

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11928 OF 2022

Kiran Krushna Rahigude

... Petitioner

Versus

State of Maharashtra and Ors.

... Respondents

Mr. Pandit Kasar for the Petitioner.

Mr. A.P. Vanarse AGP for the State.

**CORAM: S. V. GANGAPURWALA &
R.N.LADDHA, JJ.**

DATE : 12th OCTOBER, 2022

P.C. :-

. Learned Counsel for the Petitioner submits that the Petitioner is appointed as a Medical Officer on or about 30/07/2019. He joined the service on 05/08/2019. The Petitioner appeared for NEET(PG) on 21/05/2022. The result was declared on 01/06/2022. The schedule for admission was declared on 26/09/2022.

2. Learned Counsel for the Petitioner submits that the Petitioner completed three years of service on or about 5/8/2022. On that day, the admission process had not commenced. In light of that, the Petitioner is required to be considered as in-service candidate. The Petitioner be considered in the 20% reserved post meant for in-service candidate as per notification dated 22/09/2022.

3. Learned Counsel for the Petitioner submits that as per

Government Resolution dated 3/5/2011 and 19/03/2019, the Petitioner is entitled for benefit of an in-service candidate. The Petitioner is required to complete three years before or at the time of start of academic year. The academic year has been provided under notification. The same starts on 20/10/2022. Learned Counsel submits that the if the same is considered, the Petitioner has completed three years of service and as such entitled either to be considered on the 20% seats reserved for in-service candidate and/or is entitled for 30% additional marks i.e. 10% for each year. The Petitioner has served in remote area for three years. This aspect has not been considered by the Respondents.

4. The learned Counsel submits that Respondents cannot take away benefit of marks pursuant to the subsequent notification after admission process has commenced.

5. Reliance is placed on the Judgment of the Division Bench of this Court dated 13th March 2019 in Writ Petition No. 3035 of 2019 with connected matters.

6. Learned AGP submits that three years are required to be completed as on the date of the examination. Clarification was also issued under Notification dated 11/10/2022. The Petitioner is dis-qualified as the Petitioner could not complete three years of services as on the date of the examination.

7. The only question is completion of three years of services

for benefit of in-service candidate. Admittedly, on the date examination was held, the Petitioner had not completed three years of services as a medical officer in remote area. The Petitioner was short by about 2 and half months.

8. Under the earlier regulation, the candidate is given 10% marks for each year of services in the remote area. However, if the services is less than one day in the whole year, the same is not counted. As such, it is necessary that Petitioner has to complete three years of services. Admittedly, as on the date examination was held, the Petitioner has not completed three years of services. Clarification is also issued by the State Government in that regard. The said clarification would clarify the situation.

9. It is not shown by the Petitioner that some other candidate who has not completed three years of services as on the date of the examination has been considered or has been held to be qualified. The same Rule is applied to all the candidates.

10. In light of that, we are not inclined to accept the contentions of learned counsel for the Petitioner.

11. The Writ Petition is disposed of. No costs.

(R.N.LADDHA J.)

(S. V. GANGAPURWALA, J.)