



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

WRIT PETITION NO.5620/2024

Kiran Ganesh Waghmare and others Vs. 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

Mr. Shekhar Dhengale, Advocate for petitioners.
Mr. N.S.Rao, AGP for respondent nos.1 to 3.

CORAM : BHARATI DANGRE & ABHAY J. MANTRI, JJ.
DATE : SEPTEMBER 24, 2024.

Heard.

2. The petitioners, despite securing higher marks have not been issued written appointment orders and the reason for doing so can be discerned from the list of the ineligible candidates published by the Health Department, Zilla Parishad, Akola. Amongst 22 candidates, who have been declared ineligible, one candidate has conveyed his refusal but, as far as others are concerned, it is clearly stipulate that in the wake of the educational qualifications prescribed in the Maharashtra Zilla Parishad District Services (Recruitment) Rules, 1967 and in specific Appendix-5A, since the candidates are possessing a degree or diploma fall or are in possession of qualification of general Degree of Bachelor of Science (Nursing) they have made to be invalid. The learned counsel Mr. Dhengale by relying upon the decision in case of ***Jyoti K.K. V. Kerala Public Service Commission*** reported in ***AIR ONLINE 2002 SC 320***, that higher qualification presupposes acquisition of lower qualification and by applying the said principle the degree holders, who

were otherwise held to be ineligible and the diploma holders were held to be eligible, the said decision was struck down.

3. Let Mr. Rao to obtain necessary instructions in that regard. He shall also take necessary instructions as to how many posts of Midwifery/Auxiliary Nurse are vacant as on date.

4. Re-notify to 1st October, 2024.

(ABHAY J. MANTRI, J.)

(BHARATI DANGRE, J.)

Mukund Ambulkar