IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

987 WRIT PETITION NO. 2030 OF 2025

Dr. Sujata Shriram Rathod
VERSUS
The State Of Maharashtra Through Its Add Chief Secretary And Others
...
Advocate for the Petitioner : Mr. Deshmukh Avinash S.
AGP for Respondents No.1-State, No. 2- MPSC -State: Mr. K. K. Naik
Advocate for Respondent No.3 : Mr. Kadam S. K.
...

AND
WRIT PETITION NO.2029 OF 2025

Dr. Vijaykumar s/o Shankarrao Pawar
VERSUS
The State Of Maharashtra Through Its Add Chief Secretary And Others
...
Advocate for the Petitioner : Mr. Deshmukh Avinash S.
AGP for Respondents No.1-State, No. 2- MPSC -State: Mr. K. K. Naik
Advocate for Respondent No.3 : Mr. Kadam S. K.
...

CORAM : R. G. AVACHAT &
ABASAHEB D. SHINDE, JJ.

Dated : NOVEMBER 13, 2025

ORAL ORDER : -

Heard.

2. Both these writ petitions take exception to the Judgment and order dated 07/02/2025, passed by the Maharashtra Administrative Tribunal, Bench at Aurangabad.

3. The petitioners, in response to the advertisement dated 17/01/2025, applied for the post of Civil Surgeon. 225 posts of Civil Surgeon were to be filled up pursuant to the said advertisement. The petitioners were declared to have not been holding the requisite

educational qualification and therefore their applications were not accepted by the respondent Maharashtra Public Service Commission (MPSC). The petitioners therefore approached the Maharashtra Administrative Tribunal, Bench at Aurangabad (MAT). The MAT, on hearing the parties to the proceedings, passed the orders impugned herein.

4. We have heard the learned Counsel for the petitioners, the learned AGP for respondents No.1 – State and respondent No.2 – MPSC.

5. Clause No.9 of the advertisement has been adverted to so far as regards requisite educational qualification required for the post of Civil Surgeon. For better appreciation it would be apposite to reproduce the same in verbatim. Clause 9.1 in the advertisement reads thus :

> "९.१ शैक्षणिक अर्हता : –(१) Possess M.B.B.S. degree of a statutory University or any other qualification specified in the First Schedule or Second Schedule to the Indian Medical Council Act 1956 ;
> (2) Possess a post graduate degree of a statutory University in any clinical subject 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.

(3) शासन पत्र, सार्वजनिक आरोग्य विभाग क्रमांक — नामनि — १४२३/ प्र. क्र.४५१/ सेवा — २, दिनांक १३ डिसेंबर, २०२४ रोजीच्या पत्रान्वये खालीलप्रमाणे अभिप्राय प्राप्त झाले आहेत : —

अ) खालील क्लिनिकल विषयातील पदव्युत्तर पदवी आवश्यक आहे : — मेडिकल कौन्सील ऑफ इंडीया यांचे जुलै, २०१८ च्या अमेंडमेंट मध्ये खालीलप्रमाणे क्लिनिकल विषय नमूद आहेत : —

(1) Anesthesiology (2) Dermatology (3) Venereology and Leprosy (4) General medicine (5) Pediatrics (6) Psychiatry (7) Radio – Diagnosis (8) Radiation (9) Oncology (10) Respiratory Medicine (11) Oto-rhino-Laryngology (12) General Surgery (13) Ophthalmology (14) Orthopedics (15) Obstetrics and Gynecology.

ब) Pre-clinical & Para-Clinical विषयातील M.D.Pathology या विषयातील पदव्युत्तर पदवी ही शैक्षणिक अर्हता धारण करणा—या वैद्यकीय अधिकारी यांना मवैआसे गट—अ (एस—२३) मध्ये विशेषज्ञ सवर्गातील शरीरविकृती शास्त्रज्ञ या पदावर पदोन्नती देण्यात येत असल्याने सदर शैक्षणिक अर्हता ही जिल्हा शल्य चिकित्सक संवर्गातील पदोन्नतीसाठी ग्राह्य धरण्यात येत आहे. यास्तव, M.D. Pathology ही शैक्षणिक अर्हता ही जिल्हा शल्य चिकित्सक संवर्गातील पदोन्नतीसाठी ग्राह्य धरण्यात येत आहे. यास्तव, M.D. Pathology ही शैक्षणिक अर्हता धारण करणारे वैद्य कीय अधिकारी यांना जिल्हा शल्य चिकित्सक संवर्गातील सरळसेवेसाठी ग्राह्य

धरण्यात येईल.

क) त्याचप्रमाणे Pre-clinical विषयातील M.D. Forensic Medicine ही शैक्षणिक अर्हता धारण करणारे वैद्यकीय अधिकारी यांना मवैआसे गट अ (एस—२३) मध्ये पोलीस शल्य चिकित्सक संवर्गात पदोन्नती देण्यात येत असल्याने सदर शैक्षणिक अर्हता हि जिल्हा शल्य चिकित्सक संवर्गातील पदोन्नतीसाठी ग्राह्य धरण्यात येत आहे. यास्तव, M.D. Forensic Medicine ही शैक्षणिक अर्हता धारण करणारे वैद्यकीय अधिकारी यांना जिल्हा शल्य चिकित्सक संवर्गातील सरळसेवेसाठी ग्राह् धरण्यात येईल.

ड) Pre-clinical & Para-clinical विषयातील Anatomy, Physiology, Biochemistry and Microbiology मधील सदरहू शैक्षणिक अर्हता धारण करणारे वैद्यकीय अधिकारी यांचे करीता मवैआसे गट — अ (एस—२३) मधे पदोन्नतीसाठी व सरळ सेवेसाठी विशेषज्ञ संवर्ग उपलब्ध नसल्याने सदर शैक्षणिक अर्हता जिल्हा शल्य चिकित्सक संवर्गातील सरळ सेवेसाठी ग्राह्य धरण्यात येवू नये.

इ) Para-clinical & Pre-clinical विषयातील Community Medicine / M.D.P.S.M. ही शैक्षणिक अर्हता धारण करणा—या वैद्यकीय अधिकारी यांना सदर सेवाप्रवेश नियमानुसार जिल्हा आरोग्य अधिकारी संवर्गातील पदोन्नती सरळ सेवेसाठी ग्राह्य धरण्यात येत असल्याने सदर शैक्षणिक अर्हता ही जिल्हा शल्य चिकित्सक संवर्गासाठी ग्राह्य धरण्यात येवू नये."

6. According to the petitioners, they are MBBS plus Diploma in Child Health Care (DCH) and the Diploma in Gynecology and Obstetrics (DGO). The requisite educational certificates have all been placed on record. The learned AGP would submit that the petitioners would have been qualified had they held requisite postgraduate

degree. According to him, the diploma qualification does not fit in the requisite qualification for the post in terms of the advertisement.

7. Our attention has been adverted to Schedule 1 to the Indian Medical Council Act, 1956 (MCA), whereunder DGO and DCH are recognized medical qualifications. According to the learned Counsel for respondent No.3, these diplomas have now been not recognized. The same is, however, the subsequent event. We have to see as to whether the petitioners did hold the requisite educational qualification on the date of the advertisement. We again refer to sub-clause (1) of Clause 9.1 of the advertisement, whereunder a candidate must hold MBBS degree. Second clause requires a candidate to possess a postgraduate degree of a statutory University in any Clinical subject. The word ‘or’ appearing in clause (2) after this qualification speaks of the qualification specified in the First or Second schedule to the Indian Medical Council Act. Third and the last line of clause (2) speaks of any other qualification recognised as equivalent thereto by the Medical Council of India. The word ‘or’ appearing in Item (2) in clause 9(1) in the advertisement does make it clear that a candidate shall either possess a post-graduate degree of statutory University in Clinical subject or the qualification specified

in the First or Second schedule to the Indian Medical Council Act, 1956.

8. As has been referred to hereinabove, the Diploma in Child Health Care and Diploma in Gyneacology find place in Schedule I to the Indian Medical Council Act, 1956. As such, the qualification of the petitioners as MBBS plus DCH and/or DGO does fulfill the requirement of educational qualification in terms of clause (1) and Second Part of clause (2) of the main clause 9.1 in the advertisement. The petitioners thus did hold the requisite educational qualification to be considered for appointment to the post of Civil Surgeon. We fail to understand as to how the MPSC and even the MAT could hold the petitioners to have not possessed the requisite educational qualification.

9. Since the petitioners hold the requisite educational qualification to apply for the post of Civil Surgeon, the MPSC and the MAT ought not to have held them to have not possessed the requisite qualification. Interference with the orders impugned herein is thus called for. The Writ Petitions, therefore, succeed. The orders impugned herein are hereby set aside with a direction to the

respondent MPSC to consider the petitioners' applications for the post of Civil Surgeon and, if they are otherwise eligible, allow them to participate in the further recruitment process.

With these directions, the writ petitions stand disposed of.

(ABASAHEB D. SHINDE, J.) **(R. G. AVACHAT, J.)**

F.M. Pathan/-.