

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1137 OF 2016

Dr. Harish Katakdhond & Ors.

.... Petitioners

V/s.

State of Maharashtra,
Through the Department of Medical
Education and Drugs,
Mantralaya, Mumbai & Anr.

.... Respondents

Ms. Pooja Thorat for the Petitioners.

Ms. Sushma Bhende, A.G.P., for the Respondents.

CORAM : S.C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

DATE : 26TH APRIL, 2016.

P.C. :

1. The Petitioners, by this Petition, have sought for diverse reliefs; the essential being to declare all the available seats earmarked for discharging bond obligation and filling them up in order of merit of the eligible students.

2. This Writ Petition was filed in this Court on 22nd January 2016. Thereafter it has been placed repeatedly before the Division Benches of this Court.

3. A detailed order was passed on 3rd February 2016 impressing upon the authorities that the Petitioners would have to undergo compulsory medical service, as they have executed a Bond in favour of the State. Their allegations were that these students are being forced to discharge this obligation by the State and in terms of its own decision, without there being any proper policy. Thus, a decision regarding allotment of seats or the direction to go and serve so as to discharge this Bond, is taken by the Respondent-State without any proper scheme and the one that is implemented does not take care of vital elements and aspects such as order of merit and eligibility or a transparent process indicating availability of seats and more particularly vacant seats.

4. After these grievances were noted and a reference was made to a Division Bench Judgment, the matter was posted at the request of the State and to enable them to file an affidavit. The affidavit-in-reply was filed and this Court emphasized once again that the said affidavit does not clearly indicate the measures, which will solve the problem.

5. After that, we are happy to note that the State and the Petitioners have taken a reasonable stand. We had ensured that the State would by a transparent process indicate the seats and available at several colleges

throughout the State, whether under control of the State or of the Municipal Corporation. We can very well understand the emphasis of the State that qualified and competent Doctors should man rural medical set-up or a semi-urban medical set-up. The patients and the public at large should not suffer for want of a Medical Officer.

6. That we find that several Petitioners indicated their choices and have opted for them and joined duties as well. From the orders that have been passed from 7th April 2016, we have noted as to how these students have indicated their choices.

7. There were a few remaining and that is how Ms. Thorat, learned counsel for the Petitioners, sought time to take instructions. She requested that the matter may not be disposed of. When the matter was posted today, we find that there is, indeed, a Notification issued on 20th April 2016 titled as "Allotment of Government Bonded Services (Post Graduate Degree Holder)". A complete schedule has been set out therein so as to enable the bonded candidates to apply in a format to the Directorate of Medical Education and Research by a given date.

8. The website contains all the details, as indicated in the general instructions.

9. We take a copy of the said Notification on record and mark it as "X" for identification.

10. Ms. Thorat, on instructions, states that, in terms of the details provided by Ms. Bhende, learned A.G.P., all the Petitioners have indicated their choices by now. If that is how they have acted and prior to the cut-off date, there is no doubt in our minds that in terms of the general instructions, applicable policy and the law, the allotment will be made by the State and the Directorate of Medical Education and Research. If we have ensured that and also the rights and equities have been balanced to take care of the larger public interest, then, there is no need to keep this Petition pending. Writ Petition is disposed of.

11. Any larger challenge or question or controversy is not examined in view of the developments noted above. That is kept open for a decision at an appropriate stage.

[DR. SHALINI PHANSALKAR-JOSHI, J.] [S.C. DHARMADHIKARI, J.]