

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO.1087/2024

Veronika Filip Raj)
Residing at Flat No.103, Surya Ladies Hostel)
Opposite Moze College, Balewadi, Pune 45) **...Applicant**

Versus

1) The State of Maharashtra,)
Through the Secretary)
Public Health Department,)
Mantralaya, Mumbai)

2) The Commissioner (Health Services),)
Maharashtra State, having office at)
“Arogya Bhawan”, St. Georges Hospital)
Campus, P.D.’mello Road, Mumbai)

3) Director of Health Service,)
Having office at “Arogya Bhawan”)
St. Georges Hospital Campus,)
P.D.’mello Road, Mumbai.)

4) Deputy Director,)
Health Service, Nashik)
Having office at Vibhagiy Sandarbh,)
Rugnalay, Shalimar, Nashik) **...Respondents**

Mr. L.S. Deshmukh, learned Advocate for the Applicant.
Mr. A.D. Gugale, learned Presenting Officer for the Respondents

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

DATE : **08.01.2025.**

J U D G M E N T

1. Applicant prays to quash and set aside the communication dated 14.08.2024 issued by the Respondent No.4, Deputy Director, Health Service, Nashik. Applicant further prays that Respondents be directed to consider the Applicant's candidature for being appointed to the post of Staff Nurse against 50% posts meant for candidates who have completed their education from Private Institutes and issue appointment order in favour of the Applicant for the Staff Nurse Post.

2. The brief facts of the case are as below :

(a) In the year 2015, the applicant completed her educational qualification of General Nursing and Midwifery Diploma from the recognized institute and is also registered with the Maharashtra Nursing Council, making her eligible for appointment to the post of Staff Nurse.

(b) Respondent No.1, State of Maharashtra, through Secretary, Public Health Department framed Rules in February, 2021 called as 'Assistant Matron, Tutor, Public Health Nurse Instructor, Public Health Nurse, Psychiatric Nurse, Paediatric Nurse, Incharge Sister and Staff Nurse (Group C) in the State of Maharashtra Nursing Services in the Commissionerate of Health Services and Employees State Insurance Scheme, under the Public Health Department of the Government (Recruitment) Rules, 2021". In terms of the said Rules candidates having qualification of GNM or Basic B.Sc. (Nursing) are eligible for the post of Staff Nurse.

(c) Vide Advertisement dated 28.08.2023, Respondent No.2, the Commissioner (Health Services), office at Arogya Bhawan”, St. Georges Hospital Campus invited applications for various posts including the post of Staff Nurse in various Divisions. The Applicant applied for the post of Staff Nurse in Nashik Division on 14.09.2023.

(d) Respondent No.2, amended the above Advertisement after the applicant had submitted her application inserting the Clause that interchangeability between the candidates of Private Institutes and Government Institutes would not be allowed.

(e) The Applicant appeared for the Common Written Test in December, 2023 and received selection letter from Respondent No.4 in August, 2024. Further, the applicant was called for counselling and verification of original documents.

(f) The Applicant presented herself along with necessary documents in the office of Respondent No.4 requesting to consider her candidature which was refused by the Respondent No.4.

(g) Aggrieved by the above development the Applicant approached this Tribunal.

3. Learned Advocate for the Applicant has submitted that the Applicant relied on paragraphs 8 and 9 of the judgment dated 28.03.2024 passed by this Tribunal in O.A.No.402/2024, Dipali Vishwnath Darkonde Versus State of Maharashtra & Ors. He has further filed Additional Affidavit of the Applicant dated 06.01.2025 along with copy of letter dated 23.02.2024 (Exhibit-N)

4. Learned Presenting Officer for the Respondents has opposed the O.A. by filing the affidavit-in-reply dated 17.10.2024 on behalf of Respondents No.1 to 3. Learned P.O. has further submitted that the judgment dated 28.03.2024 passed in O.A.No.402/2024 is challenged before the Hon'ble Bombay High Court on 06.01.2025 vide Writ Petition Stamp No.533/2025.

5. Considered submissions. The relevant portion of the judgment dated 28.03.2024 passed in O.A.No.402/2024 by this Tribunal is reproduced below :

“8. Undoubtedly 50 : 50 percent quota as per the requirement of Recruitment Rules for Staff Nurse (Exhibit-D) as per the Rule 4 of the Recruitment Rules dated 15.04.2015 of Staff Nurse from which College or Institute i.e. Government or Private the candidate has taken Education is determinant for the entry of the candidate in the respective quota. Applicant has mentioned that she has secured Diploma in General Nursing of Midwifery. It is true and correct information as per the first release and she tick marked for Government quota which is the correct option of quota as per Clause 13 of the Annexure of the first release. The letter of Under Secretary, Public Health Department of February 2024 reveals the fact of confusion as to the Institutes under local bodies are to be treated as Government Institutes for which the Government has taken decision that at the time of counselling the candidates can be accommodated as per the respective quota given by them.

9. Thus, when there is no compromise in respect of basic qualification and also on the point of merit as the applicant is topper in Government as well as Private quota. For the reasons above discussed above, the Applicant cannot be disqualified on the ground of tick marking the Government quota instead of Private quota. When the Government has accommodated other candidates who have given options as per their understanding in absence of clarification about Institutes coming under local bodies then the denial of the Applicant is against the principles of natural justice and arbitrary and hence, illegal. There is no violation of maintaining 50% quota if the applicant is accommodated on the basis of type of the Institute where she has taken Education wherein the applicant can be accommodated as per the second release in the Private quota.”

In the judgment in O.A.No.402/2024 the letter dated 23.02.2024 was considered and the candidates who have completed their nursing Education from Private college and had applied for Government quota are held eligible for being considered against private quota. Since the facts in O.A.No.402/2024 are exactly same in the instant O.A.No.1087/2024, we pass the following order :

ORDER

- (A) O.A. stands allowed.
- (B) Communication dated 14.08.2024 issued by the Respondent No.4 is quashed and set aside.
- (C) Respondents are directed to consider the applicant's candidature for being appointed to the post of Staff Nurse against 50% posts meant for the candidates who have completed their education from Private Institutes.
- (D) If the Applicant's candidature is found otherwise fit, appointment order in respect of the Applicant may be issued for the post of Staff Nurse in Nashik Division as prayed.
- (E) No order as to costs.

Sd/-

(A.M. Kulkarni)
Member (A)

Sd/-

(Mridula Bhatkar, J.)
Chairperson

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