

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.1639 OF 2024

**DISTRICT : Mumbai
SUB : Selection**

Dr. Sonali Prakash Lad)
Age. 38 years, Occ. Assistant Professor,)
R/at. Gamdevi Police Officers Quarters,)
Pandita Ramabai Road, Gamdevi, Mumbai.)....**Applicant**

V/s.

1. The State of Maharashtra Through its)
Secretary Medical Education and Drugs)
Department, Mantralaya, Mumbai 400032.)

2. The Directorate of Medical Education and)
Research, Mental Health Centre, 4th Floor,)
Government Dental College Building,)
Sr. Georges Hospital Compound, Near)
Chhatrapati Shivaji Maharaj Terminus,)
Mumbai-400001.)

3. The Dean, the Grant Government Medical)
College And Sir J.J. Hospital, Nagpada,)
Byculla Mumbai 400008.)

4. The Maharashtra Public Service Commission)
Through its Secretary, Trisul Gold Field, Plot No.)
34, Sector 11, Opp. Sarovar Vihar, Belapur CBD,))
Navi Mumbai 400614.)

5. Ms Shital Kushalsingh Shisode Alias)
Mrs. Shital U. Lad, R/at 104, Om Heritage Apt.)
Behind Hotel Parth, Ambejogai Road,)
Latur 413512.)....**Respondents**

Shri S. S. Dere, learned Advocate for the Applicant.

Ms S. P. Manchekar, learned Chief Presenting Officer for the
Respondent Nos.1 to 4.

Shri S. S. Malas, learned Advocate for the Respondent No.5

CORAM : Hon'ble Shri M. A. Lovekar, Vice-Chairman.
Hon'ble Shri A. M. Kulkarni, Member (A)

Reserved on : 05.05.2025

Pronounced on : 06.05.2025

Per : Hon'ble Shri M. A. Lovekar, Vice-Chairman.

ORDER

Heard Shri S. S. Dere, learned Advocate for the Applicant.
Ms S. P. Manchekar, learned Chief Presenting Officer for the
Respondent Nos.1 to 4 and Shri S. S. Malas, learned Advocate for
the Respondent No.5

2. Case of the Applicant is as follows. The Applicant worked as Assistant Professor-DSB in B.J. Government Medical College, Pune from 2-11-2020 to 15-11-2022. From 11-1-2023 to 24-1-2023 she worked as Assistant Professor-DSB in Grant Government Medical College, Mumbai. Since 25-1-2023 she has been working as Assistant Professor in Grant Government Medical College, Mumbai i.e. Respondent No.3. On 27-2-2024 Respondent No.4 issued Advertisement No.11/2024 to fill *inter-alia* 17 posts of Associate Professor, Group A in Obstetrics and Gynecology on the establishment of Respondent No.1. To be eligible for the post one of the requirements was completion of Basic Course in Medical Education Technology (BCME for short) from institution designated by NMC. On 20-3-2024 the Applicant filled the application form from Open General Category. She could not, however, complete the

BCME because it was not conducted by Respondent No.3 since last 2 years. She was informed that she could not complete the course from any other institution. She completed the course conducted by Respondent No.3 from 18-4-2024 to 20-4-2024. On 21-6-2024 Corrigendum to Advertisement No.11/2024 was issued by Respondent No.4. On 19-12-2024 Respondent No.4 issued the impugned list of candidates who were held to be ineligible. In this list name of the Applicant featured at serial no.2. She was held to be ineligible because she did not possess educational qualification of having completed BCME prescribed in para 9.1(iii) of the Advertisement. It was not the fault of the Applicant that she could not complete the BCME before the cut-off date and hence she ought not to have been declared to be ineligible. Hence, this Original Application principally seeking declaration that the Applicant is eligible for the post of Associate Professor.

3. In their Affidavit dated 18-2-2025 Respondents 2 and 3 have *inter-alia* pleaded that the Applicant could have completed the BCME prior to joining the establishment of Respondent No.3. To counter this submission reliance is placed by the Applicant on Guidelines for conduct of BCME. Guideline no.5 of these guidelines states that the participants shall be full time teaching faculty of colleges as per NMC regulations.

In their Affidavit dated 21-2-2025 Respondents 2 and 3 have pleaded that when the Applicant was working in B.J. Government Medical College, Pune from 2-11-2020 to 15-11-2022 BCME was conducted there from 18 to 20 March, 2021 and again from 4 to 6 October, 2021 which the Applicant could have attended and completed. To counter this pleading the Applicant has put forth a case in her Rejoinder dated 21-2-2025 that for these two batches of the course names of Dr. Yuga Jamdade and Dr. Deepali Jadhav, both of whom were senior to her, were considered by the college while preparing the list of eligible candidates. Further contention of the Applicant is that only in January, 2024 she became eligible for the post of Associate Professor, since this point of time she was working on the establishment of Respondent No.3 and hence she could have completed BCME conducted only by Respondent No.3 which it did not conduct.

In his Affidavit dated 17-3-2025 Dean, B.J. Government Medical College has stated that from 18 to 20 March, 2021 and from 4 to 6 October, 2021 BCME was conducted by B.J. Government Medical College and during this period the Applicant was working there. In this Affidavit it is further stated-

“5.1 The List of Eligible candidates is decided at Department level and HoD of the respective Department recommend the names of the candidates for BCME Workshops at local level and not from the Seniority List published by DMER.

5.2. *The norms for conducting BCME Workshop are set by National Medical Council ("NMC"), Delhi and Maharashtra University of Health Sciences ("MUHS") Regional Centre under which B.J. Govt. Medical College and Sassoon General Hospital, Pune comes.*

5.3. *There are total only 30 participants to be taken for one BCME Workshop and, from 22 broad specialty subjects and 6 super-specialty subjects, to maintain uniformity and to give every Specialty Faculty equal chance of being getting selected, Medical Education Unit ("MEU") asks to nominate 2 participants from each Department for enrolling in the Workshop.*

5.4 *It is further submitted that all the Doctors, who want to appear for the BCME Course, have option to appear from the Institute where they are working or any other Institute where such course is conducted by the said Institute through MEU Coordinator of the said Institute with the approval of the National Medical Council. Thus, the Applicant had option of appearing for the BCME Course even when such course was not being conducted in B.J. Government Medical College, if she was under apprehension that she would not become eligible for the said course, due to lack of her seniority.*

5.5. *It is the candidates' responsibility to get BCME course done from any Institute, which comes under Regional Central, MUHS, Nashik, she could have approached AFMC or any other Institute where BCME Course was conducted and get registered herself for the said Workshop."*

Aforequoted contents of Affidavit of Dean, B. J. Medical College, which are not traversed, establish that the Applicant could have applied for and completed BCME when she was working on the said establishment. Under such circumstances we do not find

merit in her contention that because the course was not conducted by Respondent No.3 while she was working on its establishment it was not at all her fault that she could not complete the course.

4. Completion of BCME was one of the essential requirements for the post of Associate Professor. Para 9.2 of the Advertisement stated that the qualification mentioned in the Schedule shall be the qualification mentioned in the Schedule to the Central Act. Para 9.7 of the Advertisement stated that educational qualification was to be reckoned as on the last date for submitting application. The last date for submitting application was 21-3-2024. The Applicant submitted application on 20-3-2024. While submitting the application she answered the question regarding completion of BCME in the affirmative though at this point of time she had not completed the course. She completed it later on when it was conducted from 18-4-2024 to 20-4-2024.

5. The Applicant has relied on ***Narender Singh V/s State of Haryana & Others, (2022) 3 SCC 286***. In this case the Appellant applied for NOC on 22-3-2016. Written examination was held on 5-3-2017. Result of written examination was declared on 6-11-2017. Final selection was declared on 15-12-2017. The Appellant received the NOC on 6-6-2018. He submitted it to Haryana PSC on 8-6-2018. Actual appointments were made on 12-7-2018. In these facts it was held that there was no delay on

the part of the Appellant in furnishing the NOC and hence his claim for appointment could not be denied.

6. The Applicant has further relied on ***Laxmi Saroj & Others V/s State of Uttar Pradesh & Others, (2022) 17 SCC 477***. In this case it is held that if it is found that there was no lapse/delay on the part of the Applicant, he cannot be punished for no fault attributable to him. Both these rulings are distinguishable on facts which have come on record through the affidavit dated 17-3-2025 filed by Dean, B.J. Government Medical College.

7. Learned Advocate for the Applicant contended that eligibility of the Applicant ought to have been determined on the basis of Corrigendum dated 21-6-2024. When this Corrigendum was issued the Applicant had completed BCME. To counter this submission Respondent Ro.4 has pleaded as follows –

“It is further to submit that as per the revised requisition by the Government, candidates who have applied from the Economically Weaker Section or Unreserved Category in accordance with the original advertisement are being given the option to change their claim to the Socially and Educationally Backward Category. Accordingly, the Corrigendum dated 21.06.2024 was issued by the Commission in pursuant to the advertisement no. 11/2024. However, as per the clause no. 16(2) of the said Corrigendum, it is clearly informed to all the candidates along with the applicant that the date for calculating the educational qualifications and experience will be the last date for submission of applications for the post in issue as per the original advertisement, i.e. 21.03.2024.

Hence, the case of the applicant cannot be considered as she has not obtained required eligibility as per prescribed in the para 9.7 of the Advertisement No.11/2024 till the last date of submitting the online application for the post in issue. Copy of the Corrigendum dated 21.06.2024 is already attached with the present Original Application as Exhibit-H.”

8. The Respondents have relied on the judgment of Nagpur Bench of this Tribunal dated 18-2-2025 in **O.A. No.193/2025 (Dr. Rahul Ramchandra Dagwar vs. State of Maharashtra and another)**. In this case it is observed –

“The ld. C.P.O. has rightly attracted our attention to Clause No.14.9.2 of the advertisement which states that the candidate must have acquired experience on or before the last date of filling up the form i.e. on or before 09.01.2024. Admittedly, applicant has not acquired/completed the course on or before last date. Though applicant states that he made registration before last date, however, the requirement was of completion of course. The applicant has also filed an undertaking that he would complete the course, however, there is no provision to act upon promises/undertaking given by the candidate.

5. *Thus, the rejection on the count of experience as stated above is well justified. In the circumstances, Original Application carried no merits. Hence, dismissed with no order as to costs.”*

The Respondents have further relied on judgment of the Hon’ble Supreme Court dated 28.08.2019 in **Civil Appeal No.6669 of 2019 (The State of Tamil Nadu & Ors. V/s G. Hemalathaa & Anr.)**. In this case it is observed -

“In **Umesh Chandra Shukla v. Union of India**,

Venkataramiah, J., held that:

"13.... exercise of such power of moderation is likely to create a feeling of distrust in the process of selection to public appointments which is intended to be fair and impartial. It may also result in the violation of the principle of equality and may lead to arbitrariness. The cases pointed out by the High Court are no doubt hard cases, but hard cases cannot be allowed to make bad law. In the circumstances, we lean in favour of a strict construction of the Rules and hold that the High Court had no such power under the Rules."

These judgments support stand of the Respondents that the Applicant was rightly held to be ineligible because on the cut-off date she had not completed BCME.

9. For the reasons discussed hereinabove the Original Application is dismissed with no order as to costs.

Sd/-

(A.M. Kulkarni)
Member (A)

Sd/-

(M. A. Lovekar)
Vice-Chairman

Place: Mumbai

Date : 06.05.2025

Dictation taken by: V. S. Mane

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