

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.445 OF 2015
WITH
R.A. NO.96 OF 2015
WITH
WRIT PETITION (L) NO.2364 OF 2014

Dr. (Smt.) Priti S. Mehta

...Petitioner

vs.

Mumbai Municipal Corporation for
Greater Mumbai and Others

...Respondents

Mr. E.P. Bharucha, Senior Counsel a/w. Mr. P.A. Chandrachud, Mr. Shailesh Shukla and Mr. Jehangir Vakil i/b. J.Sagar Associates, for the Petitioner in W.P. No. 445 of 2015.

Ms. Anjali Purav, for the Intervener in WP. No. 445 of 2015.

Mr. Ganesh Gole, for Respondent No. 4 – MCI.

Mr. S.S. Pakale, Spl. Counsel a/w. Mr. H.C. Pimple, for MCGM in WP. Nos. 445 of 2015.

**CORAM : SHANTANU S. KEMKAR &
M. S. SONAK, JJ.**

DATE : JULY 05, 2017

P.C.:

. The Petitioner claims that the Respondents be directed to appoint the Petitioner on the post of Assistant Professor on regular basis in Super Specially Category – Medical Oncology (Paediatric) in Respondent No. 1- Municipal Corporation Hospital, Mumbai.

2. The case of the Respondents is that as per the prevalent

rules applicable to the Corporation, the age limit for the appointment on the said post is 35 years; in the circumstances, the Petitioner being over aged, she was not given the appointment.

3. The learned Counsel for the Petitioner placed reliance on the Medical Council of India Rules to contend that as per the said Rules, the Teachers can be appointed even up to the age of 65 years, in the circumstances, the Corporation ought to have considered this aspect of the matter and should have given relaxation in regard to age.

4. After arguing for some time, learned counsel for the Petitioner facing with the difficulty that this Court cannot direct for making appointment beyond the age prescribed under the relevant rules, seeks leave to withdraw this Petition with liberty to the Petitioner to submit a detailed representation with supporting documents before the Competent Authority of the Respondents mentioning therein that under the Medical Council of India Rules the appointment of Teachers can be made up to the age of 65 rules and in the circumstances the Corporation should also consider about the amendment/relaxation in its Rules for appointment.

5. The learned counsel for the Respondents submit that in case the Petitioner submits such representation, an appropriate decision shall be taken on it by the Corporation in accordance with law as expeditiously as possible.

6. Keeping in view the aforesaid, without commenting upon the merits of the matter and the Petitioner's entitlement, we dispose of this Petition with liberty to the Petitioner to submit a representation as above.

7. The Competent Authority of the Respondents shall examine the said representation and take appropriate decision on it in accordance with law.

8. With the aforesaid direction, the Petition is disposed of.

(M. S. SONAK, J.)

(SHANTANU S. KEMKAR, J.)