by the Medical Board are deficient, inasmuch as it does not contain a reasoned finding as to the specific functional competency which the petitioner is unable to perform and further does not explain as to how the disability prevents him from pursuing the MBBS Course. The reports also lack assessment regarding assistive devices or reasonable accommodation and the assessment of his dominant right hand. The factum of petitioner has already being promoted to 3rd year of MBBS Course and has cleared first and second year examinations, both theory and practical, in his first attempt and is also relevant circumstance, which has not been shown to have been considered.

14. In view of above discussion, this Court is of the considered opinion that the conclusion of the Medical Board declaring the petitioner ineligible to pursue the MBBS Course cannot be sustained. Accordingly, the writ petition is allowed and the medical report, insofar as it declare the petitioner ineligible to pursue the MBBS course, is set aside. The respondents are thus directed to permit the petitioner to continue the MBBS course considering him as eligible for the same. No costs.

(DR. NUPUR BHATI),J

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/Devesh Thanvi/

