

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 270 OF 2023

DISTRICT : LATUR

1. Ratnadip .N Bhise)
Occ – Pharmacist,)
At Post-Bhokramba, Tehsil-Renapur)
Dist-Latur.)
2. Chatap Parmeshwar Vishwanath)
Occ-Pharmacist,)
Add: At Janegaon, Post-Kumbephal)
Tehsil-Kaij, Dist-Beed.)
3. Amardeep Bajirao Khadke,)
Occ-Pharmacist,)
Shivshaktisadan, Behind Harale)
Mill, LIC Colony, Bhagwan Baba)
Chowk, Ambejogai 431 517.)
4. Akash Hari Thote,)
Occ-Pharmacist,)
Add: Plot No. 26B, Near BSNL Office)
Opp. Sahakari Pathsauntha,)
Bhagya Nagar, Old Jalna,)
Jalna 431 203.)
5. Namrata W. Mankar,)
Occ-Pharmacist,)
Add: Golull Nagar, Katraj,)
Kondhwa Road, Lane No. 5,)
Kondhwa Bk, Near Deewanji Society)
Pune 411 048.)
6. Dattatray Bhagwat Sawant,)
Occ-Pharmacist,)
Add: Plot No. 6, Maruti Layam Nivas)
Thakre Nagar, N2 CIDCO,)
Aurangabad 431 001.)
7. Dinesh M. Bochare,)
Occ-Pharmacist,)
Add: At Post Kalegaon,)
Tehsil-Khamgaon,)
Dist-Buldhana 444 303.)
8. Omkar S. Kote,)
Occ-Pharmacist,)
Add-Batwala Mala,)
Gunjal Wadi Road,)
Sangamner, Ahmednagar.)

9. Ritikesh Wakhare,)
Occ-Pharmacist,)
Add-Tallukar & Dist – Beed.)
10. Utkarsha Deepak Magdum,)
Occ-Pharmacist,)
Chinchwada, Tal-Karvir,)
Dist-Kolhapur 416 119.)
11. Pralhad K. Kanke,)
Occ-Pharmacist,)
Add-Tal and Dist-Parbhani.)
12. Vinod H. Chaudhari,)
Occ-Pharmacist,)
Add- Mental Hospital,)
Dharamveer Nagar,)
Thane 400 601.)
13. Amol Bhagwandas Pitrubhakta)
Occ-Pharmacist,)
At Post Zodge, Tal-Malegaon)
Dist-Nasik 423205.)...**Applicants**

Versus

1. Maharashtra Public Service,)
Commission, through Secretary)
5th, 7th & 8th floor,)
Cooperage Telephone Exchange)
Bldg, M.K Marg, Cooperage,)
Mumbai 400 021.)
2. The State of Maharashtra,)
Through Secretary,)
General Administration Dept,)
Mantralaya, Mumbai 400 032)
3. Food and Drug Administration,)
Through the Office of Commissioner,)
WHO GMP Section, Survey No. 341,)
Bandra Kurla Complex, 2nd floor,)
Bandra [E], Mumbai 400 051.)
4. The State of Maharashtra,)
Through the Secretary,)
Ministry of Food and Drugs)
Administration, Mantralaya,)
Mumbai 400 032.)...**Respondents**

Shri P.B Kamble, learned advocate for the Applicants.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : **Justice Mridula Bhatkar (Chairperson)**
Mrs Medha Gadgil (Member) (A)

DATE : **30.03.2023**

J U D G M E N T

1. The applicants who are Pharmacists by occupation from different places in Maharashtra have filed this Original Application claiming that the Respondent-MPSC be directed to allow the applicants to appear for the post of Food Safety Officer and the criteria of having Degree in B-Pharma be declared as eligible and the Degree in Pharmacy be declared as equivalent to Science or Graduation with Chemistry as one of the subjects.

2. By way of interim relief, the applicants pray that they be allowed to fill up the form for the Preliminary Examination pursuant to the advertisement No. 011/2023 dated 24.2.2023 published by Respondent no. 1 for the post of Food Safety Officer. Learned counsel for the applicants relied on G.R dated 23.5.2014 issued by Higher and Technical Education for the purpose of equivalence of Bachelor's Degree in Pharmacy to that of Master's Degree in Chemistry. Learned counsel further submits that the Central Government has not taken any decision of the equivalence to the educational qualification and eligibility as prescribed under Rule 2.1.3 in Chapter-II of the Notification dated 5.5.2011. He further points that in the said clause 2.1.3, as per Chapter-II of clause 2.1.3, it is stated "any other equivalent/recognized qualification notified by the Central Government." The Central

Government has not notified any equivalent qualification which was necessary and therefore, the applicants who are holding the Degree in B-Pharm be allowed as equivalent and they be allowed to fill the form for the Preliminary Examination. Learned counsel for the applicants further relied on letter dated 17.3.2023, Exh R-1, that the proposal is sent by the Under Secretary, M.P.S.C to the Central Government to give the equivalence for the Food Safety Officer and therefore, by way of interim relief the applicants be allowed to appear for the examination. Learned counsel for the applicants has further relied on the order of the Aurangabad Bench of this Tribunal dated 3.4.2018 in O.A 461/2018, S.V Rathod & Anr Vs. State of Maharashtra & Ors and submitted that this Tribunal has held that for Indian Forest Services, if Bachelor of Pharmacy can be accepted as a qualification as equivalent to Science graduation, the applicants holding B. Pharm were allowed to appear.

3. Learned C.P.O has submitted that all the proposals or requisition made to the Central Government who is the deciding Officer on the point of equivalence are not in respect of the Degree in Pharmacy as equivalent for the educational qualification prescribed under the Recruitment Rules for the post of Food Safety Officer. Learned C.P.O while dealing with the order of this Tribunal in O.A 461/2018 has submitted that in the said matter the post was of Range Forest Officer and so the present applicants are not covered by the said judgment. Learned C.P.O pointed out to the Notification dated 5.5.2011, in respect of recruitment of Food Safety Officer which were amended by Union of India by Notification dated 16.1.2023 and submitted that in this amended Rules the Government of India has substituted certain qualifications in Rules 2.1.3 for Food Safety Officers, Degree in Pharmacy is not mentioned.

4. We reproduce the relevant Recruitment Rules for the post of Food Safety Officer as per Notification dated 5th May, 2011.

“2.1.3. Food Safety Officer.

1. Qualification:- Food Safety Officer shall be a whole time officer and shall, on the date on which he is so appointed possess the following:-

(i) a degree in Food Technology or Dairy Technology or Biotechnology or Oil Technology or Agricultural Science or Veterinary Science or Bio-Chemistry or Microbiology or Masters Degree in Chemistry or degree in medicine from a recognized University or

(ii) any other equivalent/recognized qualification notified by the Central Government, and

(iii) has successfully completed training as specified by the Food Authority in recognized institute or Institution approved for the purpose.

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be appointed to be a Food Safety Officer under this rule.”

The amended Recruitment Rules as per Notification dated 16th January, 2023 of the Ministry of Health and Family Welfare is reproduced below:-

“2.1.3. relating to ‘Food Safety Officer’

i. for sub-clause (i), the following shall be substituted, namely:-

“(i) a Bachelor’s or Master’s or Doctorate degree in Food Technology or Dairy Technology or Biotechnology or Oil Technology or Agricultural Science or Veterinary Sciences or Bio-Chemistry or Microbiology or Chemistry or medicine from a recognized University,”

5. After going through the relevant provisions or the Rules, which are reproduced above, the qualification of Degree or Masters Degree in Pharmacy is not mentioned in the said rules. Further no

equivalence is given by the Central Government who is the deciding authority on the point of equivalence. The equivalence which is pointed out by the learned counsel for the applicants is not pertaining to the post of Food Safety Officer. Moreover, the proposal given by M.P.S.C to the Central Government in respect of equivalence of other Degrees and not of B. Pharma.

6. Under these circumstances, we cannot grant any interim relief. Thus, the prayer of the applicant to direct the Respondent no. 1 to allow the applicants to fill the form for Preliminary Examination pursuant to advertisement dated 24.2.2023 is rejected.

7. As the prayer of the applicants for interim relief is rejected, the main relief in the Original Application does not survive. Hence the Original Application stands dismissed.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 30.03.2023
Dictation taken by : A.K. Nair.