

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 880/2018
(Shri Tukaram Rambhau Bhojane V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

**CORAM : JUSTICE A.H. JOSHI, CHAIRMAN
DATE : 28.12.2018**

ORAL ORDER :

Heard Shri Vivekanand M. Maney, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. In view of circulation note filed by the learned Advocate for the applicant, the present O.A. is taken on today's board.

3. Learned Advocate, on instructions from the applicant, seeks leave of the Tribunal to withdraw the present Original Application with liberty to file fresh Original Application, if cause and occasion arises.

4. In the circumstances, the present Original Application is disposed of as withdrawn with liberty to the applicant to file fresh Original Application, if cause and occasion arises. There shall be no order as to costs.

CHAIRMAN

FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD

ORIGINAL APPLICATION ST. NO. 3074/2018
(Shri (Dr.) Shankarrao B. Wadikar V/s. State of Maharashtra & Ors.)

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : JUSTICE A.H. JOSHI, CHAIRMAN

DATE : 28.12.2018

ORAL ORDER :

Shri J.S. Deshmukh, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Subject to removal of office objection, issue notice to respondents, returnable on 08-02-2019.

3. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

4. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained

and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

7. If notice is not collected within 7 days or proof of service is not produced before 3 days of the next date, case shall automatically stand dismissed without further reference to the Tribunal.

8. Heard on Interim Relief.

9. In view of judgment of this Tribunal at Nagpur Bench in O.A. no. 798/2016 and the batch dtd. 5th May, 2018 and judgment of Hon'ble Bombay High Court, Bench at Nagpur in W.P. no. 6757/2017 dated 5th March, 2018, which are judgments in rem, the impugned order is not just illegal but contemptuous as well. Hence, the following order :-

(a) Interim Relief in terms of prayer clauses (c), (e) and (f), which run as follows, is hereby granted.

“(c) The impugned communication dtd. 24.12.18 issued by Respondent no. 4 thereby relieving applicant w.e.f. 31.12.18 (i.e. after completing 58 years of age) may kindly be stayed being illegal & contrary to policy decisions / communication holding the field.

(e) The respondents may kindly be direct to continue applicant in service and allow to discharge duties till attaining 60 years.

(f) Pending hearing & final disposal of this Original Application, the Respondents be directed to maintain status quo as on today.”

10. Issue notice to

Res. no. 1 - Shri (Dr.) Pradeep Vyas, Principal Secretary, Public Health Department, Mantralaya, Mumbai – 32.

Res. no. 2 - Shri (Dr.) Sanjeev Kamble, Director of Health Services, Arogya Bhavan, St. Georges Hospital Campus, Near C.S.T., Mumbai.

Res. no. 3 - Shri (Dr.) H.R. Borse, Deputy Director of Health Services, Latur Circle, Gandhi Chowk, Latur.

to show cause as to why *suo motu* action for contempt should not be initiated against them for issuing the impugned order despite the judgments in O.A. no. 798/2016 and W.P. no. 6757/2017 (Exh. A.15 & A.14 respectively), returnable on 8.2.2019.

11. S.O. to 08-02-2019.

12. Steno copy and Hamdast is allowed to both parties.

CHAIRMAN

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO. 966/2018
(Smt. Suman S. Kamble V/s. State of Maharashtra & Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

**CORAM : JUSTICE A.H. JOSHI, CHAIRMAN
DATE : 28.12.2018**

ORAL ORDER :

Heard Shri Rajendra M. Lone, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Learned Advocate for applicant has tendered affidavit of service of notice on Respondent nos. 4 & 5 and copy of postal deposit receipt as regards Respondent nos. 1 & 2.

3. Learned C.P.O. prays for time

4. Learned C.P.O. was called to state as to whether instructions are received from the Respondent nos. 4 and 5. Learned C.P.O. states that beyond telephonic reply that applicant's application is put up by the office for consideration before the Respondent no. 5, he has not received other instructions.

5. This Tribunal had explicitly recorded in para 10 of the order dtd. 24.12.2018 as follows :-

"10. At least para-wise remarks must be kept ready on the next date. It shall be highly appreciable, if affidavit in reply is ready by the next date."

6. It shocking that despite specific caution stated in para 10 quoted in foregoing para, Respondent nos. 4 & 5 have not attended to the notice of this Tribunal and no instructions are given to the learned Chief Presenting Officer.

7. Hence issue show cause notice to :-

- (1) Shri Sanjay Jadhav, Superintendent of Police, Nanded
- (2) Shri Fatehsingh Patil, Special Inspector General, Nanded.

to show cause as to why they should not be personally saddled with costs of Rs. 25,000/- each towards their failure to respond to this Tribunal's notice dated 24.12.2018, on or before 8.2.2018.

8. In view of the fact that on the date of applicant's admission to 5th Standard in school, applicant would be of 18 years of age, if applicant's date of birth is to be considered as 1.1.1961. Hence, applicant's request for correction in date of birth appears to be based on most probable & sound factual background.

9. Hence, applicant has made out a case for grant of interim relief with directions as follows :-

- (a) Applicant should not be superannuated on 31.12.2018 and shall be continued in service till further orders.

- (b) It shall be open to Respondent no. 5 to suo motu reconsider applicant's request for considering his date of birth.
- (c) Respondents shall have liberty to apply for vacating the interim relief after filing affidavit in reply.

10. S.O. to 8.2.2019.

11. Steno copy / hamdast allowed for the use of both the sides.

CHAIRMAN