

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

WRIT PETITION NO.7466 OF 2019

(Pravin Badri Ingale Vs. Union of India, thr. its Secretary, Ministry of Health and
Family Welfare, Government of India, New Delhi and others)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Ms. Deepali V. Sapkal, Advocate for Petitioner.
Mr. K. E. Meshram, Advocate h/f Ms. Neerja Chaubey, Advocate for
Respondent 1.
Mr. Rahul Kurekar, Advocate for Respondent 2.
Mr. S. D. Chande, Advocate for Respondent 3.

CORAM: ROHIT B. DEO AND ANIL L. PANSARE, JJ.

DATE: 24th AUGUST, 2022.

The challenge is to the selection list dated 20.09.2019 pursuant to the selection process conducted on the basis of the advertisement issued on 31.07.2019 for appointment to the posts under the “National Health Mission” and the appointment of respondent 3 as Audiologist.

2. Facts, are few and brief and are broadly admitted.
3. The Zilla Parishad, Washim issued advertisement dated 31.07.2019 to fill in the posts under the National Health Mission.
4. The post of Audiologist is at serial 7 in the advertisement and the eligibility qualification which is

prescribed is Bachelor Degree in Speech and Language Pathology from any recognized University of India with two years experience.

5. It is not in dispute that the petitioner possessed the eligibility qualification and the experience. It is further not in dispute that the respondent 3 who is selected as Audiologist does not possess the Bachelor Degree in Speech and Language Pathology from any recognized University of India. However, for reasons based known to the Selection Committee, notwithstanding that the respondent 3 did not hold the prescribed qualification, he was selected.

6. We have no hesitation in holding, that the selection and appointment of respondent 3 is void. An ineligible candidate is appointed by the Zilla Parishad, for reasons obviously extraneous. In the interest of observing judicial restraint, we make no further observation.

7. Considering the uncontroverted and irrefutable factual matrix, we have no option but to quash and set aside the selection process and the appointment of respondent 3 to the post of Audiologist, and we order accordingly.

8. Respondent 3 has received salary from the public exchequer. While the respondent 3 cannot be directed to refund or reimburse the salary, in as much as such direction

shall virtually compel the candidate to work as forced labour, we are inclined to direct the Secretary of the Rural Development Department to conduct an appropriate inquiry and to fix the accountability for the selection and appointment of an ineligible candidate, and permissible in law, to recover from the concerned responsible officer the salary which is paid to the respondent 3.

9. We are informed by the learned counsel for the Zilla Parishad Mr. Kurekar that respondent 3 was selected by Committee comprising Mr. Deepak Kumar Meena then Chief Executive Officer, Dr. A. B. Sontakke then Civil Surgeon, Washim and Dr. D. R. Sase then District Programme Co-ordinator. While we have noted the constitution of the Selection Committee, it is clarified that the Secretary of the Rural Development Department shall consider the issue on its own merit, after following due process of law, and uninfluenced by any observation in our order.

10. Considering that the appointment of the respondent 3 is void, we decline the prayer for stay of this order.

11. We direct the Secretary, Rural Development Department to conduct the inquiry within the next sixty days and to submit compliance and action taken report in the registry of this Court.

12. We further request the learned AGP Ms. Khan to bring this order to the notice of the Secretary, Rural Development Department, within the next five working days.

13. The petition is allowed in the aforestated terms.

14. Parties to act on steno copy.

(ANIL L. PANSARE, J.)

(ROHIT B. DEO, J.)

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