



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

WRIT PETITION NO. 1836 OF 2018

Dr. Gururaj Santoshrao Tammewar,
Aged 29 years, Occupation – Nil,
R/o Shahaji Nagar, Degloor,
District Nanded.

.... PETITIONER

VERSUS

- 1) The State of Maharashtra,
through its Secretary, Department of
Medical Education, Mantralaya,
Mumbai.
- 2) The Director,
Medical Education & Research,
Maharashtra State, Mantralaya, Mumbai.
- 3) The Commissioner and Competent
Authority, State C.E.T. Cell, Maharashtra
State, Mumbai, having its office at 305,
Government Polytechnic Building,
Kherwadi, Ali Yawar Jang Marg,
Bandra (E), Mumbai.
- 4) The Registrar,
Maharashtra University of Health
Sciences, Nashik.
- 5) The Deputy Dean,
Shri Vasantrao Naik Government
Medical College, Yavatmal,
- 6) Director of Health Services,
Akola, office at New Radhakisan Plots,
Akola (Maharashtra) – 444 001.

.... RESPONDENTS

Mr. R.N. Ghuge, Counsel for the petitioner,
Mr. M.K. Pathan, AGP for respondent Nos.1 to 3 and 5,
Mr. Y.J. Chandurkar, Counsel h/f. Mr. Abhijeet Deshpande, Counsel for
respondent No.4.

CORAM : NITIN W. SAMBRE
& ABHAY J. MANTRI, JJ.
DATED : 5th MARCH, 2024

ORAL JUDGMENT : (Per : N.W. Sambre, J.)

Heard. **Rule.** Rule made returnable forthwith.

2. At the time of securing admission in the Government Medical College so as to pursue the M.B.B.S. degree course in 2006, the petitioner executed a bond that he shall be rendering public service post his completion of graduation and failure shall entail the respondents to recover an amount of Rs.5,00,000/- (Rupees Five Lakhs) as mandated under the Government Resolution dated 08.02.2008. Accordingly he has executed bond on 18.07.2006.

3. The case of the petitioner is that though his name was duly sponsored by the College in which he has completed his M.B.B.S., the respondents have failed to provide him public service till this date. As a sequel of which, he is required to be released of the obligation under the bond. So as to substantiate the contention, our attention is invited to the Government Resolution dated 08.02.2008 which provides for the

encashment of the bond to the extent of the liability of Rs.5,00,000/- (Rupees Five Lakhs) in case if the candidates like the petitioner failed to discharge the public duty as mandated therein. It is further informed to us that the obligation is vested in respondent No.6 to provide the public employment to the petitioner for stipulated period so as to honour the commitment made in the bond executed by him.

4. In the aforesaid background, by inviting attention of this Court to the replies of respondent Nos.2 and 6, it is claimed that though the petitioner was available for discharging public duties, it was a failure on the part of the respondents to provide him with an opportunity to serve the public pursuant to the bond executed by him. That being so, he can not be mandated to pay the Bond Money with interest as is caused for vide impugned communication dated 12.03.2018.

5. As against above, the learned Assistant Government Pleader Mr. M.K. Pathan would strenuously urge that the Court is required to appreciate the conduct of the petitioner as except him all the other students were granted placement and it is only the petitioner who remained to be accommodated in the matter of grant of employment pursuant to the bond executed by him. According to Mr. Pathan, the petitioner on his own approached the respondent-

Authority vide communication dated 12.03.2018 stating therein that he is willing to pay Bond Money of Rs.5,00,000/- (Rs. Five lakhs) so as to release him from the bond of serving the public authority. He would as such claim that the petitioner cannot take advantage of the Government Resolution when he has shown willingness to deposit the Bond Money of Rs. Five lakhs.

6. He would claim that in the circumstances, the Court may pass appropriate order in the matter.

7. We have appreciated the submissions.

8. The issue about execution of bond by a candidate who gets admission to the Government/Municipal Council managed Medical Hospitals is governed by the policy reflected in the Government Resolution dated 08.02.2008.

9. The government having noticed that the public authorities while imparting medical education incur huge expenses on the students like the petitioner, which is spent through the public funds, the tuition fees charged to the students like the petitioner is very meager to overcome such expenses. As such, to strike out a balance viz. to repay the public obligations, it is made mandatory for the candidates like the petitioner after having secured degree in Medical Science to either serve the State Government or Local Self Government or Defense

Authority for fixed period. It appears that after the candidates like the petitioner passed out the final MBBS examination, the Government Resolution prescribes the procedure to be adopted by the respondents-Director of Health Services and the Director of Medical Education and Research. It is made mandatory for the Directorate of Health Services to secure the list of bonded candidates from the Office of the Director Medical Education and Research. In turn the Director of Health Services is required to issue the appointment orders to the bonded candidates within a period of three months after procuring such list. Clause 7 of the Government Resolution provides for the consequences of not providing appointment to the bonded candidates as the names of such candidates are required to be furnished to the Director, Medical Education and Research, who in turn shall release those candidates from the bond.

10. If we test the case of the petitioner in the aforesaid backdrop, the respondent no.2-Director of Medical Education and Research, appears to have submitted the name of the petitioner to the Deputy Director of Health Services, Akola Circle in the year 2012 i.e. after the petitioner completed his MBBS degree course.

11. Once the candidature of the petitioner was sponsored by the Director of Medical Education and Research to the Dy. Director,

Health Services as is reflected in the communication dated 14.03.2012, it was expected of the respondent-Dy. Director of Health Services, Akola Circle to issue appointment order to the petitioner immediately thereafter and in any case within a period of three months from the date of the receipt of the candidature of the petitioner for being appointed as a bonded candidate.

12. In case, if the respondents were not in a position to give appointment to the petitioner, the name of the petitioner was required to be redirected to the respondent no.2, who in turn shall release the candidature of the petitioner for not being appointed as a bonded candidate so as to release him from the obligation of the Bond. The aforesaid inference can be drawn from Clause 7 of the Government Resolution dated 08.02.2008 which is admittedly governing the issue before us.

13. It appears that after the candidature of the petitioner was forwarded by the respondent no.2 to the respondent no.6, the respondent no.6 in their affidavit has stated that their record does not reflect that the petitioner was issued any appointment order as a bonded candidate within a period of three months or any reasonable period thereafter.

14. The respondent no.2-Director of Medical Education and Research so also the respondent no.6-Director of Health Services, in categorical terms are coming out with a plea that even if the petitioner at the relevant time was not given appointment as a bonded candidate, still he is duty bound with the conditions of Bond, in view of the Government Resolution dated 08.02.2008.

15. The aforesaid contentions of the respondent no.2 and respondent no.6 are liable to be rejected as such claim of the aforesaid respondents go contrary to the Clause No.7 of the Government Resolution dated 08.02.2008 which contemplates the procedure to be adopted in case if a bonded candidate is not given appointment within a period of three months from the date of his candidature being sponsored. The fact remains that the petition is pending since 2018 and the petitioner has passed out the final MBBS degree course examination in 2011 and till this date the petitioner has not been issued any appointment order as a bonded candidate.

16. In view of aforesaid conduct of the respondents, rightly so claimed by the counsel for the petitioner that he was prompted to approach the Government saying, he is willing to deposit the bond amount.

17. Even if the petitioner has come out with a plea that he is willing to deposit the bond amount of Rs. Five lakhs, the fact remains that such claim of the petitioner has to be evaluated in the light of the conditions incorporated in the Government Resolution dated 08.02.2008. It was expected of the respondent no.2 to act in accordance with the aforesaid Government Resolution, particularly Clause 7 thereby releasing the petitioner from the bond, however the respondent no.5-Dean has proceeded to issue the impugned communication whereby demanding interest which in any case is not permissible. Such interest is demanded on the bond amount of Rs.Five lakhs. In view of aforesaid Government Resolution dated 08.02.2008, the respondents are not entitled to claim the interest particularly when they are not even entitled to claim the Bond Money from the petitioner.

18. Rather, it was expected of the respondent no.2 to issue forthwith a communication by releasing the petitioner from the obligations as are reflected in the Bond executed by him for its failure to provide employment as a bonded candidate.

19. That being so, the claim put-forth by the respondents cannot be accepted. As such, we deem it appropriate to allow the present writ petition in terms of prayer clause (a). We hereby quash and set aside the communication dated 12.03.2018 issued by the

respondent no.5, produced at Annexure-F to the petition and we direct that in any case by **30.06.2024** the bond release certificate be issued in favour of the petitioner.

20. Rule is made absolute in aforesaid terms with no order as to costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

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