

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12513 OF 2021

SHAIKH MOHD. HANEEF HAJI ABDUL HAFEEZ
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Ms. K.S. Bhale
AGP for Respondent Nos. 1 to 3 : Mr. P.S. Patil
Advocate for Respondent Nos. 4 & 5 : Mr. P.P. Kothari

**CORAM : C.V. BHADANG &
SANDIPKUMAR C. MORE, JJ.**
DATE : 22 JUNE, 2022.

ORDER :

By this petition under Article 226 of the Constitution of India, the petitioner is seeking a direction to respondent Nos. 3 to 5 to appoint him on the vacant post of 'Unani Hakim' from open category at Zilla Parishad, Aurangabad.

2. The petitioner is a Medical Practitioner by profession and he is holding a degree of Bachelor of Unani Medicine and Surgery, from Nagpur University.

3. It appears that the then Regional Staff Selection Board, Aurangabad (for short 'Board') had advertised vacant posts of Unani Hakim somewhere in the year 1999–2000 in six districts i.e. Aurangabad, Beed, Osmanabad, Parbhani, Jalna and Nanded, falling within the jurisdiction of the said board. The petitioner claims to

have taken part in the said recruitment process. However, since the year 1999 till today the appointment order was not issued to the petitioner. Now, placing reliance on the Government Resolution dated 16 May, 2018, in which the government has created the posts of Unani Hakim in the Rural Development Department, the petitioner is seeking appointment as a Unani Hakim in Zilla Parishad, Aurangabad.

4. Learned counsel for the petitioner has pointed out the letter dated 05 February, 2019, by which, the District Health Officer of the Zilla Parishad has informed about there being six vacancies of the Unani Hakim including two posts in the open category. Incidentally, the petitioner is from open category.

5. We have heard the learned counsel for the parties and perused record.

6. This Court, by an order dated 28 December, 2017 in Writ Petition No. 14335/2017, had directed the Collector (respondent No. 4) to decide the representation filed by the petitioner, which was pending and the same has been turned down.

7. Learned counsel for the petitioner submits that the petitioner is a qualified Unani Practitioner and had also taken part in the recruitment in the year 1999-2000. She pointed out that subsequently, the said board was dissolved and the recruitments were entrusted to new Regional Selection Committee.

8. Learned counsel for the respondent – Zilla Parishad submitted that there are no papers of the said recruitment process available. By a subsequent communication dated 1 January, 2019, there is modification and there are no posts of ‘Unani Hakim’ available now.

9. Learned AGP also submitted that there is substantial delay and laches on the part of the petitioner in approaching the Court.

10. We have considered the circumstances and the submissions made.

11. It can be seen that the petitioner claims to have taken part in the recruitment process in the year 1999–2000 which was then undertaken by the Regional Staff Selection Board, Aurangabad. However, till the filing of the earlier petition in the year 2017, when the petitioner approached this Court, no steps were taken. A perusal of the letter dated 1 January, 2019, shows that any such posts which are created, have to be filled in by nomination/recruitment. Thus the filling up of any such posts, if available, will have to be done, by starting recruitment process, afresh. It is difficult to see as to how a direction for appointment of the petitioner can be given, at this distance of time, in respect of the recruitment process which was undertaken in the year 1999-2000 more so in the absence of any record of that recruitment with the office. This Court by an order dated 16 November, 2021, had issued notice, subject to the petitioner satisfying the Court about delay and laches which, in our opinion, is

not explained.

12. In that view of the matter, we decline to entertain the petition and the same is, accordingly, dismissed.

13. We, however, make it clear that this order shall not come in the way of the petitioner taking part in the recruitment, if there is a fresh process for recruitment initiated by the Zilla Parishad.

SANDIPKUMAR C. MORE, J.

C.V. BHADANG, J.