

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 12088 OF 2017

Dr.Jaywant S/o. Baburao Gund. ... Petitioner.
V/s.
The State of Maharashtra and others. ... Respondents.

Mr.Sidheshwar N. Biradar i/b. Shrikant Patil for the Petitioner.
Mr.N.K.Walimbe Addl.GP with Mr.S.H.Kankal, AGP for the State.

**CORAM : NITIN JAMDAR, AND
MANJUSHA DESHPANDE, JJ.**

DATE : 1 November 2023.

P.C. :

This petition is filed by a Medical Officer working in Civil Hospital in the State of Maharashtra. The Petitioner has challenged certain clauses of the Government Resolution dated 7 August 2012 denying facilities of giving option in respect of private practice as a doctor in Government service.

2. The Petitioner, in spite of being in the service of the State, has filed this petition directly in this Court without filing original application in the Maharashtra Administrative Tribunal. When the petition came up on board on 29 November 2018, none had appeared for the Petitioner and it was adjourned. Thereafter it remained pending without the Petitioner circulating the same and has come on board on regular course.

3. Firstly, the Petitioner ought to have filed original application in the Maharashtra Administrative Tribunal it being the court of first instance. The Petitioner, in fact, mentions in the petition that with respect to similar grievance, original applications have been filed in the Tribunal by various other similarly situated Government doctors. The Petitioner states that because the original applications were filed by the others in the Tribunal, the Petitioner did not file original application and, thus, awaiting the decision thereupon. Thereafter, the Petitioner places on record, the order passed in Original Application No.917/2013 and others by which the Tribunal has dismissed those original applications.

4. If the Petitioner has chosen not to file original application because others had filed original applications, then he will have to go by the outcome of those original applications and cannot directly file writ petition in this Court. In case the other similarly situated persons have taken their challenge further and orders are passed in respect of setting aside or staying the clauses of the Government Resolution, unless restricted, the said orders will uniformly apply. If not, the Petitioner will have to approach the court of first instance.

5. Therefore, there is no purpose in keeping this petition pending in this Court. Petition is accordingly disposed of.

(MANJUSHA DESHPANDE, J.)

(NITIN JAMDAR, J.)