

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION NOS 322, 360, 361 & 370/2023  
(Order corrected as per Speaking to the Minutes)**

**DISTRICT : PUNE**

**1. ORIGINAL APPLICATION NO. 322 OF 2023**

1. Dr. Malakappa M. Patil )  
R/at Post Khatav, Tal. Miraj, )  
Dist. Sangli 416 401 )
2. Dr. Sandeep Shahadeo Gite, )  
R/at. 'Vidheshwari' Niwas, )  
Chhatrapati Colony, Kranti Nagar, )  
Nagar Road, Beed 431 122 )
3. Dr. Amol Vishwanath Patil, )  
R/at. House No.22, Rukmini Niwas, )  
Swami Viveknand Nagar, )  
Sery 431 503 Dist. Parabhani. )
4. Dr. Ramlal Namdev Kanke, )  
R/at. Post Bhamberi, Tq. Ambad, )  
Dist. Jalna 431 137 )
5. Dr. Manoj Shankarrao Madavi, )  
R/at. Post Virbhagatsing, )  
Ward Hinganghat, )  
Dist. Wardha 442 301 )
6. Dr. Shriram Vilas Mote, )  
R/at. Post Nangaon, Tal. Daund, )  
Dist. Pune 412 203 )
7. Dr. Gajanan Sangamnath Bedre, )  
R/at. Hiwara, )  
Post Dongarkada 431 701 )  
Tal. Kalamnuri, Dist. Hingoli. )

8. Dr. Satish Dattatraya Shingade, )  
R/at. Vibhav Nagar, Taroda Bk. )  
Nanded )
9. Dr. Sanjay Mohan Jadhav )  
R/at. 1230, 6 B, Third Floor, Saras )  
Apartment, Near Perugate )  
Police Chauki, )  
Sadashiv Peth, Pune 411 030 )
10. Dr. Pravin Abhiman Patil, )  
R/at. Flat No.6, Sadhafuli Apt, )  
Left Bhusari Colony, Kothrud, )  
Pune 411 038 )
11. Dr. Gunjan Manohar Gajare, )  
R/at. 2, Bhalchandra Nagar, )  
Bhusawal, Dist. Jalgaon 425 201 )
12. Dr. Umesh Devidas Rathod, )  
R/at. Banjara Colony, )  
Near Sindhi Camp, )  
Karanja Lad, Dist. Washim 444 105 )
13. Dr. Ramakant J. Sonkamble, )  
R/at. Bela Nagar, Taroda Naka, )  
Nanded 431 605 )
14. Dr. Vikram Narayan Kharade, )  
R/at. Post Turambhe, )  
Tal. Radhanagari, )  
Dist. Kolhapur 416 008 )
15. Dr. Akashya Ashok Itkar, )  
R/at. Flat No.12, Shantiniketan App.)  
Namdev Nagar, Bhavani Peth, )  
Solapur 413 002 )
16. Dr. Rahul Vijaykumar Bade, )  
R/at. Laxmi Hospital, Parli Naka, )  
Gangakhed, Tal. Gangakhed, )  
Dist. Parbhani 431 415 )
17. Dr. Milind Baliram Chavan, )  
R/at. S-2, Shree Shiv Apartment, )  
Shyam Nagar, Nagpur 440 037 )

18. Dr. Maheshkumar Aagaji Wadadare,)
   
R/at. B 408. Spandan Sparsh )
   
Society, Wagholi, Pune 412 207 )
19. Dr. Sunil Shankar Patane, )
   
R/at. 26/4, Mohammad Master )
   
Niwas, Dattatguru Lane, )
   
S.M. Marg, Kurla (W) )
   
Mumbai 400 070 )
20. Dr. Abhay Prakashrao Arewar, )
   
R.at. Mauli Niwas, Cidco New, )
   
Nanded, Dist. Nanded 431 603 )
21. Dr. Vaibhav Nandkishor Mali, )
   
R/at. Post Dhoki, Tq. And )
   
Dist. Osmanabad )
22. Dr. Parmeshwar Vittalrao Tidake, )
   
R/at. Gurukrupa Nivas, )
   
Vasant Nagar, Nanded 431 602 )
23. Dr. Abhijit Ravindra Gore, )
   
R/at. Om Bungalow, )
   
Plot NO.30, S.No.1/7, )
   
Behind Pearl Housing Society, )
   
Dasra Chowk )
   
Balewadi, Pune 411 045 )
24. Dr. Sushant Mohan Khirekar, )
   
R/at. Mumbai. )
25. Dr. Ravindra Pundlikrao, Khedkar, )
   
R/at. Satara Parisar, )
   
Sudhakar Nagar, )
   
Behind Bajaj Hospital, Chhatrapati )
   
Sambhajinagar. )
26. Dr. Sagar Vinay Jadhav, )
   
R/at. Post Kundal, Tq. Palus, )
   
Dist. Sangli 416 309 )
27. Dr. Amardeep Dhondiba Mehtre, )
   
R/at. 71/179, Maharshi Nagar, )
   
Pune 411 037 )
28. Dr. Bhagyashri Shashikant Paygude,)
   
R/at. B-408, Spandan Sparsh )

Society, Wagholi, Pune 412 207 )...**Applicants**

**Versus**

1. The State of Maharashtra )
2. The Secretary, )  
Maharashtra Public Service )  
Commission (M.S.) )  
Mumbai, having office at )  
5<sup>th</sup> and 7<sup>th</sup> floor, )  
Cooperage Telephone Nigam )  
Building, Maharshi Karve Road, )  
Cooperage, Mumbai 400 021 )
3. The Director, )  
Food, Safety and Standards )  
Authority of )  
India (F.S.S.A.I.) F.D.A. Bhavan, )  
Kotle Marg, )  
Near Bal Bhavan, Mandi House, )  
New Delhi 110 002 )...**Respondents**

**WITH**

**2. O.A.No.360/2023**

1. Dr. Taty Ganpatrao Lokhande, )  
R/at. 60/2690, Gandhi Nagar, )  
Tirupati Society. Bandra (E) )  
Mumbai 400 051 )
2. Dr. Sumiti Sadanand Khandekar, )  
R/at. 302, Keshav Residency, )  
Brahman Sabha )  
Marg, Malad (W), Mumbai 400 064 )
3. Dr. Mangesh Malhari Lavate, )  
R/at. 102, Shubh Shri Residency, )  
Kokade Mala, )  
Tarabai Park, Kolhapur. )
4. Dr. Pradip Parashuram Pawar, )  
R/at. Near Tutari Vasti, )  
A/P. Wagholi, Tal. Shegaon, )  
Dist. Ahmednagar. )
5. Dr. Umesh Subhash Bhuse, )  
R/at. Bazar Katta, Lohar Galli, )  
Tal. Mangalvedha, )

Dist. Solapur

)...**Applicants**

**Versus**

1. The State of Maharashtra & Others )...**Respondents**

**WITH**

**3. O.A.No.361/2023**

1. Dr. Snehal Subhash Lokhande, )  
R/at. Shivalaya Building, Sanpada, )  
Sector NO.1, Navi Mumbai 400 705 )
2. Dr. Vivek Katare, )  
R/at. Sanjivani Hospital, )  
Pandharpur Road, )  
R/P. Mangalvedha, Dist. Solapur. )
3. Dr. Alka Ramrao Barhate, )  
R/at. Peach Grove, Near Forest Park,)  
Chikhaldara 444 807 )
4. Dr. Kamlesh Vilas Jarhad, )  
R/at. Jai Anand Niwas, )  
Near Dawkhar Mala, )  
Shrirampur, Ahmednagar 413 709 )
5. Dr. Ashish Prakashrao Inzalkar, )  
R/at. Near Rajiv Schook, )  
Nrusinh Saraswati Nagar, )  
Amaravati. )
6. Dr. Swati Shivajirao Shelke, )  
R/at. Flat No.1, Plot No.25, )  
Kalpataru Heights )  
Behind Reliance Mall, )  
Chhatrapati Nagar, )  
Garkheda, Aurangabad 431 001 )
7. Dr. Monika Rathod, )  
R/at. J-14/8, N-2, CIDCO, )  
Mukundwade, )  
Aurangabad. )
8. Dr. Umakant Vibhute, )  
R/at. Vibhute Niwas, Wadi Damai, )  
Sategaon, Parbhani. )

9. Dr. Mandar Mohanrao Bhanage, )  
R/at. 2836, D-Ward, Burud Lane, )  
Shaniwar Peth, Kolhapur. )...**Applicants**

**Versus**

1. The State of Maharashtra & Others )...**Respondents**

**WITH**

**4. O.A.No.370/2023**

1. Dr. Seema Parashram Bhoir, )  
R/at. Krishna Prem Building, )  
Thanekar wadi, )  
Thane East. )
2. Dr. Deepak Jagannath Thamake )  
R/at. Kerle Tal. Karveer, )  
Dist. Kolhapur )
3. Dr. Vaishali Deepak Thamake, )  
R/at. Kerle Tal, Karveer, )  
Dist. Kolhapur )
4. Dr. Rahul Popatrao Shitole, )  
R/at. Flat No.07, Solitaire Buidling, )  
Nanaware )  
Chowk, Baner, Pune 45 )...**Applicants**

**Versus**

1. The State of Maharashtra & Others ) ...**Respondents**

Shri S.S Gite, learned advocate for the Applicants.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents No 1 & 2.

Shri Sanjay Sinha i/b Hammurabi and Solomon Partners, learned counsel for Respondent No. 3.

**CORAM : Justice Mridula Bhatkar (Chairperson)**  
**Shri A.M Kulkarni (Member) (A)**

**DATE : 14.01.2025**

**PER : Justice Mridula Bhatkar (Chairperson)**

**J U D G M E N T**

1. The applicants are Doctors having Bachelor of Ayurvedic Medicine and Surgery (BAMS) qualification prays that they want to apply for the posts of Food Safety Officer and Assistant Commissioner of Food which are going to be filled-up by the Respondent pursuant to the advertisement dated 24.02.2023.

2. Learned Counsel for the Applicants has submitted that the forms filled up by the applicants are not accepted by the website of M.P.S.C., and they are getting remark that they are not eligible for the said posts. Learned Advocate has submitted that on enquiry the M.P.S.C. has stated that as per the Government policy for the post of Food and Safety Officer the candidates should hold the degree in other Sciences or degree in Medicine from recognized University. Learned counsel has submitted that the Government considered that Ayurveda is not Medicine and the degree in BAMS is not a degree in Medicine and therefore they sought interim order from the Tribunal that they were to be allowed to fill up the forms and appear for the examination going to be held on 04.06.2023. This Tribunal by order dated 29.3.2023 had granted interim relief and allowed them to appear for the examination. Learned counsel for the applicants pointed out that in the year 2008, 1 BAMS Degree holder and in 2015, 6 BAMS Degree holders were found eligible and appointed as Food Safety Officer by the State of Maharashtra and they are still working.

3. Learned counsel for the applicants has relied on the judgment of the Single Judge, **Madurai Bench of the Madras High Court dated 23.3.2023 in the case of Vetriselvi & Ors Vs. The**

**Member Secretary, Medical Services Recruitment Board, Government of Tamilnadu & Ors, W.P (MD) Nos 4882/2023 & Ors** and has submitted that in this judgment the judgment of the Allahabad High Court in W.P No. 2754/2015 Dr Amit Pandey & Ors Vs. State of Uttar Pradesh & Ors was considered and relief was given finally allowing the Doctors having degree in Siddha and B.D.S to apply for the post of Food Safety Officer.

4. Learned C.P.O. while opposing this O.A has relied on the judgment of Hon'ble High Court Allahabad Bench dated 27.01.2015 passed by the Division Bench in Writ Petition No.2754/2015, Dr. Amit Pandey & Ors. Versus State of Uttar Pradesh which has held that it would not be proper for this Court to include or read any other degree awarded by the councils under other Acts referred above into the definition of medicine. She has pointed out that in the judgment defining Sections 2(e) and 2(f) under Indian Medical Council Act 1970. Learned C.P.O has further submitted that the Deputy Director, Food Safety and Standards Authority of India (FSSAI) by letter of September, 2021, the addressed to the Government of Maharashtra has informed that relying on the judgment of the Hon'ble High Court of Allahabad dated 27.1.2015 in W.P no. 2754/2015, has observed that 'degree in Medicine' doesn't include any other system of Medicine. Learned C.P.O has further submitted that the Recruitment Rules for the post of Food Safety Officer were amended on 8.6.2022.

5. Learned C.P.O pointed out that on 23.9.2021, State of Maharashtra through Shri Sainath Ganaiwad, Section Officer, Medical Education and Drugs Department wrote letter to P. Karthikeyan, Dy. Director, FSSI, New Delhi, asking for the



clarification regarding qualification of Food Safety Officer under Rule 2.1.3 (1) (i), wherein query is made regarding Degree in Medicine means what. There is a reference that a challenge was given in the Maharashtra Administrative Tribunal about this qualification regarding Degree in Medicine. However, the said matter was disposed of without any decision due to the absence of the applicant, in the year 2016. The present recruitment is pursuant to the advertisement issued in the year 2023 and hence before that the State of Maharashtra has sought the advice from the Central Government regarding what is the meaning of the term 'Medicine', when 142 posts of Food Safety Officers are required to be filled in through MPSC. Pursuant to the query made by State of Maharashtra, Mr P. Karthikeyan, Deputy Director (Regulations), Food Safety and Standards Authority of India, New Delhi, answered by letter of September, 2021 wherein he has relied on Rule 2.1.3 (1)(i) of Food Safety and Standard Rules 2011.

6. On our query, learned C.P.O submitted correspondence made by the Principal Secretary, Medical Education and Drugs Department after the interim order was passed by this Tribunal by letter dated 25.3.2023 to the Secretary and Dy C.E.O, to which G. Kamala Vardhana Rao, IAS/C.E.O, informed that it is clarified in the letter that the Central Government has not notified any equivalent qualifications for the post of Food Safety Officer, i.e., Degree in Medicine. However, on 16.1.2023, Government of India has notified the rules recently for Food Safety Officer wherein 'Degree in Medicine' is maintained as it was in earlier Rules. Further the Expert Committee was constituted to decide the issue about qualification of Food Safety Officer and the decision was awaited. The applicant has produced said Expert Committee Report dated 23.6.2023 on equivalence and the recognized qualification for the purpose of Food Safety Officer. In para 6 of

the said report the terms of reference of the Expert Committee are mentioned wherein different Degrees are enlisted. The Terms of Reference, para 7(b) whether BDS, BSMS, BHMS and other medicine degrees fall in the ambit of words “degree in medicine”, was included. In para 9 the issue before the 3<sup>rd</sup> meeting of Expert Committee was considered and in para 9(a) it was mentioned as under:-

“(a) Whether BDS, BSMS, BHMS and other medicine degrees fall in the ambit of words “degree in medicine”. Syllabus from National Medical Commission (NMC), Dental Council of India (DCI), Central Council for Research in Unani Medicine CCRUM for reference. It is stated that these degrees fall under eligible criteria.”

Thus, in the reference it is mentioned whether BDS, BSMS, BHMS and other medicine degrees fall in the ambit of words “degree in medicine”. While considering, the Expert Committee did not specifically deal with the term “degree in Ayurveda”. However, it has given positive opinion where terms of reference of other those degrees in medicine fall in the ambit of the word “degree in medicine”. Admittedly, Ayurveda is very Ancient Indian System of Medicine. Further, based on the Expert Committee’s opinion, Ministry of Health and Family Welfare, Government of India, Notification was issued on 21.9.2023, i.e., pertaining to Bachelors Degree or Masters Degree or Doctorate Degree from the recognized University or Institution in the following disciplines and the disciplines are of Food Engineering, Food Engineering and Technology, Dairy Technology, Fisheries etc. But in this notification there is no mention of BDS, BSMS and BHMS, though the Committee has recommended the same.

7. The argument of the learned counsel for Respondent No. 3, that the Central Government has not notified BAMS Doctors as

qualified holding Degree in Medicine, hence it cannot be considered for eligibility are not at all convincing, because this degree in BAMS was neither debarred nor it was put to the test before the ex-parte Committee.

8. The new Recruitment Rules for the post of Food Safety Officer were notified on 8.6.2022 and the relevant Rule 5(b) is reproduced below:-

“5. Appointment to the post of Food Safety Officer (Group-B) shall be made by nomination on the basis of result of Competitive Examination held by the Commission, who.....

(b) Possesses the educational qualification as may be prescribed by the Central Government from time to time under the Act.”

9. Rule 2.1.3 of Food Safety & Standard Rules, 2011 is reproduced below:-

“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 Sciences 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...”

10. We further refer to the letter of September, 2021 issued by Mr P. Karthikeyan, Deputy Director (Regulations) Food Safety and Standards Authority of India to Shri Sainath Ganaiwad, Section Officer, Medical Education and Drugs Department, informing that

it will not be proper to include or read any other degree awarded by councils under other acts into degree of Medicine. We would like to reproduce the relevant paragraph:-

“Further, the Government of Maharashtra may also consider the order dated 27.1.2015 by Hon’ble High Court of Allahabad in the Matter of WP No. 2754 of 2015 Dr. Amit Pandey & Ors Vs. State of Uttar Pradesh & Ors (copy enclosed), wherein Hon’ble High Court observed that ‘degree in Medicine’ doesn’t include any other system of Medicine. It will not be proper to include or read any other degree awarded by councils under other acts into degree of Medicine. Medicine is defined only under Indian Medical Council Act, 1956 and not in other enactments.”

11. It shows that for the purpose the meaning of ‘Degree in Medicine’ the Central Government has relied on the judgment of the Hon’ble High Court of Allahabad in W.P 2754/2015 Dr. Amit Pandey & Ors Vs. State of Uttar Pradesh & Ors, wherein it was held that Degree in Medicine does not include any other system of Medicine. However, while considering the meaning of the term ‘Degree in Medicine’ the State of Maharashtra ought to have considered the judgment dated 23.2.2023 by the Hon’ble Madras High Court, Madurai Bench in Vetriselvi & Ors Vs. The Member Secretary, Medical Services Recruitment Board, Government of Tamilnadu & Ors, W.P (MD) Nos 4882/2023 & Ors, wherein the Single Bench has considered the judgment of the Hon’ble Allahabad High Court in Dr Amit Pandey’s case (supra) and similarly letter dated 12.10.2022 written by Food Safety and Standards Authority of India, through V.K Pancham, Director (Regulations), regarding clarification with respect to qualifications of Food Safety Officers. The said letter of V.K Pancham is in fact reproduction of the contents of the letter of September, 2021, written by Mr P. Karthikeyan, Dy Director (Regulations).

12. In the case of **Vetriselvi & Ors (supra)**, the Madurai Bench of the Hon'ble Madras High Court observed as under:-

“Central Act 34 of 2006 is meant to consolidate the laws relating to food and to establish the Food Safety and Standards Authority of India for laying down science based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import to ensure availability of safe and wholesome food for human consumption and for matters connected therewith or incidental thereto. I do not find anything common between the two statutes. Hence, it would not be proper to narrowly construe the qualification set out in Rule 2.1.3 in the light of Section 2(f) of the Central Act 102 of 1956. Nothing stopped the Central Government to couch the test of Rule 2.1.3 of FSS Rules, 2011 by referring to the definition set out in Section 2(f) of Central Act 102 of 1956. The Rule does not exclude the Indian system of medicine. When the statutory Rule is generally worked, it is not for the writ court to narrow down its scope.

12. There is linguistic exercise known as “parsing”. I will now parse Rule 2.1.3:

“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.”

I am not able to find any common denominator among the qualifications prescribed above. Section 2(f) of Central Act 102 of 1956 specifically excludes Veterinary Medicine and Surgery. But Rule 2.1.3 states that holders of degree in Veterinary Sciences are eligible. The Rule is broad and sweeping. It virtually declares that any science or medical graduate is eligible to become Food Safety Officer. Otherwise, the category excluded in Section 2(f) of the Central Act 102 of 1956 will not be included in the Rule. The expression “degree in medicine” cannot therefore be given a restrictive meaning. “Medicine” has been defined in Oxford Advanced Learner’s Dictionary as follows:

“the study and treatment of diseases and injuries: advances in modern medicine – to study/practice medicine/traditional/conventional/ orthodox medicine : alternative medicine.”

It has been defined in Cambridge Dictionary as follows:

“The science or practice of the treatment and prevention of disease. A substance taken by mouth in order to treat or prevent disease. Origin Latin *medicus* ‘physician’.”

13. Since there is no common denominator in the eligibility qualifications prescribed in the 2011 Rules, I hold that the expression “degree in medicine” should be understood expansively. Medical degree awarded by recognized University would fall within the sweep of the Rule. Siddha system of medicine is unique to Tamil Nadu. It is part of Tamil Culture.”

13. Thus, the Hon’ble Judge of the Madras High Court, Madurai Bench has taken into account all this correspondence and so also the judgment of the Hon’ble Allahabad High Court in its right perspective. The said judgment was placed before us when this matter was heard for interim relief. This Tribunal in its order dated 29.3.2023 has granted interim relief in favour of the applicants by allowing them to appear for the Preliminary Examination by accepting their forms. Thus, in the interim order of the Original Application this Tribunal has taken a very specific stand relying on the ratio laid down in the case of **Vetriselvi & Ors (supra)** and now we are deciding it finally. Thus, there was sufficient time for State of Maharashtra from March, 2023 till today to seek advice from the Central Government and the Central Government had sufficient time to give directions accordingly. Further, the interim order of this Tribunal is not challenged before the Hon’ble High Court and similarly the judgment of the Hon’ble Madras High Court, Madurai Bench in **Vetriselvi & Ors (supra)** is also not challenged before the Hon’ble Supreme Court. Thus, the

ratio laid down in the case of **Vetriselvi & Ors (supra)** holds the field.

14. In the case of **Vetriselvi & Ors (supra)**, the issue was whether the Degree in Siddha Medicine /BDS can be accepted as Degree in Medicine and answer was given in the affirmative. In the said judgment Degree in Ayurveda, BAMS was not the issue and therefore in the present case, though the points are not only similar, but same, the issue raised about Degree in BAMS is required to be answered. For this purpose, we rely on the meaning of the term 'Medicine' and 'Ayurveda' as under:-

Black law dictionary:

“Medicine: The science and art of dealing with the prevention, cure and alleviation of diseases; in a narrower sense that part of the science and art of restoring and preserving health which is the province of the physician as distinguished from the surgeon and obstetrician.

Orford dictionary:

“Ayurveda- The traditional Hindu system of medicine, which is based on the idea of balance in bodily systems and uses diet, herbal treatment, and yogic breathing.”

We here reproduce the definition of the word “Medicine” as per Medical Council Act of 1956, which is stated in our interim order dated 29.3.2023

5. The Medical Council Act of 1956 has defined Medicine under Section 2(f) as follows:-

(f) “Medicine” means modern scientific medicine in all its branches and include surgery and obstetrics, but does not include veterinary medicine and surgery.”

15. We are of the view that the word “medicine” which is defined in the Medical Council Act of 1956 is to be necessarily restricted and is to be read for the purpose of Medical Council Act of 1956 only. The meaning/definition given in Section 2(f) of the Act cannot be extended to other branches of Medicine or Medicine cannot be narrowed down to only modern scientific medicine where Ayurveda is necessarily covered is to be considered as oldest traditional branch of the Indian Medicine wherein holistic approach in treatment is taken. As rightly held by the Hon’ble High Court, Madurai Bench in the case of **Vetriselvi & Ors (supra)** that Siddha is ancient branch of medicine which is followed, observed and patients are treated in the temples of Tamil Nadu and this medicine is used to cure the patients. Therefore, the Doctors who have graduated from this branch of Ayurveda cannot be treated differently and cannot be given discriminatory treatment by putting them outside the purview of degree in medicine. We are of the view that the approach taken by the Government is not correct and is in violation of Articles 14 & 16 of the Constitution of India. If under the Prevention of Food Adulteration Act, 1954 and the present Rules the term which is consistently used is “degree in medicine” there is no specification of any branch in “degree in medicine” and if it is so we do not find any legal or logical answer as to why Doctors who hold Degree in Ayurveda should not be considered for appointment to the post of Food Safety Officer.

16. Learned C.P.O argued that whether degree in Ayurveda is to be treated as degree in Medicine is to be decided by the State and the Tribunal has no power to take decision on the point of equivalence. We are fully aware that the equivalence is to be decided not by the Court but it is a decision to be taken by the State. We make it clear that in this matter, we are not deciding the equivalence but we are interpreting the term “medicine” in context



with eligibility as mentioned in Rule 2.1.3 of the Food Safety and Standards Rules, 2011. It is to be noted that the word “medicine” is not narrowed down by “modern medicine” or “traditional medicine”. To restrict the term “medicine” to only “modern medicine” is stereotype and mechanical interpretation of the word “degree in medicine” and therefore the candidates who possess degree in modern medicine if are only allowed then the candidates holding degree in traditional medicine will be treated unequally. This arbitrary discrimination is not permissible in service jurisprudence. Thus, we have interpreted the word “medicine” which has inherent meaning that it includes all the branches of medicine including Modern & Traditional. Moreover, one has to take into account whether the duty of the Food Safety Officer can be performed by the persons who are Graduate in different faculty and it is not restricted only to medicine. It also includes Agriculture Science or Veterinary Science or Bio-Chemistry or Microbiology or Master Degree in Chemistry. Therefore, the word “medicine” is to be understood with fullest meaning.

17. It is also very well known that there is a single University in Maharashtra for Government Colleges called Maharashtra University of Health Science, which awards Degree in wide spectrum of streams connected with Health Science including Degree in MBBS, BAMS, BDS etc.

18. In view of the above, we pass the following order:-

### **ORDER**

(a) The Original Applications are allowed.

- (b) As the applicants have already been allowed to appear for the interview as per the interim order dated 3.1.2025 for the post of Food Safety Officers and Assistant Commissioner of Food and if they are found eligible then they should be considered for the appointment to the post of Food Safety Officer and Assistant Commissioner of Food.
- (c) “We want MPSC to take note that this being a service matter the befitting BAMS candidates who are similarly situated but not have approached this Court also can be extended the benefits of this order based on the ratio laid down by the Hon’ble Supreme Court in the case of State of Uttar Pradesh & Ors Vs. Arvind Kumar Srivastava &Ors, (2014) 12 SCR 193.”
- (d) No order as to costs.

**Sd/-**  
**(A.M Kulkarni)**  
**Member (A)**

**Sd/-**  
**(Mridula Bhatkar, J.)**  
**Chairperson**

**Place : Mumbai**  
**Date : 14.01.2025**  
**Dictation taken by : A.K. Nair.**