

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.439 OF 2016**

**DISTRICT : MUMBAI**

Mr. Dhiraj Ashokrao Zade. )  
Aged 34 years, Occ. Service, R/o. Building)  
No.5/605, Near Kharegaon Railway Cross,) )...**Applicant**  
Kalwa (E), Thane.

**Versus**

1. The State of Maharashtra. )  
Through the Secretary, )  
Medical Education & Drugs Dept., )  
Mantralaya, Mumbai - 400 032. )
2. Directorate of AYUSH. )  
Maharashtra State, Mumbai, 4<sup>th</sup> )  
Floor, Saint Georges Hospital )  
Compound, P. D'Mello Road, Fort, )  
Mumbai 400 001. )...**Respondents**

**Shri N.P. Dalvi, Advocate for Applicant.**

**Ms. N.G. Gohad, Presenting Officer for Respondents.**

**P.C. : R.B. MALIK (MEMBER-JUDICIAL)**

**DATE : 24.05.2016**



## JUDGMENT

1. Ms. Pradnya Ghate, Section Officer of Medical Education Department for Respondent No.1, S/Shri Katware, Administrative Officer, G.P. Harhare, Head Clerk and S.B. Chaudhary, Chief Administrative Officer for Respondent No.2. They are the Officers who are instructing the learned P.O.

2. The learned P.O. Ms. Gohad on instructions from the Officer of the Respondent No.1 named above informs that the regular appointments of four candidates are just around the corner and are likely to be issued within a day or two. The order made by me yesterday needs to be perused. The learned Advocate Shri N.P Dalvi in all fairness conceded the position that in no case, the Applicant would be able to block the duly appointed candidates. In so far as the Applicant is concerned, he in fact makes a statement that if he is hit by the Rule of, "last come first go", he will have no cause to put forth to retain his position. He further submits that till such time as all hurdle free, appropriately and properly appointed candidate is ready to take over within whatever duration of time, be it a few days or whatever, the Applicant needs to be protected. In which connection, useful reference could

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be made to the orders of the Nagpur Bench of this Tribunal and the Aurangabad Bench of the Hon'ble Bombay High Court which have been referred to in unnumbered Para 3 of my order made yesterday. The learned P.O. concedes to nothing at all and it seems, left to her, she does not yield any ground to the Applicant.

3. Now as far as the present matter in the context of the above discussed facts as well as in the context of my order made yesterday are concerned, be it noted that absent the recent developments the Applicant could not have been summarily thrown out inter-alia because of the principles of parity on account of the order passed by the Nagpur Bench of this Tribunal relying upon the order of the Aurangabad Bench of the Hon'ble Bombay High Court which was referred to by me in the unnumbered Para 3 of my order made yesterday. Now, undoubtedly, the regular appointees would not be allowed to be blocked by the Applicant because of the reasons which are very obvious. It seems that the Applicant in so far as the regular appointment is concerned, did not answer the basic requirements and that position is fairly conceded by Mr. Dalvi, the learned Advocate for the Applicant. It is further made clear that the learned Advocate Shri Dalvi made a statement that post regular appointment, the Applicant



shall not rake-up the issue of the legality or propriety of the regular appointments on any ground whatsoever. This statement is accepted as an undertaking of the Applicant who is present in the Court just now and has so instructed his learned Advocate Shri N.P. Dalvi.

4. With this, it is directed that till the date the regular appointee is ready to take up the post currently occupied by the Applicant, the Applicant's appointment in the manner indicated in the order dated 30<sup>th</sup> May, 2015 shall continue, but he shall have no further or better rights in respect thereof. The above undertaking needs to be referred to. This order having been made, Mr. Dalvi on instructions from the Applicant submits that with this the OA itself may be disposed of. The learned P.O. on instructions conveys her no objection. The OA is accordingly disposed of with no order as to costs.

Sd/-  
**(R.B. Malik)**  
**Member-J**  
**24.05.2016**

Mumbai  
Date : 24.05.2016  
Dictation taken by :  
S.K. Wamanse.

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