

Jvs.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO. 72 OF 2024

Dr. Pravin Limbaji Rathod	}	Petitioner
versus		
The State of Maharashtra & Ors.	}	Respondents

Mr. Akshay Shinde for petitioner.

Mr. O. A. Chandurkar, Additional Government
Pleader with Ms. G. R. Raghuwanshi, AGP for
respondent no. 1.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
AMIT BORKAR, J.**

DATE: DECEMBER 14, 2024

P.C.:

1. Learned Additional Government Pleader has brought to the notice of this Court an order passed on 10th December 2024 by a coordinate Bench of this court in Criminal Writ Petition No. 1569 of 2022. The said order is reproduced hereunder: -

"1. Pursuant to our Order dated 22nd November 2024, the Principal Secretary, Medical Education, is present before us through Video Conferencing. He states that an Administrator has been appointed in the absence of the Maharashtra Medical Council for conducting the inquiry and that the inquiry has commenced. He further states that steps have been taken to constitute the Maharashtra Medical Council and that the whole process would take about eight weeks. The statement is accepted.

2. The report of the Administrator to be placed before us on the next date.

*3. Stand over to **18th February 2025.**"*

2. We, thus, expect that the undertaking given before the court in the said matter shall be adhered to by the State Government.

3. We may further notice that appointment of Administrator appears to have been made under section 31(2) of the Maharashtra Medical Council Act, 1965 (hereinafter referred to as "the Act of 1965"), which is reproduced hereunder: -

"31(2) Notwithstanding anything contained in this Act, or in the rules made thereunder, if at any time it appears to the State Government that the Council or any other authority empowered to exercise any of the powers or to perform any of the duties or functions under this Act, has not been validly constituted or appointed, the State Government may cause any of such powers, duties or functions to be exercised or performed by such persons, in such manner and for such period not exceeding six months and subject to such conditions, as it thinks fit."

4. According to the afore-quoted provision, ad-hoc arrangement can be made for a period not exceeding six months. The notification by which the ad-hoc arrangement in the present case was made is dated 22nd February 2024, which prescribes that the Administrator shall exercise his powers and duties of the Council for a period of one year or till the Council is duly constituted.

5. Stand over to **17th December 2024 (High on Board)** to enable the learned State counsel to seek instructions from the Principal Secretary/Additional Principal Secretary as to how the period of one year for the term of the Administrator was prescribed under the notification dated 22nd February 2024 whereas the statutory provision contained under section 31(2) of the Act of 1965 provides that the Administrator can be appointed for a period of not exceeding six months.

6. The State Government shall file an affidavit explaining as to how period of one year has been prescribed.

7. We may note that the Administrator was appointed initially on 10th October 2022 and since then instead of constituting elected Council, the Administrator is continuing, which, *prima facie*, appears to be contrary to section 31(2) of the Act of 1965.

Digitally signed
by JAYANT
VISHWANATH
SALUNKE
Date:
2024.12.14
16:50:00 +0530

(AMIT BORKAR, J.)

(CHIEF JUSTICE)