

# Prithviraj Bairwa vs Union Of India & Ors on 4 September, 2023

**Author: Purushaindra Kumar Kaurav**

**Bench: Purushaindra Kumar Kaurav**

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IN THE HIGH COURT OF DELHI AT NEW DELHI  
W.P.(C) 11570/2023 and CM APPL. 45057/20

PRITHVIRAJ BAIRWA

UNION OF INDIA & ORS.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

% 04.09.2023

1. The petitioner, vide the instant writ petition has prayed for the following reliefs:-

"a. Issue an appropriate writ, order or direction quashing the impugned certificate of the Disability Certification Board. b. Issue an appropriate writ, order or direction for re-examination of the Petitioner.

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2. This court in terms of order dated 31.08.2023 has passed the following directions:-

"(i) The petitioner to appear before Director of AIIMS at 3pm today.

(ii) The Director of AIIMS is directed to constitute a Board of three experts in the relevant field to assess petitioner's disability and give an opinion as to whether the petitioner could be able to pursue the said course and work as a doctor in accordance with law, extant regulations of MBBS and other regulations."

3. In pursuance to directions passed by this court, respondent no.4- AIIMS constituted a Board of five members. The Board so constituted, examined the petitioner thoroughly and opined that the petitioner is suffering with 40% permanent disability due to Right Infantile Hemiparesis. According to the opinion of the Board, the petitioner may be considered eligible to join the MBBS course, however, there are certain reservations with respect to difficulties to be faced by the petitioner during surgical and intensive care Disciplines. It has also been opined that the petitioner may not be able to pursue the Post Graduate Medical Training in specialized Surgical Disciplines and intensive care services in future.

4. The report dated 02.09.2023 of the AIIMS reads as under:-

"ALL INDIA INSTITUTE OF MEDICAL SCIENCES Ansari Nagar, New Delhi - 110029 No.F.2-101/Medical Board/2023-Estt.(H.) Dated: 02.09.2023 Subject: Report of the medical board constituted at AIMS for medical examination of petitioner Mr. Prithviraj Bairwa in compliance of order dated 31.08.2023, Hon'ble Mr. Justice Purushaindra Kumar Kaurav, High Court of Delhi vide This is a digitally signed order.

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\*\*\*\*\* With reference to the aforementioned subject, the Medical Superintendent, AIMS, New Delhi constituted a Medical Board consisting of the following members:-

1. Dr. S. L. Yadav -Chairperson Professor & Head, Deptt. of PMR
2. Dr. Venkatesan Sampath Kumar - Member Addl. Professor, Deptt. of Orthopaedics
3. Dr. Asem Rangita Chanu -Member Assoc. Professor, Deptt. of P.M.R.
4. Dr. Sushil Soni -Member Senior Resident, Deptt. of P.M.R
5. Dr. Bishnu Goswami - Member Secy.

Department of Hospital Administration The meeting of the Medical board was held on 02.09.2023 (Saturday) at 11:00 A.M. in Consultation Room No. 13, M.S. Office Wing, Ground Floor, AIIMS, New Delhi. The available reports, earlier certificates and medical documents were reviewed and the petitioner Mr. Prithviraj Bairwa was examined thoroughly by all the members. The members of the Medical Board assessed the petitioner, Mr. Prithviraj Bairwa at Skill Lab, SET Facility, AIMS with regard to the basic skill requirement pertaining to the Undergraduate Medical Education.

During the process of Undergraduate Medical Training, it is imperative to acquire requisite basic skills like examination of a patient, essential interventions including suturing of a wound, administering injections by different routes, basic resuscitation techniques, conducting a normal vaginal delivery, assisting in various procedures etc. for its successful completion. It should be noted that any limitation of the candidate shouldn't be to the detriment of patient safety or delivering the best patient care.

The Medical Board has evaluated that the candidate, Mr. Prithviraj Bairwa to have 40% (Forty percent) permanent disability due This is a digitally signed order.

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However, Medical Board observed that in the course of time pursuing MBBS, the candidate may face some difficulties during surgical and intensive care Disciplines because of the limitation in delivering patient care services and also that the candidate may not be able to pursue Post Graduate Medical Training in specialized Surgical Disciplines and intensive care services in future apropos the disability. ...."

5. The copy of the said report be sent to learned counsel appearing on behalf of the parties by the Registry through email.

6. This court in a similar controversy in W.P.(C) 9618/2023 and W.P.(C) 10781/2023 considered the directions passed by the Hon'ble Division Bench of this court in LPA No.571/2023 and has directed for substitution of the disability certificate which was under challenge in those cases with the report of the medical Board of AIIMS. While doing so, this Court has directed for consideration of the candidature of the respective petitioners for allotment of medical seat.

7. In the instant case, a perusal of the facts would indicate that the petitioner would also be entitled for the same relief.

8. Accordingly, this court finds it appropriate to issue following directions:-

(i) The impugned certificate dated 10.08.2023 is set aside. The report dated 02.09.2023 of AIIMS be treated to be the disability certificate of the petitioner;

(ii) The candidature of the petitioner be considered for allotment of seat on the basis of his merit treating him to be This is a digitally signed order.

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(iii) In case, the petitioner is found entitled for allotment of a seat, reasonable accommodation be also extended to him to complete the course.

9. With the aforesaid observations, the instant petition stands disposed of along with the pending application.

10. Copy of this order be given dasti under signatures of the Court Master.

PURUSHAINDRA KUMAR KAURAV, J SEPTEMBER 4, 2023 nc/ss This is a digitally signed order.

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