

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 29 OF 2015

Mr. Neha Bansal	...	Petitioner
VS.		
State of Maharashtra & Ors.	...	Respondents

Ms. Pooja Thorat, Advocate for the petitioner.
Mr. G.W. Mattos, AGP for respondent nos. 1 and 2.
Ms. Shobha Ajitkumar, Advocate for the respondent no. 3.

**CORAM : SMT. VASANTI A. NAIK &
C.V. BHADANG, JJ.**
DATE : 14th January, 2015.

P.C.

By this Petition, the petitioner seeks a direction to the respondents to appoint the petitioner on the post of Assistant Professor at Nair Dental College & Hospital in the Department of Oral Medicine & Radiology.

It is the case of the petitioner that the petitioner is a meritorious dental student and has secured a Master's Degree in the subject of Oral Medicine and Dentology. The petitioner has prosecuted the studies in the said course from Nair Dental College, Mumbai. The petitioner had passed the MDS examination with flying colours and was gold medalist. According to the petitioner, the post of Assistant Professor in Oral Medicine and Endodontics fell vacant in October, 2014 and the petitioner was eligible for appointment in the said vacancy, in view of the

Government Resolution dated 7th March, 2009. According to the petitioner, as per the circular, a candidate passing the post graduation examination from a particular college was entitled to be appointed on the post of Assistant Professor to serve the bond. Since the petitioner was a bonded candidate, she was entitled to serve her bond by appointment on the post of Assistant Professor in Nair Dental College and Hospital. However, according to the petitioner, the respondents have appointed Dr. Nimish Prakash on the said post on 10th November, 2014. It is stated that since the petitioner is more meritorious, the petitioner was entitled to be appointed on the said post. It is stated that for post-graduate bonded doctors, the Government is following proper procedure and the appointments are made strictly as per merit. It is stated that similar procedure is, however, not followed for appointing the bonded dentist and the appointments are made arbitrarily.

Mr. Mattos, the learned Assistant Government Pleader appearing for the State Government submitted that the cause for filing the Writ Petition would not survive, as after Dr. Nimish Prakash was appointed on the post of Assistant Professor in Nair Dental College & Hospital, Mumbai, the petitioner was also appointed in the Dental College & Hospital at Aurangabad and the petitioner is working as a Assistant Professor in the said college and Hospital since the first week of

November, 2014.

In the facts of the case, we would not exercise the discretionary jurisdiction under Article 226 of the Constitution of India to grant the relief to the petitioner. Dr. Nimish Prakash is working as an Assistant Professor in Nair Dental College & Hospital, Mumbai and the petitioner is working as an Assistant Professor in Dental College & Hospital at Aurangabad since the first week of November, 2014. The appointment of the petitioner and Dr. Prakash on the post of Assistant Professor at Dental College and Hospital at Aurangabad and Mumbai respectively is only for a period of one year. It would not be proper for this Court to dislocate Dr. Prakash from the hospital at Mumbai. The relief sought by the petitioner in prayer clause (b) of the Petition would be considered in an appropriate case. It is informed to this Court by the learned counsel for the petitioner that a similar matter is listed for admission and hearing before this Court on 19th January, 2015. The prayer made in prayer clause (b), which is a general prayer, could be considered in the said petition or any other appropriate matter.

In the facts of the case, we dispose of the Writ Petition, with no order as to costs.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)