

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9499 OF 2012

Suvarna Chandrasen Dhakane and others. ... Petitioners.

V/s.

Director Health Services, Directorate of Health,
Govt. of Maharashtra and others. ... Respondents.

Virendra Pethe for the petitioners.

C.P.Yadav, A.G.P. for respondent Nos.1, 2 and 5.

Siddharth Gadve i/b. Vijay Killedar for respondent Nos.3 and 4.

**CORAM : NARESH H. PATIL AND
A.S. GADKARI, JJ.**

DATED : 5th January 2015.

PC.

The petitioners pray for directions to the respondents to allot work to the Aux. Nurse Midwife in accordance with the policy adopted by the State and the Zilla Parishad and the bonds executed between the parties. The petitioners contend that they completed prescribed training in theory and practical for Aux. Nurse Midwife (M.H.W.) from the Maharashtra Nursing Council, Mumbai. They were given diploma certificate issued by the Council. Before taking admission to the said course, each of the petitioners/candidates was required to give

undertaking that he/she shall serve the Government for a period of two years. Accordingly, the petitioners executed bonds with the Maharashtra Nursing Council stating therein that they will serve with the Government in the State at least for a period of two years. The State Government had issued Government Resolution prescribing guidelines regulating the appointments of the candidates after completing nursing course. The State Government was to provide them work as prescribed in the bond. The petitioners were allotted by the Deputy Director of Health Services, Mumbai to District Health Officer, Zilla Parishad, Solapur. In spite of the same the petitioners were not allotted work in accordance with the directions and the policy framed by the State.

2. The District Health Officer, Zilla Parishad, Solapur has filed affidavit-in-reply. The deponent contends that the communication dated 10th August 2011 is not mandatory. The petitioners do not get right to claim appointment on the basis of said communication. The appointments of Midwife Nurses are regulated in accordance with law. Appropriate recruitment process is prescribed for the same. Reference is made to the Government Resolution dated 17th December 2009 in this regard. The deponent has referred to Maharashtra Zilla Parishad District Services (Recruitment) Rules, 1967.

3. We have heard the submissions advanced by learned counsel appearing for the parties and perused the record placed before us.

4. The petitioners have completed course of Aux. Nurse Midwife

(M.H.W.). According to the guidelines issued, they were allotted services by the District Health Officer, Solapur. The policy of the State is that such candidates like petitioners should enter into a bond that they shall serve the Government or Government run institute/hospital for a period of two years. In case the State or the State run health organization do not appoint the petitioners in accordance with the bond, then the petitioners could not claim as of right an appointment order. It would be choice of the respondents to issue appointment orders in the fact situation of a particular case. In the present case, the petitioners have secured certificates in the year 2011. The petition was filed in the year 2012 and is pending since then. We clarify that if the petitioners are still interested and the respondents are willing, the respondents may take appropriate decision, if the services of the petitioners are required in accordance with the bond and the conditions stipulated therein. It is further made clear that as the petitioners were not allotted work, no recovery from them shall be made by the respondents on the ground that the petitioners failed to serve the Government in accordance with the bond.

5. With the aforesaid observation, petition is disposed of.

(A.S. GADKARI, J.)

(NARESH H. PATIL, J.)