



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

Writ Petition No.5237 of 2023

Dr. Chetan S/o Ashokrao Gangane Versus State of Maharashtra and others

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

Court's or Judge's order

Shri R.D. Hajare, Counsel for Petitioner.

Shri A.A. Madiwale, Assistant Government Pleader for Respondent Nos.1 to 3 and 5.

Shri N.S. Khubalkar, Counsel for Respondent No.4.

CORAM : A. S. CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE : 31st AUGUST, 2023.

1. Heard.

2. The petitioner has obtained MBBS degree on 23-12-2011 and has been registered with the Medical Council of India on 6-9-2012. The petitioner came to be selected and appointed as Medical Officer-Group-A by the Public Health Department-respondent No.1. He is presently posted at General Hospital, Amravati. The petitioner has acquired the Diploma in Medical Radiology and Electrology (DMRE) in May 2022 from the College of Physicians and Surgeons. On the basis of no-objection granted by the respondent No.5 on 28-2-2023, the petitioner intends to pursue post-graduation education. In view of an advertisement issued by the respondent No.4 in the matter of conducting the Entrance Test under NEET-PG 2023, he appeared for the said examination and secured 306 marks out of 800. As per condition No.7 of the no-objection granted on 28-2-2023, it has been stated that if a candidate has obtained degree in particular subject, he would not be registered for any other different subject. On 19-7-2023, the Public Health Department issued a Government Resolution and as per Clause 5.2 thereof, the criteria prescribed by the Government Resolution dated 19-3-2019 was to apply. On 14-7-2023, however, the Medical Education and Drugs Department issued a Notification and deleted various entries appearing in the Schedule to the Maharashtra Medical Council Act, 1965 (for short, 'the Act of 1965'). Entry No.19 with regard to DMRE was one of the entries that has been deleted. As a result, the petitioner has filed the present

proceedings praying that condition No.7 of the no-objection granted on 28-2-2023 be clarified and the petitioner be permitted to seek admission in other courses available alongwith the subject of Radiology. The petitioner in that regard had made a representation to the Commissioner of Health Services on 6-8-2023.

3. By the order dated 21-8-2023, the respondent No.2 was directed to decide the petitioner's representation dated 6-8-2023. The learned Assistant Government Pleader for the respondent Nos.1 to 3 and 5 has tendered the communication dated 25-8-2023 issued by the respondent No.2 deciding the petitioner's representation. It has been held therein that in view of condition No.3 in the Notification dated 14-7-2023, the petitioner would be eligible to pursue post-graduation only in the subject in which he has graduated. The petitioner therefore would be eligible for In-service Quota in the subject of MD (Radiology).

4. In the aforesaid backdrop, we have heard the learned counsel for the parties and we have perused the documents on record.

5. Undisputedly, the petitioner was issued a no-objection certificate on 28-2-2023 and as per Clause 7 thereof, reference was made to the Government Resolution dated 19-3-2019 and Clause 8 thereof. It was stipulated that a candidate having graduated in a particular subject, he would not be permitted to seek registration in another subject. On 14-7-2023, the entry with regard to DMRE at Serial No.19 in the Schedule to the Act of 1965 has been deleted. On this basis, it is sought to be urged that the petitioner be permitted to seek admission in any other subjects alongwith the subject of Radiology. We find that since the petitioner obtained DMRE degree in 2021 and seeks consideration of his candidature as an In-service candidate, he would be bound by the no-objection certificate dated 28-2-2023 and condition No.7 thereof. That condition requires the petitioner to pursue post-graduation in the subject in which he has graduated. The respondent No.2 has considered the aforesaid position and as the petitioner's degree was obtained prior to 14-7-2023 has found him eligible for the In-service Quota only in the subject of MD (Radiology). In these facts,

there would be no question of invoking Clause 1.15 of the Government Resolution dated 3-5-2011 as relied upon by the petitioner.

6. For aforesaid reasons, we do not find that it is necessary to clarify condition No.7 of the no-objection certificate dated 28-2-2023. The respondent No.2 has considered all relevant aspects while deciding the petitioner's representation dated 6-8-2023.

7. The writ petition therefore stands dismissed with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A. S. CHANDURKAR, J.)