

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 1035 OF 2024

DISTRICT : HINGOLI

Dr. Ashwini d/o. Haribhau Sonune,)
 Age : 29 years, Occu. : Service,)
 Presently working as Medical Officer Group-A,))
 R/o : Civil Hospital, Digras (Karhale),)
 Tal. and District Hingoli,)
 Permanent R/o : C/o Haribhau Tukaram)
 Sonune, Plot No. 41, Antule Nagar,)
 Near Alola, By Pass, Hingoli.) **APPLICANT**

V E R S U S

1. **The State of Maharashtra,**)
 Through its Principal Secretary,)
 Public Health Department, 9th Floor,)
 G.T. Hospital, Mantralaya, Mumbai.)
2. **The Commissioner &**)
Competent Authority,)
 State Common Entrance Test Cell,)
 Maharashtra State, 8th Floor,)
 New Excelsior Building, A.K. Nayak Marg,))
 Ford, Near CSMT, Mumbai.)
3. **The Director of Health Services,**)
 Aarogya Bhavan, St. George Hospital)
 Compound, Mumbai.)
4. **The Deputy Director of Health Services,**)
 Bhagwan Mahavir Chowk, Near Baba Petrol)
 Pump, Railway Station Road, Aurangabad.)
5. **The District Health Officer,**)
 Zilla Parishad, Hingoli,)
 Tal. and District Hingoli.) ...**RESPONDENTS**

APPEARANCE : Shri S.S. Londhe, Counsel for the Applicant.

: Shri M.B. Bharaswadkar, Chief Presenting
 Officer for respondent authorities.

: Shri Sachin Deshmukh, counsel for
 respondent No. 5.

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)
and
Hon'ble Shri Vinay Kargaonkar, Member (A)

ORDER : 01.10.2024.

O R A L - O R D E R

(PER : Hon'ble Justice Shri V.K. Jadhav, Member (J))

1. Heard Shri S.S. Londhe, learned counsel for the applicant, Shri M.B. Bharaswadkar, learned Chief Presenting Officer for respondent authorities and Shri Sachin Deshmukh, learned counsel for respondent No. 5.

2. The present Original Application is disposed of finally with the consent of both the sides.

3. By filing the present Original Application, the applicant is seeking quashment of order/communication dated 22.08.2024 issued by respondent No. 4- The Deputy Director of Health Services, Chhatrapati Sambhajanagar and also seeking direction to allow the applicant to participate in admission process and incorporate name of the applicant in the list of candidates from in-service candidates and accordingly seeking directions to admit the applicant to NEET PG Degree course as in-service candidate.

4. Brief facts as stated by the applicant giving rise to the present Original Application are as follows :-

(i) The applicant had completed M.B.B.S. degree from Maharashtra Institute of Medical Science and Research Medical College, Latur in the year 2019 and joined the Government service as Medical Officer Group-A on 13.07.2021. The applicant has completed her three years Government service and eligible for benefit of quota of in-service candidate for admission in P.G. course. The applicant has filed online application for appearing NEET PG-2024 examination on 18.04.2024.

(ii) Initially the examination was scheduled on 23.06.2024. However, the same was postponed by notice dated 22.06.2024 and accordingly, the examination was rescheduled on 11.08.2024. The applicant accordingly appeared for NEET-PG 2024 held on 11.08.2024. The respondent No. 5 i.e. the District Health Officer, Zilla Parishad, Hingoli has forwarded proposal to respondent No. 4 i.e. the Dy. Director of Health Services belatedly. Consequently NOC has not been issued to the applicant for

the sole reason that the proposal has been sent after examination. Hence, the present Original Application.

5. Learned counsel for the applicant submits that in terms of the earlier schedule of examination for in-service candidate, thought the applicant was not eligible to appear for NEET PG-2024 solely for the reason that till that time she had not completed three years of service, however, due to rescheduling of the examination, the applicant became eligible as on the date of examination i.e. on 11.08.2024. The applicant has completed three years of service as on 13.07.2024.

6. Learned counsel for the applicant submits that though the applicant has submitted request application to the respondent No. 5 i.e. the District Health Officer, Zilla Parishad, Hingoli in time, however for the reason best known to respondent No. 5, proposal was forwarded belatedly i.e. after the NEET PG-2024 examination was over. Consequently, by impugned communication the respondent No. 4 i.e. the Dy. Director of Health Services, Chh. Sambhajinagar has refused to issue NOC. Learned counsel submits that the applicant has not at fault and due to administrative lapses on the part of respondent No. 5, the

delay seems to have been caused. Learned counsel thus submits that the present Original Application deserves to be allowed.

7. Learned Chief Presenting Officer and learned counsel appearing for respondent No. 5 submit that the District Health Officer, Zilla Parishad, Hingoli has submitted proposal, which was received by the Dy. Director of Health Services, Aurangabad i.e. respondent No. 4 on 20.08.2024, though the said proposal is dated 16.08.2024. Consequently in terms of clause No. 4.1 of G.R. dated 19.03.2019, the NOC has not been issued. In terms of said Clause No. 4.1 of G.R. dated 19.03.2019, permission of the Deputy Director of Health Services is required to be obtained 15 days prior to the examination. Learned C.P.O. and learned counsel appearing for respondent No. 5 submit that there is no substance in the present Original Application and the same is liable to be dismissed.

8. The present Original Application deserves to be allowed.

9. In our considered opinion, the applicant is not at fault. On perusal of the notice dated 05.07.2024 for rescheduling of the examination, it appears that the revised schedule for conduct of NEET-PG 2024 in continuation of earlier

notice dated 22.06.2024 has been done and rescheduled as on 11.08.2024 in two shifts. However, the cut-off date for the purpose of eligibility to appear in the NEET-PG 2024 stated to be continued to 15.08.2024. The applicant has joined the services as Medical Officer, Group-A in Rural Hospital in Hingoli District on 13.07.2021 and as such, the applicant has completed her three years of service on 13.07.2024. Except the ground of submission of proposal belatedly, no other ground has been raised for refusal to issue NOC.

10. We have requested learned Chief Presenting Officer to show us the original record. On perusal of the original record, it appears that though the applicant has submitted request application for issuance of NOC, however the said application is without any date. Learned CPO has vehemently submitted that since the said application is without any date, there is no substance in saying that the applicant has submitted requisite application well within time. We find no substance in the submissions made on behalf of the respondent authorities by the learned C.P.O. for the reason that the District Health Officer, Zilla Parishad, Hingoli has submitted proposal on 16.08.2024, which Dy. Director of Health Services, Aurangabad has received on 20.08.2024, there is a reference No. 2 in the proposal,

wherein it is specifically mentioned that the request application of the applicant is dated 28.07.2024. We find no reason to submit proposal for issuance of No Objection Certificate belatedly by the District Health Officer, Zilla Parishad, Hingoli. Consequently, the applicant, who is not at fault, has been refused NOC by the office of Dy. Director of Health Services, Aurangabad.

11. Learned counsel for the applicant submits that tomorrow i.e. on 02.10.2024 is the last for online registration, for which NOC is required. Learned CPO on instructions from the Law Officer of the Health Department submits that NOC will be issued by evening today itself. However, learned counsel for the applicant submits that the applicant is presently at Mumbai and thus unable to collect the NOC by evening today. In the peculiar facts of the case, we permit the learned counsel appearing for the applicant to collect/obtain NOC from the office of Dy. Director of Health Services, Aurangabad on behalf of the applicant.

12. Thus considering the entire aspect of the case, we are of the confirmed opinion that the present Original Application deserves to be allowed in terms of the prayer clauses. Hence, the following order :-

ORDER

- (i) The Original Application is hereby allowed in terms of prayer clause XI B & C, which are as follows :-

“B. The impugned order/Communication dated 22.08.2024 issued by the 4th Respondent-Dy. Director of Health Services, Chhatrapati Sambhajanagar may kindly be quashed and set aside and issue NOC and consider the Applicant's candidature from in-service quota for admissions of NEET PG-2024 Courses.

C. The Respondents may kindly be directed to allow the Applicant to participate in admission process and incorporate name of the applicant in the list of candidates from in-service candidates and accordingly respondents be directed to admit the applicant to NEET PG Degree course as in- service candidate.”

- (ii) The respondent No. 4 i.e. the Dy. Director of Health Services, Aurangabad is hereby directed to issue NOC to the applicant by evening and hand over the same to learned counsel representing the applicant by evening itself.
- (iii) Learned C.P.O. and learned counsel for respondent No. 5 are hereby directed to communicate this order to respondent Nos. 4 & 5 forthwith.
- (iv) In the circumstances, there shall be no order as to costs.
- (v) The Original Application is accordingly disposed of.
- (vi) Steno copy allowed to learned counsel for the applicant.

MEMBER (A)**MEMBER (J)****PLACE : Aurangabad.****DATE : 01.10.2024****KPB S.B. O.A. No. 1035 of 2024 Admission Process NEET-PG**