

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

**ORIGINAL APPLICATION NO. 87 OF 2015**

DIST. : BEED

Dr. Usha Ginyandeo Bangar,  
Age. 32 years, Occ. Service,  
R/o Public Health Centre,  
Vadvani, Tq. Vadvani, Dist. Beed.

-- APPLICANT.

**V E R S U S**

1. The State of Maharashtra,  
Through its Secretary,  
Public Health Department,  
Mantralaya, Mumbai - 32.
2. The Deputy Director,  
Health Services, Latur Division,  
Latur.
3. The Chief Executive Officer,  
Zilla Parishad, Beed.
4. The District Health Officer,  
Health Department,  
Zilla Parishad, Beed.

-- RESPONDENTS

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APPEARANCE :- Shri S.K. Mathpati, learned Advocate holding for Shri A.S. Kale, learned Advocate for the applicant,

: Smt. Sanjivani Deshmukh Ghate, learned Presenting Officer for the respondent nos. 1 & 2

: Shri A.R. Tapse, learned Advocate holding for Shri P.D. Suryawanshi, learned Advocate for respondent nos. 3 & 4.

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**CORAM :- Hon'ble Shri Rajiv Agarwal, Vice Chairman (A)**  
**AND**  
**Hon'ble Shri B.P. Patil, Member (J)**

**DATE :- 17.02.2017**  
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**ORAL ORDER**

**PER : Hon'ble Shri Rajiv Agarwal, Vice Chairman (A)**

1. Heard Shri S.K. Mathpati, learned Advocate holding for Shri A.S. Kale, learned Advocate for the applicant, Smt. Sanjivani Deshmukh Ghate, learned Presenting Officer for the respondent nos. 1 & 2 and Shri A.R. Tapse, learned Advocate holding for Shri P.D. Suryawanshi, learned Advocate for respondent nos. 3 & 4.

2. The learned Advocate for the applicant stated that the applicant is a Medical Officer working under the Government firstly as a bonded candidate from 11.3.2011 to 28.3.2011 and thereafter she was selected by the M.P.S.C. She was on probation during the period from 29.3.2011 to 28.3.2013 and completed the said probation successfully. From last 2 years the applicant has been trying to appear for post graduation course. As per the Government scheme certain seats are reserved for in-service candidates for getting admission to Post Graduate Medical courses. However, the applicant's case is not considered by the

respondent nos. 1 & 2 on the ground that departmental enquiry is proposed against her. The G.R. dated 3.5.2011 issued by the Public Health Department deals with this subject of admission of in-service Medical Officers for Post Graduate Degree / Diploma programme. As per para 1.5 of the said G.R. if a departmental enquiry or criminal case is pending or proposed against the Medical Officer, he/she is held ineligible to be admitted to the combined admission test of the Medical Officers for this purpose. Though in the year 2014 by order of Hon'ble Bombay High Court, Bench at Aurangabad dated 23.12.2014 in writ petition no. 11728/2014, the applicant was allowed to appear for the combined admission test, she was not admitted to the Post Graduation Course only on the ground that the departmental enquiry was proposed against her.

3. The learned Advocate for the applicant vehemently argued that the applicant is being victimized on the ground that the departmental enquiry is proposed in the year 2014, though no further steps are taken in that regard and by taking recourse to the fact that a departmental enquiry is proposed against him, the career of a young Officer is being destroyed by this action of the respondents.

4. The learned Presenting Officer stated that the applicant was permitted to appear in the combined test in the year 2015 as per the order of Hon'ble High Court (supra). It was further directed by the Hon'ble High Court in the said order that the result of the applicant of the said examination shall not be declared until further orders and, therefore, it is for the applicant to move Hon'ble High Court for getting her result declared.

5. The learned Advocate for the res. nos. 3 & 4 has no instructions regarding proposal dated 20.12.2014 submitted by the Zilla Parishad, Beed to start departmental enquiry against the applicant. He, more or less, adopts the arguments of learned Presenting Officer.

6. We agree with the contention of the learned Advocate for the applicant that the applicant is being punished without actually imposing any punishment under the M.C.S. Rules and, therefore, the applicant is entitled to get admission in the combined test for the Post Graduate Degree / Diploma Course. If the respondents want to start a departmental enquiry against the applicant, nothing prevents them from doing so. The proposal in this regard is pending with them from 2014. More than 2 years' have elapsed but no steps are taken by them, which is totally unacceptable. The respondents are directed to permit the applicant to appear for

the ensuing combined admission test for admission to Post Graduate Course for Medical Officer. If the applicant succeeds in the admission test, she be allowed to join the Post Graduate Course and in case the respondents decide to start a D.E. that will not come in her way. In other words, the D.E. shall be conducted, if the respondents so decided, but the applicant will not be prevented from higher studies.

7. With the above directions, the original application stands disposed of without any order as to costs.

**MEMBER (J)**

**VICE CHAIRMAN (A)**