

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION 6738/2022

PETITIONER : Dr. Kundlik s/o Ambadas Fupate,
Aged about 39 years, Occupation :
Medical Officer, Class-II, Group-A,
District Civil Hospital, Washim,
Maharashtra.

...V E R S U S...

RESPONDENTS :1. The Directorate of Health Services,
Arogya Bhawan, St. George's Hospital
Compound, PD Mello Road,
Mumbai-400001.

2. The Commissioner & Competent
Authority, State Common Entrance
Test Cell, 8th Floor, New Excelsior
Building, A.K.Nayak Marg, Fort,
Mumbai-400001.

3. The Commissioner Health Services,
MD NHM, 8th Floor, Arogya Bhawan,
St. George's Hospital Compound, PD
Mello Road, Mumbai-400 001.

4. The Deputy Director of Health
Services, New Radhakishan Plots,
Akola-444001.

5. The Civil Surgeon, District Civil
Hospital, Civil Lines, Washim, District
Washim 444505.

Shri P.P. Deshmukh, Advocate for the petitioner.
Shri N.S. Rao, Assistant Government Pleader for respondents

CORAM : URMILA JOSHI-PHALKE &
M.W.CHANDWANI, JJ.
DATE : 28/10/2022

ORAL JUDGMENT : (PER URMILA JOSHI-PHALKE)

1. Rule. Rule is made returnable forthwith. Heard finally with the consent of Shri Deshmukh, learned Counsel for the petitioner and Shri N.S. Rao, learned Assistant Government Pleader for the State/Respondents.

2. The issue involved in this petition is about the grant of permission to the petitioner to take part in NEET (PG) Examination-2022. According to the petitioner for appearing in the said examination, he requires to obtain the NOC from the respondent No.4 i.e. The Deputy Director of Health Services. Accordingly, he applied on 28/02/2022. As per the prescribed procedure, respondent No.5-The Civil Surgeon, Washim has to forward the said application to respondent No.4 forthwith to

the Deputy Director of Health Services.

3. It is claimed by the petitioner that though he applied for the permission within the time on 28/02/2022, the said application is not forwarded by the Civil Surgeon, District Civil Hospital, Civil Lines, Washim to the Deputy Director of Health Services within the prescribed time. The petitioner filed on record the printout of the email communication which was addressed to respondent No.2.

4. Mr P.P. Deshmukh, the learned counsel for the petitioner has submitted that it was respondent No.5 who had not forwarded the said application to respondent No.4 – The Deputy Director of Health Services and therefore, the NOC was not granted to petitioner. The petitioner had also submitted a representation on 21/10/2022 but the permission was rejected by assigning the reasons that the application was forwarded belatedly. He submitted that the petitioner submitted the application within time and the petitioner cannot be blamed for the said delay.

5. He further prayed that, now the ex post facto permission is necessary to the petitioner, otherwise the

petitioner would not be in a position to avail the benefits of the scheme formulated vide Government Resolution dated 19/03/2019.

6. He further produced on record the merit list, which was published by the Respondent No.2, in which, the name of the petitioner namely Kundlik Ambadas Fupate is appearing at Sr. No. 4687. The petitioner has filed Pursis along with merit list is taken on record and marked as Exhibit - 'A' for identification.

7. Notices were issued to the respondents and Shri N.S. Rao, learned AGP appearing for the respondent Nos. 1, 3 to 5.

8. Though the petitioner had served the notice to respondent No.2, but none appeared.

9. The intimation was also forwarded to the panel counsel, however non appeared for the respondent No.2.

10. Shri N.S.Rao, learned AGP submitted that as the application is belatedly forwarded to the respondent No.4 and therefore, petitioner was rightly rejected by the respondent No.5.

11. Heard both the sides.

12. Perused the record, it is apparent that the petitioner had filed an application for seeking permission to appear at the NEET (PG)-2022 Examination well in time, but his application was forwarded to the respondent No.4 Deputy Director Health Services by the Civil Surgeon, District Civil Hospital belatedly. In such case, no fault could be found that the petitioner and therefore, it is necessary that the case of the petitioner is to be considered favorably by the respondent Nos. 1 to 3 by granting ex post facto permission to the petitioner.

13. We accordingly direct the respondent Nos. 1 to 3 to grant ex post facto permission to the petitioner to appear at the NEET (PG)-2022 Examination from the category of “in-service Medical Officers” immediately within one week from today.

14. The petition is disposed of in the above terms. Rule accordingly. No costs.

[M.W. CHANDWANI, J.]

[URMILA JOSHI-PHALKE, J.]

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