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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 14303 OF 2023**

Dr. Tushar Kantilal Chordiya
and Ors.

... Petitioners

V/s

The Commissioner,
Admission Regulating Authority and
the State Common Entrance Test
Cell and Ors.

....Respondents.

Mr. Shantanu S. Raktate a/w Mr. Amar Parsekar a/w Mr.
Saurav Katkar i/b Ms. Sanjeevani Darade-Raskar for the
Petitioner.

Ms. Kavita N. Solunke a/w Ms. Pranoti A. Moghe for
Respondent No.1 - CET Cell.

Ms. Kavita N. Solunke, AGP for Respondent-State.

Dr. Suresh Mane with Mr. Dinesh Sonawane for Respondent
Nos. 5 to 22.

**CORAM: A.S. CHANDURKAR &
FIRDOSH P. POONIWALLA, JJ**

DATE: 14th DECEMBER, 2023

P.C.:-

1] The challenge raised in this Writ Petition filed under Article
226 of the Constitution of India, is to the Merit List as published by
the 2nd Respondent in the matter of in-service Medical Officers

who seek admission to the Post Graduation Course pursuant to the All India Ayush Post Graduate Entrance Test, 2023. Each Petitioner is a Medical Officer working at a Primary Health Center in the State of Maharashtra. Insofar as admission to the Post Graduate Courses in Government and Government Aided Ayurvedic Colleges are concerned, there is reservation of 9% seats for Medical Officers from the District Health Services. As per Government Resolution dated 19/03/2019, there is a provision for grant of incentive marks for rendering service in remote, difficult and rural areas in the State. This is pursuant to the recommendations of the Dr. Prakash Doke Committee. The Petitioners claim that it is only those Medical Officers who have discharged duties at declared Institutions who are entitled to seek such incentive marks. While preparing the Merit List, the 2nd Respondent has sought to take into consideration service rendered by the Medical Officers in non-declared Institutions. Petitioners contend that Respondent Nos. 5 to 23 having rendered service at non-declared Institutions, they are not entitled to the benefit of incentive marks and hence their inclusion in the Merit List on that basis is not permissible.

2] After publication of the Merit List on 10/11/2023, the

Petitioners had raised an objection to the manner of preparation of the said Merit List. These objections were raised before the 2nd Respondent – Director, Health Services Commissionerate, Mumbai on the same day.

3] By an Order dated 06/12/2023, this Court directed the 2nd Respondent to consider the said objections and indicate its response to the same. Pursuant to the aforesaid, the 2nd Respondent considered the Petitioners' objections and on 07/12/2023 indicated reasons for not accepting the said objections. It has been stated in the said response that those Medical Officers who have rendered service at Primary Health Units, Mobile Health Units, Ayurvedic Dispensaries and Zilla Parishad Dispensaries (hereinafter referred to as "Secondary Institutions" for convenience) have also been considered for grant of incentive marks on the premise that these Secondary Institutions are attached to Primary Health Centers at the Taluka level. This is on the premise that such Secondary Institutions fall under the purview of the Medical Officer who is also the Drawing and Disbursing Authority. On this basis, it has been stated that the objection raised by the Petitioners to the inclusion of the names of Respondent Nos. 5 to 23 in the Merit List is unwarranted.

4] In the light of aforesaid material, we have heard the learned Counsel for the parties and we have perused the documents on record. The principal grievance of the Petitioners is that, it is only service that is rendered at the Primary Health Center as done by the Petitioners that is required to be taken into consideration for grant of incentive marks. According to them, service rendered at places other than Primary Health Centers is not liable to be taken into consideration for this purpose. The Government Resolution dated 19/03/2019 prescribes the modality for grant of incentive marks and indicates bifurcation of such Primary Health Centers at remote, difficult and rural areas. Alongwith the said Government Resolution, various Primary Health Centers, rural hospitals etc. have been identified. Insofar as service rendered at these places is concerned, there can be no doubt that such service would qualify for claiming incentive marks based on requisite tenure of service rendered therein. According to the 2nd Respondent, service rendered at Secondary Institutions, such as Primary Health Units, Mobile Health Units, Ayurvedic Dispensaries, Zilla Parishad Dispensaries also qualifies for such benefit. We find that rationale behind this is that these Secondary Institutions fall within the purview of the Medical Officer attached to the Primary Health

Center and he is also the Drawing and Disbursing Authority of the personnel rendering services therein. We do not find that this stand taken by the 2nd Respondent runs counter to the object sought to be achieved by the Government Resolution dated 19/03/2019. The object being grant of incentive marks for having rendered service in remote, difficult and rural areas is to encourage rendering of service in such areas. It goes without saying that the Secondary Institutions which fall within the purview of Primary Health Centers located in such areas also deserve to be granted such benefit as service is rendered in similar areas. The fact that the Medical Officer attached to the concerned Primary Health Center is the Head and is also the Drawing and Disbursing Authority, indicates that these Secondary Institutions are located in the vicinity of such Primary Health Centers in the Taluka. It is not the case of the Petitioners that these Secondary Institutions, despite being attached to the concerned Primary Health Center, are not located either in remote, difficult or concerned rural area. We therefore do not find that there is any illegality or arbitrariness in preparing the Merit List on 10/11/2023 by including those Medical Officers who have rendered service at Secondary Institutions that fall under the purview of the concerned Primary Health Center at a remote,

difficult or rural area.

5] We also note that name of each Petitioner finds place in the Merit List and they have secured admission for the Post Graduate Course. Petitioners seek betterment of placement offered to them. It is on this basis that the challenge has been raised to the said Merit List. Though it is open for the Petitioners to seek better placement, we find that basis for such claim is not liable to be accepted in the light of what has been stated hereinabove. We therefore do not find any reason to uphold the challenge to the Merit List published on 10/11/2023. The Writ Petition is thus dismissed with no order as to costs.

[FIRDOSH P. POONIWALLA, J.] [A.S. CHANDURKAR, J.]