

IN DEFENSE OF ADMITTING LOW VISION STUDENTS TO MEDICAL COLLEGES

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INTRODUCTION

In 2017, the Indian Parliament was keen to finalize the rules of the recently passed Rights of Persons with Disabilities Act which would allow disabled persons to avail 5 percent reservation in government-run higher education institutions from the next academic session.¹ Of the quota that represents persons with disabilities, the subcategory of visually impaired persons are regularly granted admission to various non-medical courses in higher education institutions. However, as several cases progress through higher level courts in India, the perceptions of admitting low vision students to medical colleges has been indisputably varied.

The Medical Council of India (MCI) finds its regulations statutory in character and binding on all concerned government-run higher education institutions. One such stipulation issued by the MCI is that persons with visual or hearing impairment are not entitled to admission in medical courses and therefore are not eligible to claim reservation of 5 percent of seats allocated to persons with disabilities.²

This essay will analyze various cases of visually impaired persons that have legally gained or been denied admission to medical college and argue that, on the basis of international precedents, such admissions serve as an impetus for the visually impaired to become successful practicing physicians. In regards to low vision students being granted admission into medical college, namely, the United States has witnessed a significant number of successful cases.³ To disprove the false dichotomy that subsists within the status quo in relation to whether or not medical college seats should be granted to visually impaired individuals as part of the Rights of Persons with Disabilities Act, this essay outlines the numerous benefits that would emerge if legislation granting such seats to visually impaired students be passed. Part I presents a brief historical overview of case studies in India involving visually impaired students seeking admission into medical college. It notes the operational definition of “visually impaired” in the context of disabilities outlined under the Rights of Persons with Disabilities Act and the legality with which such students have been denied or

¹ Press Trust of India, Disabled persons to avail 5 percent quota in colleges from next academic session India.com (2017), <http://www.india.com/education/disabled-persons-to-avail-5-percent-quota-in-colleges-from-next-academic-session-1738269/>

² G. Rohini, Deepshikha vs Medical Council Of India & Ors on 15 May, 2015 Article 15(4) in The Constitution Of India 1949 (2015), <https://indiankanoon.org/doc/147358771/>.

³ Timothy Cordes, A Practicing Blind Physician National Federation of the Blind (2010), <https://nfb.org/Images/nfb/Publications/bm/bm10/bm1010/bm101008.htm>.

granted the admission by the Medical Council of India. Part II will address an overview of case studies in the United States whereby visually impaired students have been legally granted admission into medical college and pursued successful careers as practicing physicians. Many of the presumed drawbacks of admitting low vision students to Indian medical colleges have been addressed by American precedents. Hence those predicted negative aspects should not serve as a hindrance towards granting low vision students admission into Indian medical colleges but rather a catalyst in order to implement legislative reform more urgently. Part III will depict the positive implications of the Medical Council of India granting admission to visually impaired students, more specifically, through 3 main regards: First, by effectively training visually impaired students to apply their understanding of patient care for the benefits of the greater medical community; Second, by pairing the distinct advantage of medical technology with the heightened senses of visually impaired physicians, to increase the accuracy diagnoses in clinical practice; Third, by dissolving the dichotomy that the visually impaired are incapable of practicing medicine which will bolster purposeful discourse on permitting a wider range of persons with disabilities, under the Rights of Persons with Disabilities Act, to enter medical professions. All three of these assets would contribute to the proper reflection of human rights of visually impaired individuals and further reinforce the admission of individuals by the Medical Council of India strictly on merit rather than impairments.

I. A BRIEF HISTORICAL ACCOUNT OF MCI ADMISSIONS TO VISUALLY IMPAIRED PERSONS IN INDIA

The earliest recount of MCI MBBS admissions of the visually impaired surrounds student Anka Toppo. Toppo had been selected for admission in the MBBS course at the All India Institute of Medical Sciences (AIIMS) in Delhi in 1989 and was to take his final examinations in 1993 when he started to become visually impaired and ultimately blind from suffering Eale's diseases.⁴ Denied permission to take the exam for want of approved guidelines by the Medical Council of India, Toppo approached the National Human Rights Commission (NHRC). After discussing the case at length with the AIIMS authorities, the NHRC cited several instances from other countries of physicians practicing medicine despite suffering from physical impairments. With the advice of the Commission, the authorities at AIIMS arrived at the decision that due to severe

⁴ Visually-challenged becomes doctor, Rediff (2004), <http://www.rediff.com/news/2004/mar/22delhi.htm>

visual loss suffered, it would not be possible for Toppo to work in the medical profession.⁵ The authorities informed the Commission that they could, nevertheless, grant Toppo a degree in Human Biology and help him acquire employment at AIIMS. In the course of the proceedings, the Deputy Commissioner for Persons with Disability, Institute for the Physically Handicapped, Delhi, Ms. Anuradha Mohit, appeared before the commission on behalf of the petitioner and elaborated the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights & Full Participation) Act. The statutory provisions of the Act provided persons with disabilities with equal opportunities in all matters, including the acquisition of knowledge and employment.

As of November 2017, the Medical Council of India (MCI) allows 21 categories of even severely disabled candidates to take graduate and postgraduate medical courses, a landmark shift in its policy after a severe stricture from the Supreme Court in August of 2017.⁶ This settlement along with many other legislative advancements mandated through the Indian government served as a precedent towards creating a more inclusive medical field. Prior to the government's actions, only candidates which had 70% or less physical disability in their lower limbs were given the opportunity to study medicine, creating a plethora of problems. One of which was a constant cycle of separate legal issues engendered by different students facing similar problems and the other being a transparent form of discrimination.⁷ However, by mitigating the previous restrictions inflicted upon individuals in possession of some disability including blindness and low-vision, disability could no longer be used as a means to justify stripping away rights from prospective doctors and others who wished to pursue a career in the medical field. Failure to continue this path of inclusion would be especially detrimental towards both solving the two problems aforementioned as well as mitigating the injustice that subsists within the medical field in the status-quo. As will be later discussed, denying these basic rights would, in essence, reverse the progressive strides that India has already taken towards solving this predicament.

In June 2018, the Supreme Court encountered a now ongoing case to examine whether an aspiring doctor from Gujarat, Purswani Ashutosh, who

⁵ Manav Bhawan, Visually challenged Anka Toppo is to complete MBBS: NHRC expresses appreciation to AIIMS National Human Rights Commission - New Delhi, <http://nhrc.nic.in/dispatch.asp?fno=524>

⁶ Jeevan Sharma, Physical disability won't prevent deserving candidate from becoming doctor <https://www.hindustantimes.com/> (2017), <https://www.hindustantimes.com/india-news/severely-disabled-can-now-aspire-to-be-doctors-as-medical-council-shifts-to-a-more-inclusive-policy/story-MRJIyFSGgWjHhhkiFCeLK.html>

⁷ Ibid.

suffers from “low vision” should be entitled to become a doctor and deliver healthcare. While Ashutosh secured the National Eligibility-cum-Entrance Test (NEET) at 419th rank under the physically handicapped sector, advocate Govind Jee at the head of formally filing the petition, found that Ashutosh’s rank in the NEET exam renders him a “fair chance of getting a seat in medical/dental colleges.”⁸ According to the text of the petition, “low vision” has been included as a benchmark disability under the appended Rights of Persons with Disabilities Act of 2016.⁹ Given that section 32 of his act provides for the reservation of not less than 5 percent of seats for people with benchmark disabilities in all government-run institutions of higher education, Ashutosh’s petition holds full legal clearance for his admission in institutions of higher education. However, the indisputably varied preconceptions on whether Ashutosh and visually impaired students, at large, should be allowed to pursue higher education in the medical field have begged the question of whether there exist domestic or international precedents that might justify the Court’s inclination to grant admission to low vision students. Part II of this essay further expands on international precedents of successfully practicing, visually impaired physicians, which may justify the Court’s current inclination to grant medical college admission to low vision candidates.

II. ADDRESSING MISCONCEPTIONS REGARDING THE PERFORMANCE OF VISUALLY IMPAIRED PHYSICIANS

Opponents of visually impaired individuals practicing medicine often argue that these disabled students are incapable of providing secure healthcare and ensuring a fair & accurate diagnosis of patients. Due to their lack of vision, many contend it would cause severe complications both during and after medical school. Although this essay recognizes possible difficulties that may arise during the process of visually impaired individuals pursuing a career in medicine, the vast majority of cases involving blind individuals are completely compatible with medicine-related careers, rendering this false dichotomy untrue. In fact, Arthur & Virginia Keeney, well-renowned experts in the field of study regarding blindness among practicing physicians conducted a report in which they reviewed the careers of 19 blind physicians and concluded that, while visual loss imposed

⁸ Kaumudi Online, Can a person with 'low vision' become doctor, SC to examine - KaumudiglobalDailyHunt (2018), <https://m.dailyhunt.in/news/india/english/kaumudiglobal-epaper-kglobal/can+a+person+with+low+vision+become+doctor+sc+to+examine-newsid-90178518>

⁹ R. Balaji, SC to hear 'low vision' MBBS aspirant The Telegraph (2018), <https://www.telegraphindia.com/india/sc-to-hear-low-vision-mbbs-aspirant-238134>

considerable difficulties for the affected physician, it was not incompatible with continued medical practice.¹⁰ There exists no evidence to suggest that blind individuals are incapable of pursuing medicine careers in both a safe and constructive manner.

Moreover, recent technological advancements within the medical field have enhanced the means & feasibility of which blind physicians can treat their patients. Modern technology has produced devices such as the optical-tactile converters, reading machines with voice synthesizers and electronic mobility aids (Optacon), the Kurzweil reading machine, and the laser cane, which have revolutionized the ability of blind physicians to contribute to a patient's wellbeing.¹¹ These medical developments are imperative towards reexamining the subject of visually disabled physicians in the medical workforce. Continuing to suppress the innate rights of visually impaired individuals is detrimental towards societal welfare in India and perpetuates a cycle of discrimination. Removing the ban conversely would instigate further progression towards equality and justice.

Similarly to these technological advancements, India has made advocated for a few legislative advancements for the betterment of certain visually impaired students to pursue a career in medicine. Earlier in 2015, two young students were denied admission from the Tripura Medical College despite both passing the admission test.¹² Outraged, the two students brought their concerns to the Tripura High Court only to face rejection yet again. Following the incident, the two students continuously fought for their rights by bringing the matter to the supreme court. The Medical Council of India (MCI), respondents at the time stated that being a color blind individual prevents one from performing their duty as a doctor, increasing the chances of an unfair diagnosis and prognosis of a disease. However, the supreme court wasn't satisfied with the response offered by the Medical Council and on July 31, 2017, the supreme court agreed on the decision to allow color blind individuals to attend medical school, ending a decades-old practice. Prior to this legislative initiative, India was--according to the expert committee constituted by the Court through the MCI in order to assess whether color blindness affected the prospects of students aspiring to become doctors--perhaps the only country where the colorblind are denied admission in medical colleges as CVD is not considered as a criterion for rejection to study

¹⁰ Stanley F. Wainapel, The Physician With Visual Impairment or Blindness JAMA Internal Medicine(1986), <https://jamanetwork.com/journals/jamaophthalmology/article-abstract/635983>

¹¹ Ibid.

¹² Pti, SC directs admission of two colour-blind students in MBBS The Hindu (2017), <https://www.thehindu.com/news/national/sc-directs-admission-of-two-colour-blind-students-in-mbbs/article19746651.ece>

medicine in USA, UK, and other western countries. In fact, the official report released stated, “As per current international practices, there is no policy of regulating entry of medical aspirants to study and practice of the medical profession based on color vision deficiency. There are also no identified or mentioned practice restrictions.”¹³ In light of the report’s discoveries on international practices, the supreme court unanimously agreed that the restrictions had been a form of regression towards India’s medical system, invoking special powers mandated under Article 142 of the constitution regarding the situation as one that held transcendental importance of justice.¹⁴ In essence, they decided to follow in the footsteps of the vast majority of international countries.

Similar to the case in question, it is of utmost importance that Purswani Ashutosh is granted with the same means of equality and justice insofar as the vast majority of countries do not discriminate against the visually impaired for medical school admissions. The earliest account of a visually impaired individual attending medical school and practicing medicine thereafter can be traced to medical practice in the United States. Jacob Bolotin, born in 1888, became the first congenitally blind person to attend medical school and practice as a licensed physician in the country.¹⁵ Bolotin’s story serves as an important precedent as his medical practice as a visually impaired physician occurred at a time where programs such as teaching visually impaired people to cane travel and the use of tape recorders, Perkins Brailers, or talking books was unheard of. Rosalind Perlman, author of Jacob Bolotin’s biography, *The Blind Doctor: The Jacob Bolotin Story*, characterizes Bolotin as not only an excellent student but one with extraordinarily heightened senses such as reading Braille through three handkerchiefs and recognizing people by their smell. Bolotin, however, did not encounter an obstacle-free path to becoming a practicing physician. Upon his graduation Bolotin had to fight to take the exam to become a licensed physician and even after he was granted that opportunity, he endured months in an office where no patients visited his clinic. His talents were proven during his internship at Frances Willard Hospital in Illinois where a young woman’s illness was misdiagnosed by at least three other physicians who through the illness was psychologically based when Bolotin examined the patient and immediately recognized a serious heart condition. Perlman briefed this account:

¹³ Amit Anand Choudhary, MCI agrees to allow colour blind students in medical colleges - Times of India The Times of India (2017), <https://timesofindia.indiatimes.com/india/mci-agrees-to-allow-colour-blind-students-in-medical-colleges/article59850459.cms> (

¹⁴ Ibid.

¹⁵ Rosalind Perlman, *The Blind Doctor: The Jacob Bolotin Story* National Federation of the Blind(2008), <https://nfb.org/Images/nfb/Publications/bm/bm08/bm0801/bm080105.htm>

When Jacob examined the girl, he was stunned to hear the distinct murmur of an obstructed heart valve. Slowly he ran his fingers over her chest. Her skin was sweaty and clammy. Again he pressed his ear to her heart and listened intently. There was no doubt. It was not simple neurasthenia, but the dull unmistakable murmur of mitral stenosis.¹⁵

His brilliance as a physician due to the increased accuracy of his medical diagnoses, given his heightened senses, was recognized by patients and other physicians long before he took his rightful place in the medical community. Eventually, however, Dr. Jacob Bolotin grew to be an internationally renowned heart and lung specialist. Bolotin's comments as quoted in the *Chicago Tribune* perhaps highlight the exact sentiment that should be applied to recent disputes on the medical college admission of visually impaired candidates:

Well, is there anything so remarkable about it? Because a man has no eyes, is it any sign that he hasn't any brains? That is the trouble with the world and the blind man. All the blind man asks is fair play. Give him an equal chance without prejudice, and he generally manages to hold his own with his more fortunate colleagues.¹⁵

However, Bolotin is far from an anomaly in the international medical field. Many other visually impaired individuals around the globe are continuing to pursue a career in the medical field despite their disabilities. Disabled physicians such as Stanley Yarnell, David Hartman, Stanley Wainapel, Iliff C. Jeffrey, Timothy Cordes, and so many more have already revolutionized the definition of equality and justice within the medical field.^{16 17 18 19 20} Stanley Yarnell became

¹⁶ Alice Wong, DVP Interview: Emily Smith Beitiks and Stanley K. Yarnell Disability Visibility Project (2015),

<https://disabilityvisibilityproject.com/2015/02/10/dvp-interview-emily-smith-beitiks-and-stanley-k-yarnell/>

¹⁷ First blind person to graduate from U.S. medical school, Gettysburg College (2004), https://www.gettysburg.edu/news_events/press_release_detail.dot?id=e96596d0-e407-48e7-853a-f32790091788

¹⁸ Western University, Blind Physicians in Current Practice Harris Family Center for Disability and Healthy Policy, <http://www.hfcdhp.org/wp-content/uploads/Blind-Physicians-Current-Practice.pdf>.

¹⁹ Timothy Cordes, A Practicing Blind Physician National Federation of the Blind (2010), <https://nfb.org/Images/nfb/Publications/bm/bm10/bm1010/bm101008.htm>

²⁰ Manny Fernandez, Stanley F. Wainapel, a Doctor Who Can Feel What's Going On The New York Times (2010), <https://www.nytimes.com/2010/02/16/nyregion/16experience.html?mtrref=undefined&gwh=38C2AFEB2E69338E134C09C6F374C87&gwt=pay>

progressively blind in 1998 while he was practicing as a physician, yet with the assistance of the Disability Rights and Education Defense Fund, combatted workplace discrimination and continued his successful medical practice; David Hartman, suffered from glaucoma at an early age, losing his sight at 8, yet received a doctorate in medicine from Temple University in Philadelphia in 1976 and has authored many books including his most well known publication, *White Coat, White Cane: The Extraordinary Odyssey of a Blind Physician*; Stanley Wainapel suffered the rare retinal disorder of choroideremia and became progressively blind yet after acquiring his medical degree has become the clinical director of rehabilitation medicine at Montefiore Medical Center in the Bronx; Timothy Cordes who has in the status quo become a practicing physician completing his last year of residency and was a recipient of the National Federation of the Blind Scholarship in 1995. Dr. Timothy Cordes, following in the footsteps of Dr. Jacob Bolotin, perhaps puts it best when he notes, “A kite flies highest against the wind.” The coalition of individual cases regarding visually impaired physicians has become a forefront to combat workforce and academic discrimination against those with low vision or blindness wishing to pursue a degree in medicine. The cases of the aforementioned visually impaired physicians have become foundations for candidates in the status quo to defend the vitality of their roles as visually impaired physicians in vastly altered and advanced medical world. As the global medical field continues to progress both morally and technologically, India will remain stagnant unless the Medical Council of India removes its discriminatory ban towards visually impaired individuals. India’s desire to equal the world’s growing medical field will only be satisfied if they address this crucial issue. By repeating the actions the supreme court executed during the removal of the ban of color blind individuals from entering the medical field, India would acquire numerous benefits as many around the world already have.

III. POSITIVE IMPLICATIONS OF GRANTING ADMISSIONS TO VISUALLY IMPAIRED STUDENTS

The positive implications derived from allowing visually impaired students to acquire admission to medical school would improve the status-quo through 3 main regards. First and perhaps the most paramount benefit, it would grant visually impaired individuals with the innate human rights they deserve, ones which are not currently reflected in the status quo. By prohibiting discrimination in the medical college admissions process on the basis of

vision-related disabilities, the students will have the opportunity to enter a fair system embedded with equality and justice, concluding India's previous flawed medical system. As a result of granting visually impaired individuals an opportunity to pursue a medical career, there would be a significant increase in effective training for these individuals to become medical professionals. More specifically, the merit derived from attending medical school serves as a pathway towards providing visually-impaired individuals with higher education, heightening their ability to mandate accurate diagnoses. Developing the accessibility of education resources through both medical school and effective training is imperative towards bettering the medical community insofar as it allows these students to garner a better understanding of patient care. Failure to remove the contemporary ban would be a heinous disregard to not only the human rights of visually impaired students but also one to the betterment of the medical society.

The second benefit derived from granting visually impaired students the ability to apply to medical school is that it would pair the distinct advantage of medical technology with the heightened senses of visually impaired physicians. As aforementioned, within the last few decades, society has witnessed technology within the medical field grow at an exponential rate. Allowing visually impaired students who often have heightened senses in other aspects will increase the likelihood of accurate diagnoses and prognoses in clinical practice. More specifically, the technological devices utilized by blind physicians outside of India are particularly designed to cofunction with the abilities of visually impaired physicians, hence, providing a new and safe means of medical treatment. These technological devices aren't currently being utilized within India's borders due to the existing ban. However, by adhering to the practices & policies used by international blind physicians, India will not only attain an influx of valuable resources but it will also bolster India's strength in the global medical field. Moreover, the technology derived from the further use of visually impaired physicians wouldn't be restricted to the use of the blind, but rather serve as an essential tool towards medical experts across the country, in turn, improving India's healthcare system.

The third benefit would be the dissolution of the false misconception that exists within the status quo that visually impaired individuals are incapable of practicing medicine. By integrating the visually impaired into not only the medical field but society as well, the stigma often associated with visually-impaired individuals will be mitigated. Bolstering socio-political discourse among the medical field will ensure the human rights of these

individuals as well as further promote equality and justice among other disabled individuals and strengthen the protection of these individuals through the Rights of Persons with Disabilities Act. Denying these students who have worked diligently admission to medical school would not only reverse the progressive trends that India has taken in order to create a more inclusive medical community but will also reinforce the contemporary stigma surrounding the disabled community. Therefore, it is absolutely vital that the Medical Council of India removes this discriminatory ban insofar as the problem is one which extends far beyond the medical field, one which affects the social status of the entirety of disabled individuals.

All three of these assets would contribute to the proper reflection of human rights of visually impaired individuals and further reinforce the admission of individuals by the Medical Council of India strictly on merit rather than impairments.

CONCLUSION

“All the blind man asks is fair play. Give him an equal chance without prejudice, and he generally manages to hold his own with his more fortunate colleagues,” in the words of world renowned blind physician Dr. Jacob Bolotin. From 1888 to the modern day, Bolotin’s words were etched in history by several aspiring and practicing visually impaired physicians including Stanley Yarnell, David Hartman, Stanley Wainapel, Iliff C. Jeffrey, Timothy Cordes, and Anka Toppo. Despite legal hurdles, workplace discrimination, disability identity discrimination, and ignorance of merit, each of the seven visually impaired individuals pursued a degree in medicine and practiced it, arguably, as Dr. Bolotin would say, better than their colleagues. Numerous international precedents pave qualitative evidence to reaffirm the vitality of the role of visually impaired physicians in the medical workforce. In legal terms, the 2016 Rights of Persons with Disabilities Act which allowed all disabled persons to avail 5 percent reservation in government-run higher education institutions includes the benchmark disability of “low vision” of the 21 disabilities outlined under its provisions. Thus with legal clearance for the visually impaired to have access to the 5 percent reservation of seats in government-run higher education institutions, the success of international precedents further validates innumerable reasons as to why low vision candidates for admission into medical college such as Purswani Ashutosh should be granted equal rights to knowledge and practice of medicine in the court of law.

As aforementioned, the benefits of removing the ban imposed by the Medical Council of India are myriad. For the first time in India's history, the disabled would be granted the innate human rights that are endowed upon them as citizens. Terminating this discriminatory policy would allow these individuals to bolster the medical community, engender an influx of technological medical advancements, remove the current stigma surrounding disabled individuals, and allow India to progress alongside the rest of the world. Hence, it is imperative to not only the well being of India's medical community but for the betterment of Indian society as a whole, that the Medical Council of India terminates its discriminatory policies towards visually impaired individuals, in turn, ensuring equality and justice for all.