

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**O.A. NO. 447/2022 WITH M.A. ST. NO. 2166/2023 WITH
M.A. NO. 542/2022 WITH M.A. NO. 261/2022 WITH M.A.
NO. 257/2022**

ORIGINAL APPLICATION NO. 447 OF 2022

DISTRICT : - AURANGABAD

- 1) Dr. Sanjay Kumarrao Muley**
Age : 47 years, Occu. Service as a
Health/Medical Officer
R/o. Primary Health Center, Nagad,
Tq. Kannad, Dist. Aurangabad.
- 2) Dr. Sanjay Ramrao Kadam**
Age : 48 years, Occu. Service as a
Health/Medical Officer
R/o. 19 Navjivan Teachers Colony,
Behind Bus Stand, Beed.
Tq. & Dist. Beed.
- 3) Dr. Satish Bapurao Shinde**
Age : 48 years, Occu. Service as a
Health/Medical Officer
R/o. Vijaya Apartment, Jijau Nagar,
Canal Road, Rajiv Gandhi Chowk,
Beed, Tq. & Dist. Beed.
- 4) Dr. Vikas Uttamrao Athwale**
Age : 47 years, Occu. Service as a
Health/Medical Officer
R/o. Behind Sahyadri Garage,
Dhanora Road, Saint Namdev Nagar,
Tq. & Dist. Beed.
- 5) Dr. Dnyaneshwar Sheshrao Nipte**
Age : 47 years, Occu. Service as a
Health/Medical Officer
R/o. 'Sawali' Swarajya Nagar,
Galdhar Chowk, Barshi Road,
Beed, Tq. & Dist. Beed.

- 6) **Dr. Santosh Shankarrao Vidhate**
Age : 47 years, Occu. Service as a
Health/Medical Officer
R/o. Primary Health Center, Sonai,
Tq. Newasa, Dist. Ahmednagar.
- 7) **Dr. Damodhar Bhivaji More**
Age : 41 years, Occu. Service as a
Health/Medical Officer
R/o. Tq. Health Officer, Shirur,
Tq. Shirur, Dist. Pune.
(Deleted as per order dated 06/05/2022)
- 8) **Dr. Ansari Mohammad Rafikoddin Mohammad**
Age : 48 years, Occu. Service as a
Health/Medical Officer
R/o. 104/7, In front of Dnyaneshwar Mandir,
Solapur-Aurangabad Highway,
Milly Colony, Osmanabad,
Tq. & Dist. Osmanabad.
- 9) **Dr. Mohammad Turabali Deshmukh**
Age : 47 years, Occu. Service as a
Health/Medical Officer
R/o. 102 Golden Nest Apartment,
Dasak, Satbhai Nagar, Jail Road,
Nashik, Dist. Nashi.
(Deleted as per order dated 06/05/2022)

.. **APPLICANTS.**

V E R S U S

- 1) **State of Maharashtra**
Through its Secretary,
Department of Public Health,
Mantralaya, G.R. Hospital, B-Wing,
10th Floor, Complex Building,
New Mantralaya, Mumbai-400 001.
- 2) **The National Medical Commission**
Through its Secretary,
Pocket 14, Sector-8 Dwarka,
Phase-I, New Delhi-77.

- 3) The Director,**
Sree Chitra Tirunal Institute for Medical
Sciences and Technology,
Trivendrum-695 011.
Kerala.

.. RESPONDENTS.

APPEARANCE : Shri Mohit R. Deshmukh, learned counsel for the applicants in O.A. & M.A.ST. 2166/2023,

: Shri A.V. Thombre, learned counsel holding for Shri S.S. Thombre, learned counsel for the applicants in M.A. No. 542/2022.

: Shri V.R Bhumkar, learned Presenting Officer for the respondent authorities.

: Shri S.B. Bhosale, learned counsel for the applicants in M.A. Nos. 261 & 257 both of 2022.

: Shri S.K. Kadam, learned counsel for respondent No. 2 in O.A.

: Shri Satyajeet S. Dixit/Shri V. Sajith Kumar, learned counsel for respondent No. 3 in O.A. (**absent**).

CORAM : **Hon'ble Shri Justice P.R. Bora,**
Vice Chairman
AND
Hon'ble Shri Vinay Kargaonkar,
Member (A)

RESERVED ON : 24.06.2024

PRONOUNCED ON : 26.09.2024

ORDER

[Per :- Justice P.R. Bora, Vice Chairman]

1. Heard Shri Mohit R. Deshmukh, learned counsel for the applicants in O.A. & M.A.ST. 2166/2023, Shri A.V. Thombre, learned counsel holding for Shri S.S. Thombre, learned counsel for the applicants in M.A. No. 542/2022, Shri V.R Bhumkar, learned Presenting Officer for the respondent authorities, Shri S.B. Bhosale, learned counsel for the applicants in M.A. Nos. 261 & 257 both of 2022 and Shri S.K. Kadam, learned counsel for respondent No. 2 in O.A.

Shri Satyajeet S. Dixit/Shri V. Sajith Kumar, learned counsel for respondent No. 3 in O.A. (**absent**).

2. The applicants are aspiring for the post of District Health Officer. According to the applicants, they possess the requisite qualification as prescribed in the 'Civil Surgeon Cadre, Group-A and District Health Officer Cadre, Group-A in the Maharashtra Health Services, Group-A (Recruitment) Rules, 2021' (for short 'the Rules of 2021').

3. Rule 4 (b) of the aforesaid rules prescribes the qualification and experience for to be appointed on the post of

District Health Officer Cadre, Group-A by nomination, which reads thus: -

“4. Appointment to the post in the “District Health Officer Cadre”, Group-A shall be made either,

(a) -- -- -- -- -- -- -- --

(b) by nomination on the basis of selection through Commission from amongst the candidates who,-

(i) are not more than thirty-eight years of age;

Provided that, the upper age limit may be relaxed up to ten years in case of candidates who are already in the service of Government;

(ii) possess M.B.B.S. degree of statutory University or any other qualification specified in the First Schedule or Second Schedule to the Indian Medical Council Act, 1956;

(iii) possess a post graduate degree of a statutory University in Preventive and Social Medicine or the qualification specified in the First or Second Schedule to the Indian Medical Council Act, 1956, or any other qualification recognized as equivalent thereto by the Medical council of India;

(iv) possess experience of not less than five years rural service out of which not less than three years experience of working in Health Administration and implementation of National Health Programmes after acquiring qualification mentioned in clause (ii) and (iii) of this sub-rule.”

4. It is not in dispute that the applicants possess MBBS degree of the statutory university. The dispute is in respect of the qualification prescribed in sub-clause (iii) of clause (b). The applicants possess the qualification as ‘Master

of Public Health' granted by 'Sree Chitra Tirunal Institute for Medical Sciences and Technology, Trivandrum' (for short 'Sree Chitra Institute'). The applicants have asserted that it's a post-graduate degree of the statutory university and, as such, they fulfill the criteria of educational qualification. As against it, it is the contention raised on behalf of the respondents that the qualification of MPH obtained by the applicants from Sree Chitra Institute does not satisfy the requirement of qualification, more particularly clause 4 (b) (iii) of the Rules of 2021. According to the respondents, MPH is not a post-graduate degree, but it is a post-graduate diploma.

5. While issuing notice in the present O.A. the Tribunal has granted an interim relief in favour of the applicants, whereby the respondents were directed to provisionally consider the applicants for selection on the post of District Health Officer from 75% quota, subject to final outcome of the present Original Application. In view of the interim relief granted as aforesaid, the other aspiring candidates filed the Misc. Applications for intervention. One M.A. is filed seeking vacation of the interim relief granted in favour of the applicants.

6. We have heard the Original Application as well as Misc. Applications together.

7. At the outset it has to be stated that after having gone through the pleadings of the parties and hearing the arguments advanced by the learned counsel appearing for the respective parties, it is transpired that the only issue which falls for our consideration in the present O.A. is 'whether qualification of MPH held by the applicants is requisite qualification as prescribed in the Rules of 2021 for the post of District Health Officer Cadre, Group-A'. In the circumstances, we have not indulged in referring to or reproducing the other facts pleaded by the parties, which are undisputed.

8. Insofar as the qualification of MPH is concerned, it is the contention of the applicants that MPH is Post Graduate degree obtained by them from Sree Chitra Institute and it is included in first schedule of Medical Council Act, 1956. Sree Chitra Institute has been established by the Act enacted by the Parliament in the year 1980. Sree Chitra Institute is declared as Institute of national importance. Section 23 of the said Act empowers the Institute to grant Medical degrees by the Institute. As provided under Section 24 of the said Act, degrees and diplomas granted by the said Institute are held to be recognized Medical Qualifications for the purpose of Indian Medical Council Act, 1956 and further that the said degrees and

diplomas are deemed to be included in first schedule to the Medical Council Act, 1956.

9. As further submitted by the applicants the Medical Council of India by Notification dated 08.12.2010 had amended the Post Graduate Medical Education Regulation 2000 by incorporating Master of Public Health (Epidemiology) in clause a under the heading M.D. (Doctor of Medicine) after infectious diseases. It is the further contention of the applicants as well as of respondent No. 3 that National Medical Commission had issued a public notice regarding amendment of the schedule of National Medical Commission Act, 2019, whereby Sree Chitra Institute has been notified as Institute of National importance under Section 37 of National Commission Act, 2019. The public notice in that regard was published on 15th December, 2022 in the gazette notification issued by the Ministry of Health and Family Welfare (Department of Health and Family Welfare) on 14.11.2022. Vide the said Notification all Medical qualifications granted by Sree Chitra Institute for Medical Sciences and Technology are added in schedule-1 of the National Medical Commission Act.

10. It is the further contention that Master of Public Health is a Post Graduate degree qualification awarded to those

persons holding recognized Medical qualification under the Medical Council of India Act and is deemed to be included in first schedule to the Medical Council of India Act and it is recognized degree for all purposes.

11. The National Medical Commission has filed the affidavit in reply through its Deputy Secretary. As contended in the said affidavit, the qualification of Master of Public Health granted by Sree Chitra Institute is a Post Graduate Diploma. It is further contended that Regulation 10(3) of the 'Post Graduate Medical Education Regulation, 2000' provides that the period of training for obtaining the Post Graduate Diploma shall be 02 completed years including the period of examination, whereas the period of training for obtaining the Post Graduate degrees shall be 03 completed years including the period of examination. According to the National Medical Commission, the Master of Public Health qualification therefore cannot be acknowledged as the Post Graduate degree.

12. It is further contended that the basic qualification of M.B.B.S. is a mandatory prerequisite for admission in the Post Graduate courses of Master of Public Health, whereas Sree Chitra Institute grants admission to the course of Master of Public Health to the candidates possessing not only M.B.B.S.

qualification but also to the candidates possessing the qualification of B.D.S., B.A.M.S., B.N.Y.S., B.U.M.S., B.S.M.S., B.H.M.S., B.Tech. or B.E. along with degree qualifications in Veterinary, Nursing, Physiotherapy, Occupational Therapy, Statistics, Bio-statistics, Demography, Nutrition, Sociology, Economics, Psychology, Anthropology etc. It is thus further contention of the National Medical Commission that Sree Chitra Institute is permitting the candidates, who do not even possess the Medical qualification of M.B.B.S. to undergo the Post Graduate course of Master of Public Health.

13. The National Medical Commission has further contended that for the aforesaid reasons the Member of Post Graduate Medical Examination Board vide its letter dated 6.7.2021 had informed that the qualification of Master of Public Health granted by Sree Chitra Institute is equivalent to Post Graduate Diploma in Public Health. It is further submitted that the qualification of Master of Public Health is included in the 1st Schedule to I.M.C. Act, 1956, as well as, in the 1st Schedule to the National Medical Commission Act, 2019 as recognized Post Graduate Diploma qualification. It is the further contention of the National Medical Commission that the Medical Council Regulations have statutory force and are mandatory.

14. It is further contended that issuance of Public Notice dated 15.12.2022 cannot be read in a manner so as to mean that the qualification of Master of Public Health as granted by Sree Chitra Institute is a Post Graduate Medical degree. It is further stated that Schedule to National Medical Commission Act only includes the medical qualifications and does not specify either Degree or Diploma. On the aforesaid grounds the National Medical Commission has opposed for grant of any relief as prayed by the applicants in their Original Application.

15. The applicants, who have filed the Misc. Applications, are seeking intervention in the present Original Application. Similar contentions are raised by them as are raised by the National Medical Commission and the Government.

16. As noted by us hereinbefore, the qualification of M.P.H. obtained by the applicants from Sree Chitra Institute, whether is a Post-Graduate Degree or the Post Graduate Diploma is the issue in the present matter to be determined. According to the applicants, qualification of M.P.H. is a Post-Graduate Degree, whereas the respondents have taken a plea that it is a Post Graduate Diploma. The submissions made on behalf of respondent no. 02 i.e. The National Medical

Commission are more material in this regard. Affidavit in reply on behalf of respondent no. 02, though, is much exhaustive and runs into around 30 pages, the entire thrust of the said respondent appears to be on regulation No. 10 of the Post Graduate Medical Education Regulations, 2000, which prescribes the period of training for the award of various Post Graduate Degrees and Diplomas. We deem it appropriate to reproduce the said regulation herein-below, which reads thus:-

“10. PERIOD OF TRAINING

The period of training for the award of various postgraduate degrees or diplomas shall be as follows:

(1) Doctor of Medicine (M.D.)/Master of Surgery (M.S.)

The period of training for obtaining these degrees shall be three completed years including the period of examination.

Provided that in the case of students having a recognized two year postgraduate diploma course in the same subject, the period of training, including the period of examination, shall be two years.

(2) Doctor of Medicine (D.M.)/Magister Chirurgiae (M.Ch.)

The period of training for obtaining these degrees shall be three completed years (including the examination period) after obtaining M.D./M.S. degrees, or equivalent recognised qualification in the required subject;

Provided that where an institution on the date of commencement of these Regulations, is imparting five year training in Neurology and Neuro-Surgery, such institution shall continue to have five year training course.

(3) Diplomas

The period of training for obtaining a postgraduate Diploma shall be two completed years including the examination period.

Migration/transfer of postgraduate students from one medical college or institution to another.

Migration/transfer of students undergoing any postgraduate course – degree/diploma shall not be permitted by any university or any authority.”

17. Based on the aforesaid regulation it has been argued on behalf of the respondents and more particularly by respondent no. 02 that the qualification of M.P.H. is a Post Graduate Diploma and the applicants thus do not possess the requisite educational qualification, according to them. As

contended in Regulation 10, the Post Graduate Medical Education in broad specialities shall be of 03 years' duration and 02 years' in the case of Diploma course after passing of M.B.B.S. examination. It is not in dispute that the M.P.H. course is of 02 years.

18. Dr. Sanjay Behari, Director of Sree Chitra Institute has filed his affidavit in reply in the present matter. As contended in the said reply, the M.P.H. is a Post Graduate Degree. Along with his affidavit in reply the respondent no. 03 has annexed certain documents in support of his said contention. The provisions U/ss 23 and 24 of Sree Chitra Institute Act have also been referred to in the said reply. We deem it appropriate to reproduce both the aforesaid sections, which read thus:-

“23. Notwithstanding anything contained in any other law for the time being in force, the Institute shall have power to grant medical degrees, diplomas and other academic distinctions and titles under this Act.

24. Notwithstanding anything contained in the Indian Medical Council Act, 1956, the medical degrees and diplomas granted by the Institute under this Act shall be recognized medical qualifications for the purpose of said Act and shall be deemed to be included in the First Schedule to that Act.”

19. Sree Chitra Institute has been established by an Act of Parliament known as 'Sree Chitra Tirunal Institute for Medical Sciences and Technology, Trivandrum Act, 1980'. As provided under Section 23 of the said Act the Institute has power to grant Medical Degrees, Diplomas, as well as, other academic distinctions and titles under the said Act. As stated in section 24 of the said Act the Medical degrees and diplomas granted by the Institute under the said Act are held recognized medical qualifications under the Indian Medical Council Act, 1956 and are deemed to be included in the first schedule of the Indian Medical Council Act, 1956. Though the Indian Medical Council Act has been repealed after enactment of the National Medical Commission Act, 2019 anything duly done or suffered under the repealed Act has been saved vide Section 60 of the new Act of 2019.

20. Respondent No. 2 in his affidavit in reply has expressly admitted that,

(i) the qualification of Master of Public Health granted by Sree Chitra Institute is a recognized post-graduate qualification; (ii) that it is included in the first schedule to the National Medical Commission Act, 2019;

(iii) that the Central Government vide its notification dated 14.11.2022 has in exercise of the power conferred under

Section 37 (3) of National Medical Commission Act, 2019 has amended the schedule to the National Medical Commission Act, 2019 and has thereby included all the medical qualifications granted by Sree Chitra Institute at Sr. No. 6 in the said schedule;

(iv) that all medical qualifications granted by Sree Chitra Institute are recognized Medical Qualifications in reference with Section 37 of National Medical Commission Act, 2019;

(v) that even prior to issuance of notification dated 14.11.2022 the qualifications granted by respondent No. 3 i.e. Sree Chitra Institute were duly recognized and were included in the first schedule to Indian Medical Commission Act, 1956;

(vi) that in view of Section 35(8) of the National Medical Commission Act, 2019 the qualifications included in the first schedule to the Indian Medical Council Act, 1956 are continued to be recognized Medical qualifications;

(vii) that after notification dated 14.11.2022 Sree Chitra Institute stands included in the schedule to the National Medical Commission Act, 2019 since it is a central institute constituted under the Act of Parliament.

(viii) that public notice dated 15.12.2022 was issued by it, whereby Sree Chitra Institute has been included in the schedule to National Medical Commission Act, 2019.

21. After having accepted the factual aspects as above, the respondent No. 2 has taken a surprising stand that the public notice dated 15.12.2022 cannot be read in a manner so as to claim that the qualification of Master of Public Health as granted by Sree Chitra Institute is the post-graduate medical degree. Respondent No. 2 has further stated that schedule to National Medical Commission Act, 2019 only include the medical qualifications and does not specify either degree or diploma. In the aforesaid context learned counsel appearing for the respondent No. 2 had referred to and relied upon the Post-Graduate Medical Education Regulation 2000 and more particularly clause 10 thereof which prescribes training period of 03 years for grant of post-graduate degrees and 02 years for diplomas.

22. Considering the materials on record it is difficult to agree with the submissions made as above on behalf of respondent No. 2. No doubt clause 10 (1) of the Post-Graduate Medical Education Regulation 2000 prescribes the training period of 03 years for award of post-graduate degrees and period of 02 years for obtaining post-graduate diplomas. The question is whether the said regulations are binding for Sree Chitra Institute. As noted hereinbefore Sree Chitra Institute

has been created by the Act of Parliament and it has its own rules and regulations. By following the said rules and regulations Sree Chitra Institute has designed its courses, curriculum for the said courses, as well as, the period of said courses. After introducing the course of “Masters’ degree in Public Health” (MPH), Sree Chitra Institute had forwarded a letter dated 19.12.2001 through its Registrar to the Indian Medical Council, for inclusion of the said course in the first schedule to the Indian Medical Council Act, 1956. The applicants have placed on record the minutes of General Body Meeting held on 24.03.2003. In the said meeting item 67 was in regard to inclusion of the Master degree in epidemiology and Master degree in public health granted by Sree Chitra Institute in the first schedule to the Indian Medical Council Act, 1956. In the said meeting the general body accepted the request of Sree Chitra Institute and recommended that the qualifications granted by Sree Chitra Institute be included in the first schedule to the Indian Medical Council Act, 1956. We deem it appropriate to reproduce hereinbelow the relevant part of the minutes of the meeting of the general body of Medical Council of India held on 24.03.2003, which read thus: -

“67. Inclusion of Master degree in Applied Epidemiology and Master degree in Public Health

***qualification granted by Sree Chitra Tirunal
Institute of Medical Sciences & Technology,
Thiruvananthapuram in the 1st Schedule to the
IMC Act, 1956.***

Read : The legal opinion togetherwith letter dated 19.12.2001 & 12.7.2002 from the Registrar, Sree Chitra Tirunal Institute of Medical Sciences & Technology, Thiruvananthapuram regarding inclusion of the “Master Degree in Applied Epidemiology” & “Master degree in Public Health” offered by the institutions in the 1st Schedule to the I.M.C. Act 1956.

The Council approved the following recommendation of the Postgraduate Committee:-

“The Postgraduate Committee considered the letter dated 19.12.2001 from the Registrar, Sree Chitra Tirunal Institute of Medical Sciences & Technology, Thiruvananthapuram as regards recognition of the qualifications granted by Sree Chitra Tirunal Institute of Medical Sciences & Technology and the legal opinion as furnished by the Council Advocate, the operative part of which reads as under:-

“Section 24 of (The) Sree Chitra Tirunal Institute of Medical Sciences & Technology Act, 1980 reads as under:-

“24 Recognition of the medical qualifications granted by Institution notwithstanding anything contained in IMC Act, 1956; the medical degrees and diplomas granted by the Institute under this Act shall be recognized medical

qualifications for the purpose of that Act and shall be deemed to be included in 1st Schedule of that Act.

The Provision of Section 24 of the Sree Chitra Tirunal Institute of Medical Sciences & Technology Act, 1980 is a non obstante clause and is begins with the words 'notwithstanding anything contained in' It has been laid down by various authoritative pronouncements of the Hon'ble Supreme Court that:-

"A clause beginning with 'Notwithstanding anything contained in that Act or in some particular provision in the Act or in mere particular Act or in any law for the time being in force, is sometimes appended to a section in the beginning with a view to give the enacting part of the section in case of conflict an overriding effect over the provision or Act mentioned in the non obstante clause. It is equivalent to saying that in spite of the provision or mentioned in the on obstante clause, the enactment following it will have its full operation or that the provisions embraced in the non obstante clause will not be an impediment for the operation of the enactment..."

This would, therefore, show that prima facie the request of this institution to the MCI would deserve to be carried out. I also see no difficulty if the MCI indicates the viewpoint of Post Graduate Medical Education Committee to this institution bringing it to their notice the nomenclatures mentioned in the Post Graduate Medical Education Regulation, 2000 and the period for training provided therein for grant of recognition by the MCI to such medical qualifications in other institutions, who do not enjoy the

same status which has been conferred upon this institution at Trivandrum.”

The Committee in view of above decided to recommend that the qualifications granted by Sree Chitra Tirunal Institute of Medical Sciences & Technology, Trivandrum be included in the 1st Schedule to IMC Act, 1956 once the same is notified by the Central Govt. upon receipt of request from authorities of Sree Chitra Tirunal Institute of Medical Sciences & Technology, Trivandrum.

The Committee further decided to convey that it would be desirable if the nomenclatures of the qualifications & the duration of the courses being conducted at Sree Chitra Tirunal Institute of Medical Sciences & Technology, Trivandrum is in consonance with the Council's regulations on Postgraduate Medical Education 2000.”

23. The minutes of the meeting as aforesaid leave no doubt that the Medical Council of India accepted the request of Sree Chitra Institute regarding inclusion of Master's degree in Public Health offered by the said Institute in the first schedule to the Indian Medical Council Act, 1956. As noted by us hereinbefore in view of the provisions under Section 35 (8) of the National Medical Commission Act, 2019 the qualifications included in the first schedule to the Indian Medical Council Act, 1956 are continued to be recognized medical qualifications and are included in the first schedule to the National Medical

Commission Act, 2019. Section 38 of the National Medical Commission Act, 2019 empowers the National Medical Commission to withdraw the recognition granted to Medical qualifications granted by Medical Institutes in India on the grounds stated therein. It is not the case of National Medical Commission (respondent No. 2) that the recognition granted to Master's degree in Public Health offered by Sree Chitra Institute has been withdrawn by invoking the provisions under Section 38 of the National Medical Commission Act, 2019. On the contrary, as we have noted in the earlier paragraph all the degrees and diplomas granted by Sree Chitra Institute are included in the schedule to the National Medical Commission Act, 2019. It is to be emphasized that in the minutes of meeting of the general body of the Medical Council of India held on 24.03.2003 the qualification of MPH is referred to and accepted as a Master degree.

24. In the rejoinder affidavit filed on behalf of the applicants, the applicants have disclosed the information received to them under Right to Information Act from the National Medical Commission. The applicant No. 1, Dr. Sanjay Muley, had made an application on 08.05.2022 under Right to Information Act, to the National Medical Commission in reply to

which the National Medical Commission has informed that on the National Medical Commission's web site Master of Public Health is shown to be a recognized **degree** granted by Sree Chitra Institute. In paragraph 6 of the rejoinder affidavit filed on behalf of the applicants it is averred that the Post-Graduate Medical Education Regulations 2000 show that the MPH from Sree Chitra Institute has been included in the list of M.D. qualifications at Sr. No. 34 under the schedule. In the same paragraph it is further averred by the applicants that MPH qualification of the applicants is entered as additional Post-Graduate qualification/degree in the register of Maharashtra Medical Council, Mumbai. The averments as above made by the applicant No. 1 on oath have not been denied or disputed by the respondents.

25. In the affidavit in reply filed on behalf of National Medical Commission (respondent No. 2) as well as in the affidavit in reply filed on behalf of respondent No. 1, both have given the reference of the letter dated 06.07.2021 under the signature of Dr. Vijay Oza, Member of Post-Graduates Medical Education Board written to one Dr. Vijay Kumar Wagh the then Additional Health Officer, Health Department at Aurangabad, wherein it is stated that qualification of Master in Public Health

(MPH) accorded by Sree Chitra Institute for Medical Sciences & Technology, Trivandrum, Kerala is equivalent to diploma in Public Health for the said purpose. The respondents however appear to have ignored the information provided by the same officer viz. Dr. Vijay Oza to the same applicant viz. Dr. Vijay Kumar Wagh subsequently on 17.09.2021. The applicant No. 1 along with his rejoinder affidavit dated 26.06.2022 has placed on record the copy of the said letter. From the contents of the said letter it appears that Dr. Vijay Kumar Wagh had preferred an application on 20.06.2021 under RTI seeking certain information from the National Medical Commission. In his letter dated 20.06.2021 said Dr. Vijay Kumar Wagh had called for an information whether MPH from Sree Chitra Institute is a Master's degree as it is added in the list of M.D. after infectious diseases and Dr. Vijay Oza incapacity of CPIO of the National Medical Commission has replied to the said question in affirmative.

26. We deem it appropriate to reproduce herein-below the information as was sought by Dr. Wagh and the reply given to it on behalf of National Medical Commission: -

S. No.	Information – Sought	Reply
1	Whether Master in Public Health (MPH) from Sri Chitra Tirunal Institute of Medical Sciences, Trivandrum, Kerala in MCI Recognized and included in First Schedule IMC Act 1956.	Yes.
2	Whether Sri Chitra Tirunal Institute of Medical Sciences, Trivandrum, Kerala is Statutory University	Yes.
3	As MPH is added in the list of MD after infectious diseases is it (a) Masters Degree and (b) is it equivalent to other master degrees in public Health Like PSM/ Community Medicine?	(a) Yes (b) No information available.
4	ICMR advertisement for Public Health posts mentions in eligibility criteria that Regular two years Masters of Public Health (MPH) with one year experience or MRCP or subjects approved by MCI/NMC will be considered equivalent to MD/DNB for positions relevant to Public Health/Medicine. Is this equivalence criteria is applicable to other states in India.	No information available.

27. Applicants have also placed on record copy of notification dated 14.11.2022 issued by Ministry of Health and Family Welfare. The said notification is issued by Ministry of Health and Family Welfare in exercise of power conferred by sub-section 3 of section 37 of the National Medical Commission Act, 2019. Vide said notification the Central Government after recommendation of the National Medical Commission has

amended the schedule of the Act by adding after entry no. 05 entry no. 06 as follows: -

Entry No. 06 : All medical qualifications granted by Sree Chitra Institute for Medical Sciences & Technology, (SCIMST) Trivandrum, Kerala.

28. Copy of the public notice dated 15.12.2022 published by the National Medical Commission is also filed on record by the applicants. Vide the said public notice National Medical Commission did inform to all concern that Sree Chitra Institute has been included in the schedule under Section 37 of the National Medical Commission Act, 2019 by the Central Government and further that all the medical degrees conferred by SCIMST are recognized degrees under the provisions of National Medical Commission Act, 2019.

29. Post Graduate Medical Education Regulations of 2000 were very much in force in the year 2003 and in spite of that the MPH qualification granted by Sree Chitra Institute was included in the schedule to the Indian Medical Council Act, 1956 and the Medical Council of India acknowledged it as Post-Graduate degree. Significantly even after coming into force of National Medical Commission Act, 2019 the MPH qualification is included in the schedule under the said Act. Had the

provisions under the Indian Medical Council Act, 1956 as well as Rules and Regulations thereunder binding on Sree Chitra Institute the general body of Indian Medical Council in its meeting held on 24.03.2003 could have refused the proposal moved by Sree Chitra Institute for inclusion of degree of MPH in the schedule. Admittedly, it did not happen. The general body though decided to convey to the management of Sree Chitra Institute that it would be desirable if the nomenclatures and the duration of the courses being conducted at the Institute are in consonance with the Council's regulations i.e. Post Graduate Medical Education Regulations 2000, did not reject the request by Sree Chitra Institute. More importantly even after bringing in force the National Medical Commission Act, 2019, no change has occurred in the said status.

30. The applicants have filed on record the 'Model Curriculum Handbook' pertaining to the post of MPH published by the Central Ministry of Health and Family Welfare in the year 2017-18. Clause 1.4 of the said curriculum is in respect of duration of the course of MPH. The said clause provides that the course is designed to be a 02 years full time training and dissertation.

31. After having considered the facts as aforesaid it is evident that MPH is a 'Post-Graduate Degree' conferred by Sree Chitra Institute. Merely on the basis of clause 10 of the Post Graduate Medical Education Regulations 2000, no such conclusion can be drawn that the qualification of MPH from Sree Chitra Institute is not a post-graduate degree. If the provisions under "Sree Chitra Tirunal Institute for Medical Sciences and Technology, Trivandrum Act, 1980" and "Post Graduate Medical Education Regulations, 2000" are correctly interpreted would lead to the only inference that the Regulations of 2000 may not apply to the courses run by "Sree Chitra Institute".

32. As per Section 24 of "Sree Chitra Tirunal Institute for Medical Sciences and Technology, Trivandrum Act, 1980", notwithstanding anything contained in the Medical Council Act 1956, the medical degrees and diplomas granted by the Institute under this Act shall be recognized medical qualifications for the purpose of said Act and shall be deemed to be included in the First Schedule to that Act. Having regard to the overriding effect given to the aforesaid provision, the General Body of the Medical Council of India though advised for taking measures to have same nomenclature etc. did not reject

the request for inclusion of the degree of MPH as the Master Degree in its Schedule.

33. As provided under Section 22 of University Grants Commission Act, 1956 the right of conferring or granting degrees shall be exercised only by a University established or incorporated by or under a Central Act, a Provincial Act or a State Act or an institution deemed to be a University under section 3 or an institution specially empowered by an Act of Parliament to confer or grant degrees. We deem it appropriate to reproduce herein-below Section 22 of the University Grants Commission Act, 1956 : -

“22. Right to confer degrees .-(1) The right of conferring or granting degrees shall be exercised only by a University established or incorporated by or under a Central Act, a Provincial Act or a State Act or an institution deemed to be a University under section 3 or an institution specially empowered by an Act of Parliament to confer or grant degrees.

(2) Save as provided in sub-section (1), no person or authority shall confer, or grant, or hold himself or itself out as entitled to confer or grant, any degree.

(3) For the purposes of this section, 'degree' means any such degree as may, with the previous approval of the Central Government, be specified in this behalf by the Commission by notification in the Official Gazette.”

34. In pursuance of the statutory provision as aforesaid the UGC had issued the official Gazette on 23.05.2009 providing list of degrees. In the said Gazette Bachelor and

Master degrees are specifically provided. In Master degrees 'MPH' is reflected at Sr. No. 38. It is brought to our notice that aforesaid exercise was reiterated in the year 2014. In the year 2014 also when list of Medical Post-graduate degrees was issued by the UGC through notification in the official Gazette, the 'MPH' is shown therein as recognized Master's degree. The notification dated 23.05.2009 and 05.07.2014 issued by UGC are procedure on record. As noted by us hereinabove, the applicants, admittedly possess MBBS degree from statutory university. Since the applicants hold the qualification of MPH from Sree Chitra Institute, the applicants also fulfill the another requirement insofar as educational qualification is concerned that of possessing PG degree of statutory university in preventive and social medicine or qualification prescribed in the first or second schedule of Indian Medical Council Act, 1956. It is undisputed that Sree Chitra Institute is duly recognized by UGC. As per G.R. dated 10.12.1998 issued by General Administration Department of State of Maharashtra the degrees and diplomas granted by the universities or institutions duly recognized by UGC are deemed to be recognized for the purposes of Government jobs in the State of Maharashtra. In the list appended to G.R. dated 10.12.1998 name of Sree Chitra

Institute is included under title of Institutes of National Importance.

35. After having considered the entire facts and circumstances involved in the present matter we have no hesitation in arriving at the conclusion that Master of Public Health degree from Sree Chitra Institute for Medical Sciences & Technology, Trivandrum, Kerala is adequate Post-graduate qualification for promotion to the cadre of District Health Officer, Group-A. The applicants are thus entitled to be selected against 75% quota earmarked for Post-graduate degree holders as per the Rules of 2021.

36. In premise of the material which has come on record and having regard to the facts admitted by respondent No. 2 we see no merit in the contention raised on behalf of respondent No. 2 that Post Graduate Medical Education Regulation 2000 are binding on Sree Chitra Institute for Medical Sciences & Technology, Trivandrum, Kerala. Similarly in view of Sections 23 & 24 of Sree Chitra Tirunal Institute for Medical Sciences and Technology, Trivandrum Act, 1980 initially Indian Medical Council and thereafter the National Medical Commission did include the qualification of Master of Public Health as the Master degree in the schedule. As such, plea taken by

respondent Nos. 1 and 2 that Master of Public Health is Post-Graduate diploma is apparently unsustainable.

37. In view of the communication dated 31.01.2022 whereby the State Government informed the M.P.S.C. that the qualification of Master of Public Health is equivalent to the qualification of D.P.H., that the respondent no. 01 has decided not to consider the applicants holding M.P.H. degree from Sree Chitra Institute for their promotion by way of nomination to the cadre of District Health Officer, Group-A against 75% quota earmarked for Post Graduate Degree holders. The communication dated 31.01.2022 is based on the letter dated 06.07.2021 under the signature of Dr. Vijay Oza, whereby it was communicated that the qualification of M.P.H. is equivalent to the qualification of D.P.H. We have elaborately discussed hereinabove that subsequent to the communication dated 06.07.2021 the same Officer in capacity of C.P.I.O. of the National Medical Commission had informed that the M.P.H. is Masters' Degree. The communication dated 31.01.2022 therefore has to be ignored.

38. For the reasons stated above, the following order is passed:-

ORDER

- (i) It is declared that the Master of Public health Degree from Sree Chitra Tirunal Institute for Medical Sciences and Technology, Trivandrum is adequate Post Graduate qualification for promotion in the cadre of District Health Officers, Group-A against 75% quota earmarked for Post Graduate degree holders as per 'Civil Surgeon Cadre, Group-A and District Health Officer Cadre, Group-A in the Maharashtra Health Services, Group-A (Recruitment) Rules, 2021'.
- (ii) Consequently respondent no. 01 is directed to consider the applicants for their promotion in the cadre of District Health Officers, Group-A against 75% quota earmarked for Post Graduate degree holders as per 'Civil Surgeon Cadre, Group-A and District Health Officer Cadre, Group-A in the Maharashtra Health Services, Group-A (Recruitment) Rules, 2021'.
- (iii) The Original Application is allowed in the aforesaid terms, however, without any order as to costs.
- (iv) In view of the order passed as above in the Original Application, all the Misc. Applications stand disposed of.

MEMBER (A)**VICE CHAIRMAN**

39. At this juncture, learned Counsel appearing for the intervenors as well as the learned Counsel appearing for respondent no.2 i.e. National Medical Commission both have

prayed for staying the effect and operation of the order passed by this Tribunal today for next two weeks so as to enable them to approach the Hon'ble High Court against the today's order.

40. Learned Counsel appearing for the applicant pointed out that the intervenors on whose behalf the stay is sought have already been appointed on the promotional post and as such, there is no reason for them to seek any stay to the present order. Learned Counsel further submitted that so far as the National Medical Commission is concerned, no relief was sought against the Commission and the Commission was made party only for the limited purpose of ascertaining the nature of qualification of MPH.

41. Learned Counsel Shri Kadam appearing for National Medical Commission submitted that though it is true that no relief is sought against the National Medical Commission by the applicants, still the declaration given by the Tribunal may not be considered only for the purpose of the present matter. Learned Counsel submitted that, whenever and wherever any dispute would arise as about the qualification of MPH, the order passed by the Tribunal will be cited in support of the contention that, it is a postgraduate degree, which proposition the National Medical Commission is seriously disputing. Learned Counsel

submitted that the National Medical Commission, therefore, intends to challenge the said order before the Hon'ble High Court. Learned Counsel, therefore, prayed for staying the effect and operation of the order for next two weeks.

42. Though the learned Counsel appearing for the applicants has opposed for granting any stay to the order passed in the present O.A. today stating that no relief is sought against the National Medical Commission, we see substance in the submissions made by the learned Counsel appearing for the Commission. The declaration given in regard to the qualification of MPH by Sree Chitra Institute may be a matter of dispute in other matters also. In the circumstances, we deem it appropriate to grant the stay to the effect and operation of the order passed by us in the present matter today for next two weeks.

MEMBER (A)

VICE CHAIRMAN

Place : Aurangabad

Date : 26.09.2024