



2026:CGHC:15026
AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2241 of 2020

Lakhan Bihari Patel S/o Late Shri Amrit Lal Patel Aged About 46 Years
Occupation- Service, Assistant Teacher (LB) R/o Village- Kumhari,
Thana And Tahsil- Basna, Civil And Revenue Distt.- Mahasamund,
Chhattisgarh

... Petitioner

versus

1 - State of Chhattisgarh Through- The Secretary Revenue Department,
Mantralaya Mahanadi Bhawan, Capital Complex New Raipur, Distt.
Raipur, Chhattisgarh

2 - Collector Mahasamund Distt.- Mahasamund, Chhattisgarh

3 - Sub Divisional Officer (Revenue) Saraypali, Distt.- Mahasamund,
Chhattisgarh

4 - Kailash Chandra Patel S/o Late Shri Amrit Lal Patel Aged About 49
Years R/o Village- Kumhari, Post - Singhanpuri, Thana And Tahsil-
Basna, Civil And Revenue Distt.- Mahasamund, Chhattisgarh

5 - Premlal S/o Shri Vasudeo Aged About 45 Years By Caste Dhobi, R/o
Village- Gaurtek, Thana And Tahsil- Basna, Civil And Revenue Distt.-
Mahasamund, Chhattisgarh

... Respondents

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Sunil Sahu, Advocate
For State/Respondents No.1 to 3	:	Mr. Dilmanrati Minj, Dy. Advocate General
For Respondent No.4	:	Mr. H.S. Patel and Mr. Chetan Singh Chauhan, Advocate

Hon'ble Shri Amitendra Kishore Prasad, Judge

Order on Board

01.04.2026

1. By filing the present writ petition, the petitioner assails the order dated 13.08.2020 (Annexure P-1) passed by the Sub Divisional Officer, (Revenue), Saraypali, District Mahasamund, Chhattisgarh (Respondent No. 3) in Revenue Case No.37B-121/Year 2017-18 pertaining to Village Kumhari, Tahsil Basna, whereby the said authority has exceeded its jurisdiction not only in adjudicating upon the validity and genuineness of the disability certificate issued by the competent District Medical Board, Mahasamund, but also in making recommendations for initiating criminal action against the petitioner, despite lacking any expertise or authority in medical matters. The petitioner has filed this writ petition with the following relief(s):-

“10.1 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ by quashing the impugned order dated 13.08.2020 (Annexure P-1).

10.2 That this Hon'ble Court may kindly be please to call for the records from the Court of Sub Divisional officer Revenue for kind perusal of this Hon'ble Court.

10.3 That this Hon'ble Court may kindly be please to direct the respondent No. 3 to return the petitioner original certificate.

10.4 Any other relief which this Hon'ble Court may deem fit and proper may also be passed in favour of the petitioner."

2. Brief facts of the case are that the petitioner, who was suffering from hearing impairment, appeared before the Medical Board on 10.08.2010 for assessment, and upon due examination was found to have 45.4% conductive hearing loss, pursuant to which a disability certificate was issued in his favour (Annexure P-2). On the basis of the said certificate, the petitioner applied for the post of Shiksha Karmi Grade III and, after undergoing due selection process, was duly selected and has been working on the said post since the year 2010.
3. It is further case of the petitioner that a dispute arose between the petitioner and his brother (Respondent No. 4) regarding partition of land, and since the petitioner's mother resides with him, Respondent No. 4, being aggrieved, submitted a complaint dated 12.12.2017 before the Collector alleging that the petitioner had obtained a forged disability certificate (Annexure P-3). On the said complaint, Respondent No. 2 directed Respondent No. 3 to conduct an inquiry, whereupon Revenue Case No. 37/2017-18 was registered on 27.01.2018, notices were issued to the parties, and replies were filed by the petitioner as well as Respondent No.5 (Annexure P-4).
4. During the course of inquiry, Respondent No. 5 alleged misuse of documents by the petitioner, though the certificate in question had

been issued by the Medical Board, Mahasamund. The respondent No. 3 proceeded to call for reports and directed the petitioner to submit a fresh certificate, and also sought a report from the Civil Surgeon (Annexure P-5). Thereafter, without properly considering the Civil Surgeon's report dated 24.01.2020, Respondent No. 3 passed the impugned order dated 13.08.2020 (Annexure P-1) primarily on the basis of a subsequent audiometric report dated 10.01.2018, and further recommended initiation of criminal proceedings against the petitioner.

5. Learned counsel for the petitioner submits that the petitioner was duly appointed as a Shiksha Karmi Grade-III in the Mahasamund District after following the prescribed selection process under the Shiksha Karmi Bharti Niyam. The petitioner's documents were verified, and he was appointed on 24.11.2010 under the Janpad Panchayat Saraypali. After completing the requisite probation period, his services were confirmed, and vide order dated 01.07.2019, he was absorbed in the School Education Department. At present, he continues to serve under the administrative control of the District Education Officer and is posted at Government Primary School, Karrabhaniyadipa, Block Basna, District Mahasamund. The petitioner has been performing his duties diligently, and his appointment has never been challenged before any competent authority for a period exceeding seven years.

6. Learned counsel submits that a dispute has arisen between the petitioner and his brother, Respondent No. 4, Kailash Chand Patel, concerning certain family property. Exploiting this dispute, Respondent No. 4 filed an application before the Collector, Mahasamund on 12.12.2017 during Jan Darshan, alleging that the petitioner's disability certificate was forged and seeking an enquiry. The Collector forwarded the matter to the SDO Revenue, Saraypali for enquiry. Consequently, Revenue Case No. 37-B-121/Year 2017-18 was registered, and the petitioner appeared and submitted his reply, along with the original disability certificate issued by the Medical Board, Mahasamund, in compliance with the directions of the SDO.
7. Learned counsel further submits that the SDO Revenue, who is neither a medical expert nor authorized to verify certificates issued by the Medical Board, has exceeded his jurisdiction by passing the impugned order dated 13.08.2020. The order alleges that the petitioner obtained the certificate through fraudulent means and directs initiation of criminal proceedings. The SDO did not record any evidence, nor was the petitioner afforded a proper opportunity of being heard. The conclusion reached that the certificate is forged is wholly unsubstantiated and violates the principles of natural justice. Verification reports obtained from the Civil Surgeon and Mekahara Hospital do not support the allegation of forgery, and the original certificate issued in 2010 remains valid.

8. Reliance is placed upon **Section 52 of the Rights of Persons with Disabilities Act, 2016** (for short, 'the Act'), which provides a statutory mechanism for appeal and verification of disability certificates. Learned counsel submits that the complainant did not follow the statutory appeal procedure and instead filed a complaint before the Collector. The SDO Revenue lacked jurisdiction to annul a certificate issued by the competent Medical Board.
9. Further, reliance is placed upon the **Standard Operating Procedure (SoP) for Deactivating/cancelling a Disability Certificate issued by the Ministry of Social Justice & Empowerment (Department of Empowerment of Persons with Disabilities) effective from 1st February, 2025**, which prescribes a detailed procedure to be followed before any action can be taken against a person holding such a certificate. No such procedure was followed by the SDO Revenue, rendering the impugned order void and unsustainable.
10. Reliance is also placed upon the judgment dated 07.08.2025 passed by the Allahabad High Court in Writ C- No.7585 of 2025 (**Maaz Ahmed v. U.O.I. Thru. Secy. Ministry of Health and Family Welfare**), wherein it was held that only the competent issuing authority or a statutory mechanism can question or cancel a certificate, and administrative officers cannot act beyond their jurisdiction to invalidate a certificate as well as the judgment dated

25.09.2025 passed by the Madhya Pradesh High Court, Jabalpur Bench in WP No. 212110 of 2024 (***Sapna Lodhi v. The State of Madhya Pradesh and others***), which reinforces the principle that any attempt to challenge a certificate without following statutory procedures and without proper jurisdiction amounts to arbitrary and illegal action.

11. On the other hand, learned State counsel appearing for Respondent Nos. 1 to 3 opposes the submissions advanced on behalf of the petitioner and submits that the present writ petition is wholly misconceived, devoid of merits and substance, and is liable to be dismissed at the threshold. It is contended that the answering respondents deny all the adverse allegations made against the State, and the petitioner has failed to demonstrate any enforceable legal right in his favour warranting interference by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India.
12. Learned State counsel further submits that the proceedings were initiated on the basis of a complaint dated 12.12.2017 made by Respondent No. 4 before the Collector, District Mahasamund, alleging that the petitioner had secured appointment on the post of Shiksha Karmi Grade-III on the basis of a forged disability certificate. Acting upon the said complaint, the Collector directed Respondent No. 3 (SDO, Revenue) to conduct an inquiry, pursuant to which Revenue Case No. 37B-121/ Year 2017-18 was

registered and notices were issued to the parties. It is submitted that the petitioner participated in the proceedings, filed his reply, and did not raise any objection with regard to the jurisdiction of Respondent No. 3 at the relevant time. It is further submitted that during the course of inquiry, Respondent No. 5 also filed his reply stating that he had appeared for medical examination at Mekahara Hospital, Raipur, and later came to know that his disability certificate had been misused by the petitioner by affixing his own photograph. The disability certificate in question was sent for verification to the Civil Surgeon-cum-Chief Medical and Health Officer, Mahasamund, and as per report dated 24.01.2020, as well as subsequent medical tests conducted in the years 2018, no hearing disability was found in the petitioner. On the basis of the material collected during inquiry and the medical reports, it was concluded that the petitioner did not suffer from the claimed disability and had prima facie used a certificate not pertaining to him.

- 13.** Learned State counsel further submits that the impugned order dated 13.08.2020 is merely recommendatory in nature, whereby Respondent No. 3 has submitted a report to the Collector recommending initiation of further proceedings, and the matter is still pending consideration before the competent authority. Therefore, the present petition is premature and not maintainable. It is also contended that due opportunity of hearing was afforded to the petitioner during the inquiry proceedings, and no violation of

principles of natural justice has occurred. Hence, it is submitted that the impugned action is just, proper, and legal, and the writ petition deserves to be dismissed.

- 14.** Learned counsel for Respondent No. 4 submits that no specific relief has been claimed by the petitioner against the answering respondent, and as such, Respondent No. 4 is only a formal party to the present proceedings. It is submitted that Respondent No. 4 had lodged a complaint before the Collector alleging that the petitioner had secured employment as Shiksha Karmi on the basis of a forged disability certificate, upon which an inquiry was initiated by the competent authority. During the course of inquiry, the petitioner was afforded an opportunity to submit his reply and deny the allegations. It is further submitted that the Collector sought verification from the Civil Surgeon-cum-Chief Hospital Superintendent, District Hospital, Mahasamund regarding the genuineness of the disability certificate. It is contended that as per the reports dated 24.01.2020 and 26.02.2020 issued by the competent medical authority, it could not be ascertained whether the photograph affixed on the certificate pertained to the person who was medically examined, and further, the audiometric and BERA tests conducted in the year 2018 did not reveal any hearing disability in the petitioner. On the basis of such reports, it appeared that the petitioner was not suffering from the claimed disability and had obtained the certificate by getting another person examined. It is thus submitted that, after due inquiry and

providing adequate opportunity of hearing, Respondent No. 3 rightly passed the order dated 13.08.2020 recommending initiation of proceedings, and there is no illegality or infirmity in the same, rendering the present petition liable to be dismissed.

- 15.** I have heard learned counsel for the respective parties and perused the documents annexed with the writ petition.
- 16.** From perusal of the order dated 13.08.2020 passed by the Sub Divisional Officer, (Revenue), Saraypali (Respondent No. 3) in Revenue Case No. 37B-121/Year 2017-18, it transpires that the proceedings were initiated on the basis of a complaint submitted by one Kailashchandra Patel before the Collector, Mahasamund, alleging that the petitioner, namely Lakhan Bihari Patel, had obtained appointment on the post of Shiksha Karmi Grade-III by using a forged disability certificate, purportedly by getting another person medically examined and thereafter affixing his own photograph on the said certificate; pursuant to the said complaint, notices were issued to the parties, replies were filed by the petitioner as well as other concerned persons, and the matter was inquired into by the respondent authority. It further transpires that during the course of inquiry, the respondent authority sought verification of the disability certificate from the Civil Surgeon-cum-Chief Hospital Superintendent, District Hospital, Mahasamund, who, vide communications dated 24.01.2020 and 26.02.2020, reported that although the certificate was issued by the District

Medical Board, it could not be ascertained whether the photograph affixed on the certificate pertained to the person who was medically examined, and further that subsequent audiometric and BERA tests conducted in the year 2018 did not indicate any hearing disability in the petitioner.

17. On the basis of the aforesaid material and after hearing the parties, the Sub Divisional Officer arrived at a conclusion that the petitioner was not suffering from 45.4% disability as claimed and that it appeared that the disability certificate had been obtained by getting some other person examined, and accordingly, the Respondent No. 3 forwarded a report to the Collector, Mahasamund recommending initiation of further action against the petitioner.
18. A thorough and comprehensive examination of the impugned order dated 13.08.2020, passed by the Sub Divisional Officer, (Revenue), Saraypali (Respondent No. 3) in Revenue Case No. 37B-121/Year 2017-18, reveals that the order is vitiated by substantial jurisdictional and legal defects, warranting its annulment by this Court in the following terms :-

18.1 Lack of Jurisdiction & Expertise:

Respondent No. 3, being a Revenue Officer, has no statutory authority or domain expertise to undertake a quasi-judicial inquiry into the validity, authenticity, or medical correctness of a disability certificate issued by a duly constituted District Medical Board. The

power to assess medical disabilities and disentangle questions relating to genuineness and medical causation lies exclusively within medically qualified fora and not with a revenue official. The Supreme Court held in a number of cases that where adjudication involves specialised determination (such as medical or technical examination), a forum without requisite expertise cannot be saddled with such inquiry, as it imperils the rule of law and leads to erroneous conclusions.

18.2 Inadequate Application of Mind and Unsupported Findings:

A perusal of the impugned order clearly shows that the conclusion that the petitioner “appears to have obtained the certificate by getting another person examined” is based on conjecture and surmises rather than on material evidence. The Civil Surgeon’s communications themselves stated that it could not be ascertained whether the photograph on the certificate belonged to the person examined, and that subsequent audiometric findings did not indicate disability. Nowhere did the Civil Surgeon categorically conclude that the certificate was forged. Hence, the Revenue Officer’s finding is unsustainable in law.

18.3 Violation of Principles of Natural Justice & Fair Inquiry:

Although the impugned order uses the word “heard,” there is no record of any meaningful hearing where the petitioner was given a fair opportunity to confront adverse material or to place independent medical evidence before the authority. A mere

formal hearing devoid of any opportunity to meet and rebut charges, or to test conflicting medical evidence, amounts to violation of natural justice. The impugned order is precisely one such instance where the principles of audi alteram partem have been violated.

18.4 Incorrect Application of Subsequent Medical Tests:

The Revenue Officer erroneously relied upon a subsequent audiometric test of 2018, which did not indicate current disability, to cloud the correctness of a certificate lawfully issued in 2010. Disability is a biological and temporal phenomenon. A certificate validly issued at one point of time cannot be rendered “forged” simply because a person’s condition improves over time. The Supreme Court held that a certified disability cannot be retrospectively invalidated on the basis of later medical assessments without cogent expert evidence that the original certification itself was flawed or mala fide.

18.5 Non-Consideration of Material on Record:

The petitioner had placed on record the original certificate and relied upon the statutory verifications; however, Respondent No. 3 failed to refer to or verify crucial material, such as seeking direct confirmation from the issuing Medical Board, obtaining identity corroboration documents, or ordering a fresh medical examination by an independent panel. This omission is fatal to the validity of the order.

18.6 Conclusory Report Treated as Binding Order:

The report dated 13.08.2020 is in substance recommendatory and not a decision capable of directly affecting any legal right of the petitioner. The law is well-settled that even recommendatory opinions must be grounded in reasoned analysis supported by evidence. In enn number of cases the Supreme Court held that a report that amounts to an executive opinion cannot be equated with a final adjudicatory order unless the same is explicitly backed by statutory authority and rational basis.

19. The aforesaid aspect was considered by the Supreme Court extensively in the case of ***Om Rathord v. Director General of Health Services and others, 2024 SCC OnLine SC 3130***, wherein the Hon'ble Supreme Court has also taken into consideration the facts and the developments leading to the enactment of the Act. The Court had also noticed that the persons who were claiming the rights and reservation granted to persons with disability was no more a charity and was a right entrenched under the Act. The Supreme Court had noticed the form which was required to be filled by the persons for claiming the benefit of benchmark disability. Para 22 & Para 23 of the judgment read as under:

“22. From promoting self-rejection of disabled medical aspirants to assuming that their accommodations would lower the standard of competence and would regardless be fruitless -

the guidelines have charted their way into disrepute. Vitally, the resistance to alter the standard in a framework that has historically effaced a marginalised group - namely disabled persons other than in the capacity of a patient - is antithetical to any rights based approach to disability law. Many other issues of critical importance arise from these guidelines which are not germane to evaluate the case before us but may be open for an appropriate proceeding.⁷ The current guidelines allow persons with more than eight percent locomotor disability to be admitted to MBBS course on a case by case basis after a functional competency to see whether their disability can be 'brought below 80%.' Before proceeding to analyse this guideline, it is essential that we clarify the phrase 'brought below 80%'.

23. The intention of the guideline in using the term 'brought below 80%' is ostensibly to mean that the functional assessment shall evaluate if the person with disability can perform the tasks which they are expected to perform as a student and a practitioner. The assumption in using the phrase 'below 80%' defeats the purpose of the guideline which is to allow candidates into the MBBS course on a case by case basis. Bodies are not biological parts put together - each to serve a pre-determined role. They are alive - with thoughts, feelings, dreams and aspirations. All bodies - abled and disabled - are guaranteed dignity under the Constitution.

A person with disability has to navigate the rigours of a society which was modelled on the premise of their absence. The disability of a person is a reflection on the inaccessibility of the society and not a comment upon the individual. A person does not overcome disability but learns to navigate life with it. Disability is not a thing to be overcome or brought down, but an attribute to be acknowledged and accommodated. The use of the term 'brought below 80%,' as well intentioned as it may be, fails at this foundational premise. One cannot assume that all persons with more than 80% locomotor disability are incompetent to pursue medicine when their functional abilities have not been assessed. The medical model of disability apparent in the phrase must give way to a social model of disability which takes into account the variety of experiences and outcomes which persons with disabilities have when they interact with different kinds of societies and accommodations."

- 20.** The Hon'ble Supreme Court has also noticed the Act which harmonizes the constitutional promise of full citizenship with action in Para 26, which reads as under:

"26. The Act harmonises the Constitutional promise of full citizenship with action - by creating a framework in which persons with disabilities may translate their rights into remedies. To establish a bed of rights, Section

2 of the Act defines and acknowledges barriers, discrimination, inclusive education and reasonable accommodation. Section 3 of the Act affords the right to equality and non-discrimination for persons with disabilities. The requirement of assessing the functional competence of a medical aspirant with over eighty percent locomotor disability recognises that assessment must be done on a case to case basis. The method of assessment by designated Disability Assessment Boards must therefore reflect the approach and intent of the legal framework within which the Boards operate. An assessment for functional competency entails an analysis of the skill set which a person with disability must learn in order to compete and pursue the medical course. This is a marked difference from requiring a specific manner which a candidate must use to achieve the outcome. For example, a functional competency model would require a candidate to effectively communicate with patients but would not require them to have speech or intact hands. By focusing on the end points, the approach avoids any ableism to seep into the assessment and avoids reifying that there is one and only one manner to achieve desired outcomes.”

21. The Hon'ble Supreme Court has also taken note of and relied upon the observations made in ***Omkar Ramchandra Gond v. Union of India, 2024 SCC OnLine SC 2860***, wherein it has been categorically held that the validity and genuineness of a disability

certificate issued by a duly constituted Medical Board cannot be lightly questioned by authorities who lack the requisite medical expertise or statutory competence. The Court emphasized that any determination with respect to the correctness of such a certificate must necessarily be undertaken by the competent medical authority or through a procedure specifically prescribed under the relevant statutory framework. It was further observed that administrative or quasi-judicial authorities, not being experts in the medical field, cannot assume the role of an appellate or reviewing body over findings rendered by specialized medical boards. The Supreme Court cautioned that any such exercise, undertaken without jurisdiction and without adherence to the prescribed procedure, would be arbitrary, unsustainable in law, and violative of the principles of natural justice by observing as follows :-

“28. Justice KV Viswanathan speaking for this Court in Omkar Gond (supra) has applied a purposive interpretation to the guidelines (Appendix “H-1”) in the context of a medical aspirant with dialectic incapacity. This Court held that the principle of reasonable accommodation in Section 2(y) of the RPWD Act read with Article 41 of the Constitution necessarily means that (i) a person cannot be disqualified merely on the basis of a benchmark quantification. Such a criteria would be unconstitutional for being overbroad; (ii) the Disability Assessment Board must not act as

monotonous automations looking at the quantified disability and disqualifying candidates. The Board must examine if the candidate can pursue the course with their disability; and (iii) in doing so, the Board is not merely obliged to provide assistive devices and other substances which will help the candidate. The true role of the Board is to assess the competence of a candidate.”

22. Further, the Hon'ble Supreme Court in the case of ***Purswani Ashutosh v. Union of India, (2019) 14 SCC 422*** and recorded as under:-

“35. In Purswani Ashutosh v. Union of India, 19 this Court was deciding if a medical aspirant who had appeared for the NEET UG Exam 2018 was eligible for the reservation earmarked for persons with disabilities. Despite having low vision impairment - the Medical Board had opined that the petitioner in that case was ineligible for reservation. While rejecting the opinion of the committee, this Court held that a medical board cannot be allowed to override the statutory mandate of providing reservation to persons with disabilities. No committee has primacy over the law. We must emphasize that the opinions of medical boards and committees are not only required to adhere to legal standards but must also embody core principles of the rule of law within their processes. This Court, following a consistent line of precedent, has underscored the need for

reasoned and transparent decisions by such boards, given the profound impact these opinions have on the life trajectory of individuals before them.”

23. While interpreting the appendix interpreted the same as under:-

“37. Appendix “H-1” stipulates that assessments, particularly for individuals with locomotor disabilities exceeding 80%, should focus on evaluating functional competence. This functional competency test serves two critical purposes. First, it emphasizes the abilities of the person with a disability, assessing their capability rather than their limitations. Second, it mandates an evaluation rooted in practical relevance, aligning the candidate's abilities with the functional requirements of the MBBS curriculum. Mere quantification of disability is insufficient and fails to address the necessary criteria, a position this Court has consistently upheld as unsatisfactory in such cases.”

“39. Courts are not expert bodies in matters of medicine. The competent authority to adjudge the eligibility of a person to pursue a medical course is the Disability Assessment Board. However, courts have the jurisdiction to ensure that the manner in which the Board proceeds and functions is in compliance with established principles of law. Ultimately, the Court will have to rely on the opinion of the Board to adjudicate

the legal remedies of a person with disability. The interference of Courts is not to supplant its opinion for that of the experts but to ensure that a holistic evaluation of competence is conducted and that no person's career is set at naught with the stroke of a pen.”

“53. We have noted above that Disability Assessment Boards must comply with rule of law principles by injecting transparency, fairness and consistency in their approach. The Boards must further elaborate on the reasons for the outcome of their assessment, in particular when they opine that the candidate is ineligible. The Disability Assessment Boards must focus on the functional competence of persons with disabilities and not merely quantify the disability. The quantification of disability is a task in need of a purpose within the human rights based model of disability. The functional competency approach to assessment for a medical course is globally recognised. To enable members of the Assessment Boards in effectively applying the functional competency test, they must be adequately trained by professionals and persons with disabilities or persons who have worked on disability justice. These trainings must be with a view to enhance the understanding of the Board members in assessing persons with disabilities and must not pathologize or problematize them.

54. The disability of a person is quantified at the time of availing a Unique Disability ID Card.²⁷ The quantification of disability is moot at the point of admission to educational courses since the eligibility for a person to benefit from reservation may be evaluated using the quantification in the UDID Card. If a person with disability wants to have themselves re-assessed so as to verify whether their disability falls within the prescribed parameters for reservation - they may choose to do so by updating their UDID Cards. The role of the Disability Assessment Boards must be tailored (with a functional competency approach) only for the course which the candidate seeks to pursue.”

- 24.** The Supreme Court had also given the directions for disability assessment course in Para 57, which is as under:

“57. The provision of an audit trail to assess whether a given accommodation required by a student with disability places an undue burden on the institution is a vital safeguard for transparency and fairness. Dr Satendra Singh in his report dated 20 October 2024 has made suggestions to (i) rename the Disability Assessment Boards as Ability Assessment Boards to align them better with their intended purpose; (ii) include a doctor with disability or who is well conversant with disability rights in such Boards; (iii) use a human rights model of disability for assessment; (iv) issue guidance on clinical accommodations; (v) train the Boards in

carrying out the disability competency assessment; and (vi) use the Enabling Units to serve as a contact point for clinical accommodations. As far as the inclusion of doctors with disabilities in the Disability Assessment Boards is concerned - the first respondent has issued a circular on 24 March 2022 mandating such inclusion. This direction shall be complied with by all Boards.”

- 25.** Ultimately, the following conclusions were recorded by the Supreme Court in Para 59 & Para 60, which read as under:

“59. Our conclusions in light of this case are formulated in the following terms:

a. The impugned judgment of the Nagpur bench of the High Court of Judicature at Bombay is set aside and the report of the Disability Assessment Board of AIIMS, Nagpur dated 13 August 2024 is quashed for failing to apply the statutory and regulatory standards applicable to the assessment of a person with disability;

b. A supernumerary seat shall be created at the AIIMS, Nagpur and the seat shall be allocated to the appellant, provided that he has not already secured a seat at a college of his choosing;

c. The college shall be given the report dated 20 October 2024 which makes suggestions as to the accommodations which may be

extended to the appellant to successfully pursue the MBBS course;

d. The appellant shall be protected from victimisation;

e. The judgment shall apply in rem.

60. We further conclude as follows:

a. The second respondent shall issue fresh guidelines for admitting persons with disabilities into medical courses. The committee formulating the guidelines must include experts with disability or persons who have worked on disability justice. The guidelines shall comply with the judgments of this Court and contemporary advancements in disability justice;

b. The Disability Assessment Boards shall eschew from a benchmark model to test the functional competence of medical aspirants with disability. The second respondent shall issue appropriate guidelines in this regard;

a. The Disability Assessment Boards shall include a doctor or health professional with disability as per the directions of the first respondent dated 24 March 2022;

b. The conduct of the Disability Assessment Boards shall be fair, transparent and in compliance with principles of the rule of law. Attention must be paid to ensure that candidates appearing before the Board do not

feel uncomfortable on account of physical or attitudinal barriers;

c. Reasonable accommodation is a gateway right to avail all other fundamental, human and legal rights for persons with disabilities. Non-availability of reasonable accommodation amounts to discrimination and violates substantive equality of persons with disabilities;

d. The inclusion of persons with disability in the medical profession would enhance the quality of healthcare and meet the preambular virtue of fraternity and the guarantees in Articles 21, 19, 14 and 15 of the Constitution;

e. Applicants to the NEET examination must be informed about the compliance of accessibility norms and provisions of reasonable accommodation available at colleges. The respondents shall issue appropriate directions to create a database with relevant information on accessibility and reasonable accommodation; and

f. Enabling Units at medical colleges shall act as points of contact for persons with disability desirous of accessing clinical accommodations.”

- 26.** In addition to the law as explained, from perusal of the Act, it is clear that the rights and entitlements of the persons suffering from disability and persons with benchmark disability flow in their favour by virtue of Chapter II. Special provisions for persons with benchmark disability have been prescribed in Chapter VI which

also include reservation in terms of the mandate of Section 34. Chapter IX of the said Act prescribes for registration of institutions for persons with disabilities and grants to such institutions. Chapter X of the said Act prescribes for certification of specified disabilities. It prescribes for the guidelines for assessment, designation of the certifying authorities, procedure for certification and appeal against the decision of the certifying authority.

- 27.** Rule 17 and Rule 18 prescribe for manner of applying for disability certificate and the issuance of a disability certificate which after amendment in the year 2024 read as under:-

“17. Application for disability certificate and UDID Card.- (1) Any person with specified disability may apply in Form -IV for a disability certificate/ Unique Disability Identity (UDID) Card and submit the application through UDID Portal to:

(a) a medical authority or any other notified competent medical authority to issue such a certificate in the district of residence of the applicant as mentioned in the proof of residence in the application; or

(b) the concerned medical authority in a hospital where he may be undergoing or may have undergone treatment in connection with his disability:

Provided that where a person with disability is a minor or suffering from intellectual disability or any other Disability which renders him unfit or

unable to make such an application himself, the application on his behalf may be made by his legal guardian or by any organisation registered under the Act having the minor under its care.

(2) The application shall be accompanied by -

(a) proof of identity;

(b) a recent photograph not older than six months;

(c) proof of residence;

(d) aadhaar number or aadhaar enrolment number.

Note: if an Aadhaar Card is submitted as proof of identity, no additional documents will be required for address proof in case Aadhaar has the same residential address"

In the said rules, for rule 18, the following rule shall be substituted, namely:-

*"18. Issue of disability certificate/ UDID Card.-
(1) On receipt of an application under rule 17, the medical authority or any other notified competent medical authority shall verify the information as provided by the applicant and shall assess the disability in terms of the relevant guidelines issued by the Central Government and after satisfying himself that the applicant is a person with disability, issue a disability certificate in Form-V and Form-VI and one of the three types of colour-coded UDID*

card in form VII in his favour, as the case may be. One of the three types of colour- coded UDID Card shall be issued based on the severity of the disability-

a. White Band Card: When the disability percentage of a Person with Disability is below forty percent.

b. Yellow Band Card: When the disability percentage of a Person with Disability is forty percent or above but below eighty percent.

c. Blue Band Card: When the disability percentage of a Person with Disability is eighty percent or above.”

- 28.** Rule 19 of the said Rules prescribes that a person to whom a certificate is issued under Rule 18 shall be entitled for all the facilities, concessions and benefits admissible for persons under the scheme of the Government and of Non-Government Organization. Thus, the certificate once issued is valid for claiming the benefits as flow in pursuance to the prescriptions contained in the Act and the various statutes.
- 29.** The said once issued under the statute and the rules framed cannot be overridden by any assessment done by any authority which is not an authority specified under the Act and the Rules.
- 30.** The Standard Operating Procedure (SoP) for Deactivating/cancelling a Disability Certificate issued by the Ministry of Social Justice & Empowerment (Department of

Empowerment of Persons with Disabilities) effective from 1st February, 2025, which prescribes a detailed procedure to be followed before any action can be taken against a person holding such a certificate. No such procedure was followed by the SDO Revenue, rendering the impugned order void and unsustainable. The relevant portion of the SoP reads as follows :-

“(ii) When on examination by Medical Board or Appellate Medical Board Constituted by Government Employers (GEs) or Government Institutions of Higher Education (GIHE) and Other Higher Education Institutions aided by Government (OTHER) or any other Government authority or undertaking of Government, it is established that the disability certificate and UDID card holder is not a genuine person with Disability (ies) and the request is made through the competent authority of the said organization.”

- 31.** Reverting to the facts of the present case, in the light of the above judicial precedents as well as the Standard Operating Procedure issued by the Ministry of Social Justice & Empowerment (Department of Empowerment of Persons with Disabilities), it is quite vivid that the impugned action undertaken by Respondent No. 3 is wholly without jurisdiction, legally unsustainable, and contrary to the settled principles governing adjudication of rights of persons with disabilities.

- 32.** It clearly emerges that the Sub Divisional Officer (Revenue), Saraypali, has ventured into an arena which is exclusively reserved for duly constituted Medical Boards and competent authorities under the statutory framework of the Rights of Persons with Disabilities Act, 2016 and the Rules framed thereunder. The determination of the validity, genuineness, and medical correctness of a disability certificate necessarily requires specialized medical expertise and adherence to the procedure prescribed under law. The respondent authority, being a revenue officer, neither possessed the requisite expertise nor the statutory competence to undertake such an inquiry. The exercise of power by Respondent No. 3, therefore, suffers from inherent lack of jurisdiction and is vitiated on this ground alone.
- 33.** Further, a careful scrutiny of the material on record demonstrates that the findings recorded in the impugned order are based on conjectures and surmises rather than on cogent and conclusive evidence. The reports of the Civil Surgeon do not categorically hold that the disability certificate issued in favour of the petitioner was forged or fabricated; rather, they merely indicate an inability to verify certain aspects and refer to subsequent medical tests which did not indicate present disability. Such material, by no stretch of imagination, could form the basis for a definitive conclusion that the petitioner had fraudulently obtained the certificate by impersonation. The impugned order, therefore, reflects non-application of mind and suffers from perversity.

- 34.** It is also evident that the respondent authority has placed undue reliance on subsequent medical examination conducted in the year 2018 to discredit a certificate issued in the year 2010. This approach is fundamentally flawed, as disability is not a static condition and may vary over time. A certificate validly issued at a particular point of time cannot be retrospectively invalidated merely on the basis of a later medical assessment, unless it is conclusively established by a competent authority that the original certification process itself was vitiated by fraud or misrepresentation. No such finding, supported by legally admissible evidence, has been recorded in the present case.
- 35.** Moreover, the procedure prescribed under the Act of 2016, the Rules framed thereunder, and the Standard Operating Procedure for deactivating or cancelling a disability certificate has not been followed. The said framework mandates that any doubt regarding the genuineness of a disability certificate must be examined by the issuing authority or by a duly constituted Medical Board through a structured process, ensuring fairness, transparency, and opportunity of hearing. The complete bypassing of this statutory mechanism by Respondent No. 3 renders the impugned action arbitrary and violative of the rule of law.
- 36.** The impugned order is also vitiated on account of violation of the principles of natural justice. Though the proceedings ostensibly indicate that an opportunity of hearing was afforded, there is

nothing on record to suggest that the petitioner was given a meaningful and effective opportunity to rebut the allegations, confront the material relied upon, or produce independent medical evidence. The absence of a fair and proper inquiry strikes at the very root of the decision-making process and renders the impugned order unsustainable.

- 37.** Additionally, the recommendation made by Respondent No. 3 for initiation of criminal proceedings against the petitioner is wholly unwarranted and beyond the scope of the proceedings. In the absence of a clear and conclusive finding of fraud, recorded by a competent authority following due procedure, such a recommendation is not only premature but also indicative of a prejudged and arbitrary approach.
- 38.** In view of the foregoing analysis, this Court is of the considered opinion that the impugned order dated 13.08.2020 cannot be sustained in the eyes of law. The same is hereby quashed and set aside. Consequently, any action taken or proposed to be taken pursuant to the said order, including the recommendation for initiation of criminal proceedings, shall also stand annulled.
- 39.** Respondent No. 3 is directed to forthwith return the original disability certificate of the petitioner, if the same is still in custody. It is, however, made clear that if the competent authority, in accordance with the provisions of the Rights of Persons with Disabilities Act, 2016, the Rules framed thereunder, and the

applicable Standard Operating Procedure, deems it appropriate to verify the certificate, it shall be at liberty to do so strictly in accordance with law, by following due process and by referring the matter to the competent Medical Board.

- 40.** The writ petition is accordingly **allowed**. No order as to costs.

Sd/-

(Amitendra Kishore Prasad)
Judge

Yogesh

Head Note

Courts, though not expert medical bodies, are empowered to judicially review the decision-making process to ensure that it is fair, transparent, and in accordance with established legal principles; however, in matters requiring medical expertise, they must accord due deference to, and ultimately rely upon, the opinion rendered by the Disability Assessment Board as the competent authority.