

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 162/2024 (S.B.)**

Mohd. Khalid Inamdar,  
S/o Abdul Waheed Inamdar,  
Aged about 41 years,  
Occupation - Service (Medical Officer),  
R/o Dharam Kata, Zamzam Nagar,  
Vidarbha Mahavidyalaya, Amravati,  
Tah. and District Amravati - 444 604.

**Applicant.**

**Versus**

- 1) Medical Superintendent Office,  
Regional Referral Services Hospital,  
Amravati.
- 2) Commissionerate of Health Services  
(Government of Maharashtra),  
Arogya Bhavan, St. George Hospital Compound,  
P.D'Mello Road, Mumbai - 400 001.  
(Through DHS).
- 3) Deputy Director Health Services,  
Akola Circle, Akola,  
Tah. and District Akola.
- 4) State of Maharashtra,  
Through it's Secretary Public Health Department,  
Mantralaya, Mumbai - 400 001.
- 5) Govt. of Maharashtra,  
State Common Entrance Test Cell,  
Maharashtra State Mumbai,  
Head Office at - 305,  
Govt. Polytechnic Building, Khairwadi,  
Ali Yawar Jung Marg,  
Bandra (E), Mumbai - 400 051.

**Respondents**

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**Shri S.Jagirdar, Id. Advocate for the applicant.**

**Shri A.M.Khadatkar, Id. P.O. for the respondents.**

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**Coram :- Hon'ble Shri M.A.Lovekar, Member (J).**

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**JUDGMENT**

**Judgment is reserved on 01<sup>st</sup> July, 2024.**

**Judgment is pronounced on 11<sup>th</sup> July, 2024.**

Heard Shri S.Jagirdar, Id. counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the Respondents.

2. The applicant completed M.D. in Pharmacology in the year 2017. He was selected as Medical Officer, Group-A on the basis of his M.B.B.S. degree. He joined at Regional Referral Services Hospital, Amravati on 06.08.2019 (A-1). He had appeared for NEET-PG-2023 as in-service candidate after obtaining N.O.C. from respondent no. 3 (A-4) and he cleared the examination. He applied for Sponsored DNB seat (for in-service Medical Officer) after obtaining N.O.C. from the Director of Health Services, Mumbai. He was selected for DNB (General Medicine) seat at Kingsway Hospital, Nagpur which is a private institute (A-6). He paid first year fees on 19.12.2023 (A-7). The applicant, through various letters (A-8, collectively), requested the authorities to relieve him to join the

seat. By communication dated 02.02.2024 (A-9) he was informed as follows:-

उपरोक्त संदर्भित पत्राचे अनुषंगाने आपणास सुचीत करण्यात येते की, आपण या रुग्णालयात वैद्यकीय अधिकारी या पदावर कार्यरत आहात, तथापि आपणास डीएनबि स्पॉन्सर्ड अभ्यासक्रमाकरीता दिलेली परवानगी वरील संदर्भित पत्र क्र.१ व क्र.२ च्या अनुषंगाने गट-अ सेवांतर्गत वैद्यकीय अधिकाऱ्यासाठी पदव्युत्तर पदवी/पदविका अभ्यासक्रम (शासन निर्णय दि.१९.७.२०२३) सुधारीत नियमावलीच्या अटी व शर्तीची पूर्तता करित नसल्यामुळे सेवांतर्गत पदव्युत्तर पदवी/पदविका अभ्यासक्रमाकरीता पात्र ठरत नसल्याचे वरील संदर्भित पत्रानुसार कळविले आहे. त्यानुसार आपणास सदर अभ्यासक्रमाकरीता कार्यमुक्त करण्यात येऊ नये असे आदेशित केले आहे.

तरी आपण सदर अभ्यासक्रमाकरीता या रुग्णालयातून विनापरवानगी गैरहजर राहू नये, विनापरवानगी गैरहजर राहिल्यास आपणाविरुद्ध योग्य कार्यवाही प्रस्तावीत करण्यात येईल याची नोंद घ्यावी.

Hence, this Original Application seeking direction to the respondents to relieve him to join Sponsored DNB seat.

3. The applicant is relying on the order dated 02.04.2018 (A-11) passed by the Hon'ble Bombay High Court in W.P. No. 2388/2018. During hearing of said W.P. Ld. Advocate General made a statement that the Government was going to amend Clause 8.17.10 of Information Brochure which was to enable the candidates pursuing or having

completed P.G. Course, to apply for P.G. admission in Private Unaided Medical Colleges.

4. The applicant is further relying on Notice NEET-PG-2018 (A-13) in respect of amendment to clause 8.17.10 to Information Brochure. The amended clause 8.17.10 reads as under:-

*Amended Clause:*

*8.17.10:- "Candidate who are previously registered and are pursuing/have completed the PG degree course or have obtained PG degree. This prohibition will apply to Post Graduate admission in Government/Corporation run Medical College only. Such candidate can be considered for admission at Private Unaided Medical College"*

5. Clause 8.18.9 of Information Brochure reads as under:-

*8.18.9 Candidates who are previously registered and are pursuing / have completed the PG degree course or have obtained PG degree are not eligible for admission through NEET PG 2023. This prohibition will apply to Post Graduate admission in Government/ Corporation run Medical College(s) only. However candidates who have completed PG course in one broad specialty is eligible for any other broad specialty in Private Unaided Medical College(s) as per Hon'ble High Court Order Dated 02/04/2018 in W.P. No. 2388 of 2018 and Government of Maharashtra Letter No. WPM-1318/C.R.122/18 /EDU-2, Dated 27/03/2018.*

6. Respondent no. 1 has, on the other hand, relied on para 9 of G.R. dated 19.07.2023 (A-R-1) issued by Public Health Department, Government of Maharashtra which states:-

ज्या वैद्यकीय अधिकाऱ्यांनी नियमित सेवेत रुजू झाल्यानंतर अथवा तत्पूर्वी एखादया विषयामध्ये पदव्युत्तर पदविका धारण केली असल्यास, अशा वैद्यकीय अधिकाऱ्यांना त्याच विषयाच्या पदव्युत्तर पदवी अभ्यासक्रमासाठी सर्वसाधारण गुणवत्तेनुसार प्रवेश घेता येईल. तसेच एक पदवी असलेल्या उमेदवारांना दुसऱ्या पदवीसाठी किंवा अन्य कोणत्याही पदविकेसाठी नोंदणी देण्यात येणार नाही.

7. Respondent no. 1 has further relied on extract of service book of the applicant (A-R-2) which shows that on account of his M.D. qualification six increments were given to the applicant as incentive.

8. By order dated 10.05.2024 ld. P.O. was asked to make submissions whether G.R. dated 19.07.2023 would be applicable to the cases where a candidate was seeking admission to P.G. course in Private Unaided Medical College. By way of answer to this query stand of respondent no. 3 is as follows:-

सार्वजनिक आरोग्य विभाग, शासन निर्णय क्र. मवैअ-२०२३/प्र.क्र.३०१/सेवा ३ दि.१९.०७.२०२३ हा शासन निर्णय हा खाजगी किंवा शासकीय संस्थेमध्ये प्रवेशाकरिता लागू नसून सदर शासन निर्णय हा सेवांतर्गत कार्यरत असलेल्या सर्व वैद्यकीय अधिकारी यांना लागू आहे. डॉ.मो. खालीद ईनामदार, वैद्यकीय अधिकारी, विभागीय संदर्भ सेवा रुग्णालय अमरावती हे सेवांतर्गत वैद्यकीय अधिकारी असल्याने त्यांना सदर शासन निर्णय लागू आहे.

9. Ld. counsel for the applicant contended that one Dr. Pravin Kumar Ingle who was also serving and holding a Diploma in

Orthopaedics was granted study leave to undergo P.G. course i.e. M.D. in Forensic Science, and by applying principle of parity similar benefit should be extended to the applicant. By way of reply to this submission respondent no. 3 has taken the following stand:-

डॉ.प्रविणकुमार पांडुरंग इंगळे, वैद्यकीय अधिकारी, गट-अ, ट्रॉमा केअर व ग्रामीण रुग्णालय, चांडोली, ता.खेड, जि. पुणे यांनी D-Ortho ही पदविका पूर्ण केलीली आहे. परंतु त्यांनी नीट पीजी-२०२३ च्या प्रवेश प्रक्रियेत आयुक्तालयास अबकड च्या प्रस्तावात प्रपत्र "ब" मध्ये शैक्षणिक आर्हता एम.बी.बी.एस अशी नोंदविण्यात आलेली होते. तसेच त्यावर उपसंचालक आरोग्य सेवा, पुणे यांची स्वाक्षरी देखील आहे. त्यामुळे डॉ. इंगळे यांना नीट पीजी च्या गुणांमध्ये गुणाधिक्य देवून त्यांच्या अभिप्रायामध्ये "Eligible for inservice quota" असे नमूद असल्यामुळे त्यांनी नीट पीजी-२०२३ मध्ये For Medicine हा विषय घेतलेला आहे. डॉ. इंगळे यांना प्रतिनियुक्तीच्या आदेशान्वये कार्यमुक्त केलेले आहे त्यांना अध्ययन रजा देवून कार्यमुक्त केलेले नाही.

आयुक्तालयाच्याक्र. आसेआ/पी.जी. सेल/डॉ. हरबडेवइतर 0८ वैद्य. अधि/पदविकेबाबत /६८-७१/२०२४, दिनांकर २०/०२/२०२४ च्या पत्रान्वये ज्या वैद्यकीय अधिका-यांनी शासन निर्णय दिनांक १९/०७/२०२३ च्या नियमावलीतील नियम क्र.९ चे उल्लंघन केलेले आहे. त्यांच्यावर कार्यवाही करण्याची प्रक्रिया सुरु आहे.

डॉ. इनामदार यांना MD Pharmacology या पदवीच्या सहा वेतनवाढी देण्यात आलेल्या आहेत. त्यामुळे शासन निर्णय दिनांक १९/०७/२०२३ मधील नियम क्रमांक ९ नुसार "एक पदवी असलेल्या उमेदवारांना दुस-या पदवीसाठी किंवा अन्य कोणत्याही पदविकेसाठी नोंदणी देण्यात येणार नाही." असे स्पष्ट नमूद आहे.

10. A conjoint consideration of amended Clause 8.17.10 of Information Brochure and para 9 of G.R. dated 19.07.2023, in the light of

rival contentions, clearly leads to the conclusion that the former enables the candidates pursuing or having completed P.G. course, to apply for P.G. admission in Private Unaided Medical Colleges whereas the latter deals with cases of Medical Officers of Group-A, like the applicant, and places the restriction as above. G.R. dated 19.07.2023 is applicable to the facts of the case. Prohibition contained in para 9 thereof thus comes into play while considering case of the applicant. The respondents have pointed out reasons as to why the applicant cannot claim parity with Dr. Ingle and others. I have already quoted above contents of A-R-3. For all these reasons, the O.A. is liable to be dismissed. **It is accordingly dismissed with no order as to costs.**

**Member (J)**

**Dated :- 11/07/2024**  
aps

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 11/07/2024  
and pronounced on

Uploaded on : 12/07/2024