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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 3140 of 2017**

Dr. Pratibha Agrawal D/o Shri Rajkumar Agrawal, aged about 34 years, Resident of Kurud, Dhamtari, District Dhamtari, Chhattisgarh presently Assistant Professor in contract, Medical College Ambikapur, District Surguja, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh through its Secretary, Health and Family Welfare Department, Mahanadi Bhawan, Mantralay, New Raipur, District Raipur, Chhattisgarh
2. The Secretary, Public Service Commission, Shankar Nagar, District Raipur, Chhattisgarh
3. Medical Council of India, through its Secretary, Pocket - 14, Sector - 8, Dwarka Phase - 1, New Delhi -110077.
4. Dental Council of India, through its Secretary, 1st Floor, Combine Council Building, Temple Lane, Kotla Road, ITO Delhi-110002.

---- Respondents

For Petitioner	:	Shri Sunil Tripathi with Shri Apoorva Tripathi, Advocate
For Respondent/State	:	Shri Majid Ali, Govt. Advocate
For Respondent no.2	:	Shri Sudeep Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****05.07.2018**

The petitioner in the present writ petition is aggrieved by the action on the part of the respondents who have declared him as ineligible for being considered for the post of Assistant Professor, Senior Resident (Dentist). The ground for declaring the petitioner ineligible was that the

petitioner does not possess registration from the concerned Medical Council of India.

2. Counsel for the petitioner submits that since the petitioner has qualification of BDS and MDS, the registration has to be from Dental Council of India. He submits that people with dental subject would not be given a registration from the Medical Council of India and therefore, such a condition even if it was put in the advertisement is totally bad in law and is not sustainable. Moreover, the petitioner, at the relevant point of time, had a registration from the Dental Council of India.

3. Further contention of the counsel for the petitioner is that while issuance of the advertisement, at the first instance on 30.07.2014, the qualification prescribed for the post of Senior Resident (dentist) was that of MBBS and the other requirement was that the candidate must be registered with the State Medical Register or Indian Medical Register. Subsequently, a corrigendum was issued and for the post of Senior Resident (Dentist), the qualification of BDS with 3 years teaching experience in a dental college/institutions was also incorporated thereby a candidate with BDS and MDS also became eligible for being considered for the said post.

4. Undoubtedly, the petitioner in the instant case has qualification of BDS and MDS and she has also enclosed a certificate which shows that she is also registered with Chhattisgarh Dental Council even before the advertisement and corrigendum were issued. Thus, by virtue of the corrigendum made in the advertisement making the candidates with BDS and MDS eligible for participation in the examination, the petitioner becomes fully eligible for being considered for the post of Senior Resident

(Dentist) on her having a registration with the concerned Dental Council.

5. So far as the effect of not having a registration with the Medical Council of India is concerned, it is the opinion of this Court that the same would not be applicable in the case of the petitioner for the simple reason that the petitioner is not a candidate with MBBS but is a candidate with BDS and MDS whose registration can only be provided by the Dental Council of India or the concerned State Dental Council and that under no circumstance, would the Medical Council of India or the State Medical Council register a candidate who has BDS or MDS. Thus, declaring the petitioner ineligible only on account of her not having a registration with the Medical Council of India seems to be a misconceived and totally irrelevant stand taken by the respondents which does not have any logic and substance to hold ground, and the same is held to be bad in law, illegal and is accordingly set aside/quashed.

6. The stand of this Court stands fortified from the decision of the Hon'ble Supreme Court in the case of Union of India and others Vs. Pritilata Nanda reported in (2010) 11 SCC 674.

7. Accordingly, it is directed that the respondents shall consider the petitioner as an eligible candidate, subject to the petitioner's fulfilling all other requisite qualification, experience and eligibility criteria, the petitioner shall be considered by the respondents for the said post.

8. As a result the writ petition stands allowed. The petitioner shall be considered for appointment in accordance to her position in the merit list.

Sd/-
P. Sam Koshy
Judge