

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 4618 OF 2014

(Nikita d/o Late Shri Santosh Kumar Saxena vs. The State of Maharashtra, Medical Education and
Drugs Department thr. its Secretary & Ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.
OCTOBER 08, 2015.**

Heard Shri Parchure, learned counsel for the petitioner and Shri Rao, learned AGP for respondent Nos. 1 to 4.

Perused the orders passed by this Court on 28.08.2014 and 26.08.2015.

After orders dated 26.08.2015, respondent No. 4 – Maharashtra Public Service Commission (M.P.S.C.) has filed reply affidavit. The M.P.S.C. points out that it is merely a recruiting agency and recruitment norms are to be prescribed by the employer i.e. Respondent Nos. 1 to 3. If any modification is necessary in those qualifications, the decision thereabout is also to be taken by the employer.

By order dated 28.08.2014 this Court after noticing absence of degree course in Engineering in the subject of Prosthetics and Orthodontics, found that qualification as advertised by the M.P.S.C. being not available, the same needed amendment. Accordingly, the respondents were directed to take suitable decision.

No notice was issued to Respondent No. 5 who had approached Maharashtra Administrative Tribunal assailing selection and appointment of the petitioner in terms of advertisement dated 06.09.2011.

The effect of orders of this Court dated

28.08.2014 is to uphold the observations of Maharashtra Administrative Tribunal. However, Shri Parchure, learned counsel points out that as there is no Degree course in Engineering, the petitioner who has been selected by M.P.S.C. is being continued on the very same post and is discharging duties accordingly. He also points out that Maharashtra Administrative Tribunal has specifically found that the applicant before it i.e. present Respondent No. 5 was not eligible.

In this situation, it is apparent that if Respondent Nos. 1 to 3 wish to continue the petitioner on the very same post with full knowledge of her qualifications and an adverse order of Maharashtra Administrative Tribunal, the said respondents have to take suitable decision about the qualifications needed to be procured by the incumbent at the earliest. Hence, without observing anything more on merits and with direction to Respondent Nos. 1 to 3 to take suitable decision on said qualifications within a period of three months from today, we dispose of the writ petition with no order as to costs.

JUDGE

JUDGE

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