

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 7403 OF 2005

1. The State of Maharashtra,
through the Secretary,
Public Health and Medical Education,
Mantralaya, Mumbai – 400 032.
2. The Director of Public Health,
St. Georges' Hospital Compound,
C.S.T. Mumbai 400 001.
3. The Dean,
Government Medical College
Hospital, Aurangabad.

....Petitioners.

Versus

Anand Indersen Dhale,
Age 30 years, Occu. Nil,
R/o. Vishranti Nagar, Jai Bhavani
Nagar, Near Mukundwadi Railway
Station, Aurangabad.

....Respondent.

Mr. A.S.Shinde, A.G.P. for petitioners.

**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.**

DATED : June 21, 2017.

ORAL JUDGMENT : [PER T.V. NALAWADE, J.]

. The petition is filed to challenge the decision given by Maharashtra Administrative Tribunal ('MAT' for short), Aurangabad in O.A. No. 692/2003. Heard learned A.G.P. Shri. A.S. Shinde for the petitioners. Nobody turned up for respondent. On 8.6.2017 also nobody was present for respondent and it was made clear that if nobody turns up for the respondent on the next date, the matter will

be decided in absence of respondent.

2. The aforesaid O.A. was filed by respondent for giving directions to the present petitioner to give him appointment on Class IV post on the establishment of petitioners on the vacancy which may arise in near future in general category. The proceeding was filed before MAT and it was the contention of the respondent that in response to his application for appointment, appointment order was given to him on 16.10.2003, but on 18.10.2003 he was not allowed to joint the duties. It is the contention of the present petitioners that there was no recruitment process, there was no advertisement for the post and by misleading the Dean, the staff members had obtained signatures on some appointment orders and so, the persons like respondents are not entitled to get appointment on the substantive post.

3. It appears that in view of the relief given to another similar person in Writ Petition No. 5483/2003 by this Court, the aforesaid order came to be made in favour of petitioner. The submissions and the record show that there was no process of selection started when it is a Government Office. The applications from candidates were not invited from any source and so, there was no question of calling the respondent for interview for the said post. There is no such record. This Court sees no reason to disbelieve the

contention that the Clerk of Office of petitioners had virtually deceived the Dean in getting the signature on appointment order and only due to such mischief, there was the appointment order with the petitioner. As it is a Government Office, such appointment cannot be permitted even if the Dean had really given such appointment order. This Court is avoiding to make observations with regard to the directions given in previous Writ Petition by this Court. Only because a person like respondent is handicapped person, such appointment order cannot be given and could not have been given. The Court is not expected to give a post to person like present respondent. This Court had earlier considered similar case in **Writ Petition No. 7155/2005 [The State of Maharashtra and Ors. Vs. Anil s/o. Ramesh Kamble] decided on 8.6.2017**. The said O.A. was decided along with the application of respondent. This Court set aside that part of the order made by the MAT. No other order can be made in the present matter also.

4. In the result, the petition is allowed. The decision of the MAT given in O.A. No. 692/2003 is hereby set aside and the aforesaid proceeding which was filed by the respondent before MAT stands dismissed. No order as to costs.

Rule is made absolute in aforesaid terms.

[SANGITRAO S. PATIL, J.]
SSC/

[T.V. NALAWADE, J.]