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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**WRIT PETITION NO.5071 OF 2024
(DR.SIDDHARTH S/O SAHEBRAO PAIKRAO VS.THE STATE OF
MAHARASHTRA AND OTHERS)**

Mr.J.S.Deshmukh, Advocate for the Petitioner.
Ms.Neha Kamble, AGP for Respondent Nos. 1 to 4.

**(CORAM : RAVINDRA V. GHUGE AND
Y.G.KHOBRADE, JJ.)**

DATE : JUNE 20, 2024

PER COURT :

1. Heard the learned Advocate for the Petitioner and the learned AGP. With their assistance, we have gone through the Petition paper book.

2. The only issue that needs consideration is as to whether the Medical Department could refuse to give a 'No Objection' Certificate (NOC) to the Petitioner to appear as an 'In Service' Medical Officer for the PG NEET. The strenuous contention of the learned AGP is that a GR dated 19.03.2019, which has undergone an amendment vide GR dated 19.07.2023, prohibits the issuance of a NOC to an In Service Medical Officer for appearing for the PG NEET examination if a departmental

enquiry is in progress.

3. The Petitioner has been served with a show cause notice on 18.03.2019. On instructions, the learned AGP submits that thereafter, there has been no progress and neither a charge sheet has been issued to the Petitioner, nor any preliminary enquiry has been conducted. As such, no departmental enquiry is underway.

4. We are not going into the legality of the GRs' dated 19.03.2019 and 19.07.2023 for the reason that the Petitioner has not been served with any charge sheet and there is no departmental enquiry in progress. For the last 5 years and 3 months, besides issuance of a show cause notice, there is no initiation of the disciplinary proceedings. It is now submitted by the learned AGP that, a charge sheet has been prepared and forwarded to the State Government. The same is yet to be served on the Petitioner.

5. In view of the above, this Writ Petition is partly allowed. The impugned communication dated 19.04.2024 issued by Respondent No.4 is quashed and set aside. Respondent No.4 shall issue a NOC to

the Petitioner by 12.00 noon tomorrow. A hall ticket be generated and the examination centre shall be allotted to the Petitioner so as to appear for the NEET PG 2024 Examination, commencing on 23.06.2024.

6. We make it clear that in the light of the judgment dated 20.02.2014 delivered by this Court at Aurangabad in **WP No.1106/2014 (Dr.Satish Daryappa Gadade Vs. The State of Maharashtra and Others)**, if an adverse order is passed in the departmental proceedings and if the Petitioner is held to be disqualified from securing admission to the Post Graduate Degree or Diploma course as an In Service candidate, the benefits arising out of such a PG Course shall be taken away. If an adverse order is passed while the Petitioner is undergoing such a PG Course, he shall be disqualified and the next candidate shall be granted the admission to the PG Course.

(Y.G.KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)