

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

WP NO.2186/2016

938 WRIT PETITION NO. 2186 OF 2016

PRAFULL VENKATRAO GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioner : Mr.Deshmukh J.S.
AGP for Respondent State: Mr. S.K.Tambe

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CORAM : S.S. SHINDE & P.R. BORA, JJ.
Dated: March 02, 2016

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PER COURT :-

1. Heard learned Counsel appearing for the petitioner and learned A.G.P. appearing for respondents.
2. Learned Counsel appearing for the petitioner submits that, though the petitioner is qualified, and his name is included in the Provisional Merit List of in-Service Medical Officers who qualified in ASSO-CPS-PG-CET-2016 (February Session) for admission to DHS CPS Courses 2016 (February Session), the petitioner is disqualified for admission to the said courses with remark that, "D.E.Proposal sent to Govt. dt. 30.12.13 - hence disqualified". It is submitted that yet chargesheet is not served upon the petitioner and, as a consequence, no departmental enquiry is initiated. Therefore, he submits that, petitioner may be admitted to the said courses subject to outcome of the enquiry, if any, as proposed by the Department.
3. Learned A.G.P. appearing for the State, relying upon the Government Resolution dated 3rd May, 2011, issued

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by the Public Health Department, Government of Maharashtra and, in particular clause 1.5 thereof, submits that in view of the said provision, and the fact that, the proposal seeking approval of the State Government for initiating the Departmental enquiry is pending, the petitioner has rightly been disqualified for admission to the said courses.

4. We have heard learned Counsel appearing for the petitioner and learned A.G.P. for respondents. Perused the pleadings in the petition, annexures thereto and the relevant Government Resolution. Admittedly, no effective steps have been taken by the respondent Department in pursuance to proposed departmental enquiry from the year 2013. The reason assigned while disqualifying the petitioner for admission to the said courses is stated that 'departmental enquiry proposal' is sent to the Government. Nothing is brought to the notice of this Court, that in pursuance to sending such proposal to Government for proposed enquiry, further steps have been taken including chargesheet is served upon the petitioner. In that view of the matter, in our opinion, the petitioner's prayer to allow him to participate in the Counselling and in case if he is found eligible on merits, he may be allowed to further prosecute the said courses subject to outcome of the proposed enquiry, deserves consideration.

5. Hence, we allow the prayer of the petitioner, to allow him to participate in the Counselling of DHS CPS Courses

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2016 (February Session), which is scheduled to be held on 4th of March, 2016. We make it clear that the petitioner is allowed to participate in the said Counselling process subject to outcome of the proposed departmental enquiry.

The petition is partly allowed in above terms and the same stands disposed of.

(P.R. BORA, J.)

(S.S. SHINDE, J.)

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