

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.3398 OF 2008

Raju S/o Bhikaji Kamble
Age:-31 years, Occupation: Service as a peon,
in the office of the Medical Superintendent,
Rural Hospital, Jafrabad, Dist. Jalna.
Native Address:- Nutan Colony, New Bhokardan,
Tq. Bhokardan, Dist. Jalna. ..PETITIONER

VERSUS

1. The Secretary,
Public Health Department,
Mantrayala, Mumbai-32.
2. The Director of Health Service,
St. Georges Hospital,
Near C.S.T. Mumbai.
3. The Civil Surgeon,
Civil Hospital, Jalna.
4. The State of Maharashtra,
through, the Secretary,
Public Health Department,
Mantralaya, Mumbai-32.
5. Petras s.o Paulas Nirmal,
Age-29 years, Occu.: Nil.
R/o. Civil Hospital Quarters,
S. No.488, Civil Hospital, Jalna.

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Mr. Dhananjay Mane h/f Mr. Milind Patil, Advocate
for the Petitioner.
Mr. S. G. Karlekar, AGP for Respondents-State.

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WRIT PETITION NO.5194 OF 2008

1. The Secretary,
Public Health Department,
Mantrayala, Mumbai-32.

2. The Director of Health Service,
St. Georges Hospital,
Near C.S.T. Mumbai.

3. The Civil Surgeon,
Civil Hospital, Jalna.

..PETITIONERS

VERSUS

Petras S/o. Paulas Nirmal,
Age: 29 years, Occu.: Nil,
R/o. Civil Hospital Quarters,
S.No. 488, Civil Hospital, Jalna ..RESPONDENT

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Mr. S. G. Karlekar, A.G.P. for the Petitioners.
Mr. Mr. A. D. Sugdare, Advocate for Respondent.

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CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.

DATED : 21st FEBRUARY, 2020.

ORAL JUDGMENT (Per: S. V. Gangapurwala, J.):—

1. Both these petitions assail the order passed by the Maharashtra Administrative Tribunal, Aurangabad dated 18.07.2006, whereby the Tribunal canceled the entire selection process. The petitioner in Writ Petition No.3398/2008 was selected candidate pursuant to the selection process. This Court under order dated 06.06.2008 granted ad-interim protection to the petitioner. The said ad-interim order granted is continued till this date.

2. In Writ Petition No.5194/2008 the stay was granted to the judgment of the Tribunal thereby the persons who were selected pursuant to the impugned selection process are continued in the service.

3. Mr. Sugdare, learned counsel appears for sole respondent in Writ Petition No.5194/2008 and submits that now respondent has crossed the upper age limit.

4. Mr. Karlekar, learned A.G.P. and Mr. Mane, learned counsel for respective petitioners submit that the applicant filing Original Application before the Tribunal could not have challenged the selection process. He has participated in the selection process and after having failed in the selection process assailed the selection process. The same is not permissible. As per the advertisement the applicant was not eligible. The persons who were selected were not party in the Original Application.

5. It is trite that, the persons cannot assail the condition of advertisement or the selection process after having participated in the same. More over, the affected candidates viz. selected candidates were also not made party in Original Application. These selected candidates are appointed, as contended by the learned counsel for the petitioner in Writ Petition No.3398/2008. More over, the Original Application also cannot be considered in view of the fact that the respondent in Writ Petition No.5194/2008 has crossed the upper age limit. The interim order is operating since the year 2008. The persons are in service pursuant

to the interim order. It will not be appropriate now to unsettle them after a long slumber of 12 years.

6. Considering all the aforesaid aspects, the impugned order of the Tribunal is quashed and set aside.

7. Rule accordingly made absolute in above terms. No cost.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE