

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1451 OF 2015

Kishor s/o. Dhartinath Burikule,
Age: 38 Years, Occu:Nil,
Nanded

PETITIONER

VERSUS

- 1] The State of Maharashtra,
Through: Secretary,
Health Department,
Mantralaya, Mumbai 32
- 2] The Commissioner (Family Planning)
& Director,
National Rural Health Scheme,
3rd Floor, Aarogya Bhavan,
Saint George Hospital Campus,
Mumbai 400 001
- 3] The District Civil Surgeon,
General Hospital, Nanded.
- 4] Mission Director (NHM),
Delhi, 6th Floor, B-Wings,
Vikas Bhawan, Civil Line,
Near Metcalf House,
New Delhi – 110 054.

RESPONDENTS

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Mr. S.D.Dhongade, Advocate for the Petitioner.
Mr. S.G.Karlekar, AGP for Respondent Nos. 1
to 3.
Mr. Bhushan B. Kulkarni, Advocate for
Respondent No.4.

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**CORAM: S.S.SHINDE &
SANGITRAO S.PATIL, JJ.**

Reserved on: 31.03.2016
Pronounced on: 04.04.2016

ORDER: [Per S.S.Shinde, J.]:

1] Heard the learned counsel appearing for the petitioner, learned AGP appearing for the respondent – State, and the learned counsel appearing for the respective respondents.

2] The learned counsel appearing for the petitioner submits that, in fact, the policy of reservation ought to have been made applicable for the posts, which were advertised by the respondents. It is submitted that, as per the relevant Rules, the respondents ought to have granted 5 years relaxation in the age limit while considering age criterion for considering the candidature of the petitioner, since the petitioner belongs to 'S.T.' category. It is submitted that, the petitioner's candidature has been

rejected merely on the ground that, he is over age.

3] On the other hand, the learned AGP appearing for the respondent – State, relying upon the averments in the affidavit in reply submits that, the posts were advertised for the Rashtriya Bal Swasthya Karyakram, the programme under the National Rural Health Mission. As the posts are created by the society and not by the State Government, Rules and Regulations which are prepared for regular public employment are not applicable in the present case. It is further submitted that, the posts were advertised for the appointment for the duration of 11 months purely on the ad-hoc basis. It is submitted that, pursuant to the advertisement, the candidates applied and were selected on merit, and even duration of the appointment has come to an end, and therefore, this Petition has become infructuous.

4] We have heard the learned counsel appearing for the petitioner, learned AGP appearing for respondent Nos. 1 and 2, and the learned counsel appearing for the Union of India. With their able assistance, perused the pleadings and grounds taken in the Petition, annexures thereto and reply filed by respondent nos. 1 and 2. Upon careful perusal of the averments in the affidavit filed by respondent nos. 1 and 2, and the documents placed on record, it is abundantly clear that, the posts advertised were not from the establishment of the State Government. Secondly, the posts were advertised for the duration of 11 months. The said advertisement was issued in the year 2013 and the candidates were appointed for 11 months. Therefore, the period for which candidates were appointed pursuant to the said advertisement, has already come to an

end. The Petition has become infructuous. Therefore, no relief can be granted to the petitioner.

5] For the reasons afore-stated, we do not find any merit in the Petition. Petition is without merit and hence the same is rejected.

Sd/-
[SANGITRAO S.PATIL]
JUDGE

Sd/-
[S.S.SHINDE]
JUDGE