

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

WRIT PETITION NO. 4368 OF 2021

Dr. Amol Kalidas Chavan

.. Petitioner

Versus

Directorate of Health Services and another

.. Respondents

Mr. Vishant P. Kadam, Advocate for the Petitioner.

Mr. A. R. Kale, AGP for Respondent Nos. 1 and 2.

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

DATED : 16th March, 2021.

PER COURT:-

. The petitioner is a Medical Officer and in employment with respondents. The petitioner sought No Objection Certificate for filling in the entrance examination form pursuant to the advertisement issued by the National Board of Examination, New Delhi. The petitioner intended to take admission for D.C.H. course. The No Objection Certificate sought by the petitioner is rejected by the respondents on the ground that departmental enquiry is proposed against the petitioner. The same is the subject matter of the present writ petition.

2. Mr. Kadam, learned counsel for the petitioner submits that the proposed enquiry is not a ground for refusing the No Objection Certificate by the respondents as per the Government Resolution dated 19.03.2019 relied by the respondents. According to the learned

counsel, the enquiry proposed is in respect of an event allegedly of the year 2015. According to the learned counsel, there was no reason to reject the application for No Objection Certificate. The learned counsel relies on the judgment and order of the Division Bench of this Court in Writ Petition No. 1106 of 2014 dated 20.02.2014.

3. Mr. Kale, learned A.G.P submits that the departmental enquiry is proposed against the petitioner. In view of that, it can be said that departmental enquiry has commenced. According to the learned A.G.P the petitioner can also be suspended if the departmental enquiry is proceeded.

4. The petitioner is seeking admission to the D.C.H. course as an in service candidate.

5. It appears that the alleged event for which the enquiry is proposed against the petitioner is of the year 2015. More than five years have lapsed. The enquiry has not been initiated in strict sense. The Government Resolution dated 19.03.2019 relied by the respondents permits rejection of the No Objection Certificate. As per clause 4.5 of the said Government Resolution, if Medical Officer commits dereliction of duty such as a serious patient cannot be treated due to his absence and the same is proved in the preliminary enquiry and directions are given for departmental enquiry or the same

is pending, in that case the No Objection Certificate may not be issued.

6. In the present case, it does not appear that there is a preliminary enquiry, nor the same is placed on record. The departmental enquiry as per the impugned order suggests that the same is proposed and not actually initiated.

7. The petitioner, it appears is ready to take risk to the effect if in the midst of his course the departmental enquiry is proceeded and/or the petitioner is suspended, then his admission may be at stake. It is for the petitioner to take such a risk.

8. In the light of the aforesaid, we direct the respondents to issue No Objection Certificate to the petitioner for prosecuting the P. G. course immediately. The said No Objection Certificate would be subject to further decision that would be taken by the respondents of initiating departmental enquiry and/or taking further action against the petitioner.

9. Writ petition accordingly is disposed of. No costs.

10. Parties to act upon authenticated copy.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.