



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF THE CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)
 दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)
 सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment
 भारत सरकार/Government of India
 5वाँ तल, एन.आई.एस.डी. भवन, जी-2, सेक्टर-10, द्वारका, नई दिल्ली-110075; दूरभाष : (011) 20892364
 5th Floor, N.I.S.D. Bhawan, G-2, Sector-10, Dwarka, New Delhi-110075; Tel.: (011) 20892364
 Email: ccpd@nic.in; Website: www.ccpd.nic.in

Case No. 14550/1031/2023

In the matter of-

Shri Anurag Dubey ... **Complainant**

Versus

The Commissioner
 National Medical Commission ... **Respondent**

1. Gist of the Case:

1.1 Shri Anurag Dubey filed a complaint dated 04.10.2023 regarding denial of admission to the MBBS course to his son, Shri Ayush Dubey, a person with Speech and Language Disability.

1.2 The Complainant submitted that his son, aged 19 years, has a congenital cleft lip and palate and had undergone four surgeries. However, his speech impairment persisted. He secured 92% marks in the Intermediate examination and 235 marks in NEET. While his disability was assessed at 60% in the disability certificate dated 13.06.2022 issued by the Government of Uttar Pradesh, the Designated Disability Certification Centre at Lady Hardinge Medical College & Associated Hospitals, New Delhi, assessed his Speech and Language Disability at 42%.

1.3 The Complainant submitted that, as per the National Medical Commission (NMC), candidates having disability below 40% are not entitled to reservation, whereas candidates having disability of 40% or above are considered ineligible for admission to the MBBS course. He contended that this position effectively deprived his son of the benefit of reservation despite his having no other disability.

1.4 The Complainant further referred to the case of Sh. Vibhushit Sharma, a

resident of Karnal, Haryana, who had 60% disability and was granted admission to the MBBS course by the NMC following the filing of a writ petition before the Hon'ble Supreme Court. The Complainant contended that similarly placed persons with disabilities could have benefited had the matter been adjudicated by the Hon'ble Supreme Court.

1.5 The Complainant requested that the NMC similarly provide an MBBS seat to his son, Shri Ayush Dubey.

2. Notice to the Respondent:

2.1 A notice dated 09.10.2023 was issued to the Respondent under Sections 75 and 77 of the Rights of Persons with Disabilities Act, 2016 (RPwD Act, 2016), calling upon it to furnish comments on affidavit regarding the alleged violation of Sections 3 and 32 of the RPwD Act, 2016, within the prescribed period.

3. Reply filed by the Respondent:

3.1 The Respondent, in its reply on affidavit dated 31.10.2023, submitted that the disability of the Complainant's son was assessed at 42% Speech Disability by the Medical Board constituted at the Designated Disability Certification Centre, Lady Hardinge Medical College & Associated Hospitals, New Delhi. It was further submitted that, in terms of Appendix H-1 of the Graduate Medical Education (Amendment) Regulations, 2019, notified on 13.05.2019, candidates having speech disability of 40% or above were not eligible to pursue a medical course or claim seats reserved for persons with benchmark disabilities.

3.2 The Respondent further submitted that the amended Graduate Medical Education Regulations, 2019, provide for eligibility of candidates having speech disability of less than 40%, whereas candidates having speech disability of 40% or above are considered ineligible for admission to a medical course.

4. Notice for Rejoinder to the Complainant:

4.1 The reply filed by the Respondent was forwarded to the Complainant vide email dated 22.11.2023, with an opportunity to submit his comments/rejoinder within 15 days. However, no comments/rejoinder received from the Complainant.

5. Status of the Case:

5.1 This Court, vide email dated 05.06.2025, sought the current status of the matter from both parties. The Complainant was requested to confirm whether the grievance continued to subsist, while the Respondent was requested to intimate

the action taken in the matter to enable a decision regarding further proceedings, including scheduling of hearing, if required.

5.2 The Complainant, vide email dated 10.06.2025, informed that his ward had taken admission in the B.Sc. course and, therefore, the case may be closed. He, however, requested that appropriate action be taken against various institutions and organizations to prevent discrimination against persons with disabilities.

6. Observations and Recommendations:

6.1 The Court has carefully considered the submissions of both parties and the material available on record. The Respondent has submitted that the Complainant's son was assessed with 42% Speech Disability and that, at the relevant time, his eligibility for admission to the MBBS course was examined with reference to Appendix H-1 of the Graduate Medical Education (Amendment) Regulations, 2019, notified on 13.05.2019, on the basis of which he was treated as ineligible for pursuing the MBBS course.

6.2 However, the legal position governing admission of Persons with Disabilities to medical courses has subsequently been authoritatively clarified by the Hon'ble Supreme Court in Omkar Ramchandra Gond v. Union of India & Others, Civil Appeal No. 10611 of 2024, decided on 15.10.2024 (2024 INSC 775). The Hon'ble Supreme Court held that quantified disability, by itself, cannot disqualify a candidate with benchmark disability from being considered for admission to an educational institution. It further held that the NMC Regulations dated 13.05.2019, read with Appendix H-1, are required to be interpreted consistently with the provisions of the RPwD Act, 2016 and the principles laid down in the said judgment.

6.3 The Hon'ble Supreme Court further clarified that a Disability Assessment Board cannot rely merely upon the percentage of disability recorded in the disability certificate. It is required to undertake a positive and individualized assessment and record whether the disability would or would not come in the way of the candidate pursuing the particular course. In case of an adverse opinion, specific reasons are required to be recorded. The assessment process must be informed by the principles of equality, non-discrimination, inclusive education and reasonable accommodation embodied in the RPwD Act, 2016.

6.4 Accordingly, the Respondent and all other authorities concerned are advised that, in future cases relating to admission of candidates with disabilities to medical courses, eligibility should not be determined solely on the basis of the quantified

percentage of disability. The competent Disability Assessment Board should undertake an individualized functional assessment having regard to the actual requirements of the course and profession, and the principles laid down by the Hon'ble Supreme Court in *Omkar Ramchandra Gond* should be duly kept in view. The authorities may also take into consideration the directions of the Hon'ble Supreme Court regarding review of the applicable NMC regulations, functional classification and physical requirements, sensitization of medical colleges, availability of Disability Assessment Boards and an appropriate appellate mechanism against adverse decisions.

6.5 In the present case, however, the Complainant has informed the Court that his ward has since taken admission in a B.Sc. course and has requested closure of the matter. In view of the specific request of the Complainant and the fact that the relief originally sought is no longer being pursued, no further relief or adjudicatory intervention is called for in the present proceedings.

7. Accordingly, the case is disposed of.

Digitally signed by
Ipsita Mitra
Date: 02-09-2026
13:51:06

(Ipsita Mitra)

Dy. Chief Commissioner for Persons with Disabilities