



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4625 OF 2024

Dr. Sainath Vitthalrao Kunte .. Petitioner

Versus

The Union of India and others .. Respondents

Shri Sanket S. Shinde, Advocate for the Petitioner.

Shri S. K. Kadam, Advocate for the Respondent No. 1.

Ms. Nikita N. Gore, Advocate for the Respondent No. 2 through V.C.

Shri V. R. Dhorde, Advocate for the Respondent No. 3.

**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

DATE : 04TH MARCH, 2025.

ORDER :

. Heard both sides finally considering exigency for the petitioner as he is a student of M. D. (Anesthesia) and wants to fill in examination form for further studies.

2. The petitioner is seeking declaration that diploma in anesthesia acquired by him is valid qualification for pursuing post graduation and for getting exemption of one year.

3. It is the case of the petitioner that he completed his M.B.B.S. and thereafter secured admission for post graduation diploma in the year 2016, which was conducted by the respondent No. 3/College of Physicians and Surgeons, Mumbai.

He underwent diploma for two years. Thereafter, he appeared for NEET (PG). He was admitted to M. D. (Anesthesia) in Late Vilasrao Deshmukh Government Medical College, Latur on 10.09.2023. Having acquired post graduation diploma, he was entitled to exemption for one year from total length of post graduation, but apprehending that he is not likely to get the exemption, he approached this court.

4. Learned counsel Mr. Sanket Shinde for the petitioner submits that when the petitioner was admitted to post graduate diploma course in the year 2016, there was recognition to it by the competent authority. He relied on notification dated 17.10.2017. He would further submit that Maharashtra Medical Council, Mumbai recognized diploma in anesthesiology acquired by the petitioner from the College of Physicians and Surgeons, Mumbai and certificate to that effect was issued. The recognition was withdrawn by notification dated 22.01.2018. The petitioner is entitled to get exemption for one year. He would rely upon draft Post Graduate Medical Education Regulations of 2021 and more specifically to clause No. 12.1. He has also placed reliance on the judgment passed by the coordinate bench in the matter of **Anita Kishanrao Videkar Vs. Union of India and others in Writ Petition No. 5343 of 2018 with other connected writ petitions dated 24.02.2021** to support the submissions. Our attention is adverted to Exhibit – G.

5. Per contra, Mr. Sahebrao Kadam, learned counsel appearing for the respondent No. 1 has placed on record the Post

Graduate Medical Education Regulations of 2023 issued by the National Medical Commission. He would submit that notification dated 17.10.2017 would be of no assistance to the petitioner. The recognition of diploma in anesthesia was revoked vide notification dated 22.01.2018. Hence, the petitioner is not entitled to get benefit of post graduate diploma. It is further submitted that the ratio laid down in the judgment of the coordinate bench, which is being relied by the petitioner cannot be made applicable as facts in those cases were totally different.

6. We have considered the submissions of both sides. The petitioner has relied on the draft regulations of 2021. We prefer to rely on Regulation of 2023 issued by the National Medical Commission. As per its clause No. 2.1, duration of post graduate, broad speciality qualifications would be of three years. However, in case of students having recognized post graduate diploma course of two years in the same subject would get exemption of one year. The petitioner is seeking benefit of this particular provision as he acquired post graduate diploma in anesthesiology from College of Physicians and Surgeons, Mumbai. A certificate to that effect was issued on 14.07.2018.

7. The question to be decided in this matter is whether the diploma acquired by the petitioner is recognized one or not in the teeth of notification dated 22.01.2018.

8. The petitioner completed his post graduate diploma on or about July 2018. When he was on the verge of completion of

diploma, notification came to be issued on 22.01.2018 by the Department of Health and Family Welfare, Government of India. By this notification entries appearing in first schedule of Indian Medical Council Act, 1946 under the heading of College of Physicians and Surgeons, Mumbai were deleted, meaning thereby diploma in anesthesia ceased to be recognized medical qualification. However, rider was that, if the recognition was granted by the College of Physician and Surgeon, Mumbai on or after December 2009, then the derecognition is inconsequential. The purport of this notification is that students who have already acquired diploma in Anesthesia on or after December 2009 is to be treated as recognized diploma holder.

9. When the notification was brought into effect petitioner was under going the diploma and it cannot be said that he was granted the qualification concerned. Hence his qualification cannot be saved. Due to notification dated 22.01.2018 post graduation diploma of the petitioner is rendered unrecognized. As per Clause 2.1 of Notification of 2023, he is not entitled to claim exemption for one year for completing post graduation of his M. D.

10. The certificate dated 14.07.2018 issued by the Maharashtra Medical Council, Mumbai would not enure to his benefit as before issuing the same, the recognition was withdrawn by notification dated 22.01.2018 by the competent authority. We find substance in the submission of Mr. Sahebrao Kadam, learned counsel for the respondent No. 1.

11. The petitioner has also placed reliance on notification dated 17.10.2017. When he was admitted for post graduation diploma in 2016, there was no recognition to the said qualification. It was granted recognition by notification dated 17.10.2017 and revoked before the petitioner could complete diploma vide notification dated 22.01.2018. Unfortunately, the petitioner cannot get benefit of either of notifications.

12. The petitioner has relied on the judgment of the coordinate bench passed in the matter of **Anita Kishanrao Videkar Vs. Union of India and others** (supra) and other connected matters. Those petitioners had acquired post graduation diploma in Medicine and Surgery conducted by the College of Physician and Surgeon, Mumbai. By notification dated 02.12.2009 post graduation diploma courses were derecognized and this situation continued till 17.01.2017. By notification dated 17.01.2017, the recognition was restored with retrospective effect. They were permitted to appear for entrance examination for DNB. After clearance of CET, notification dated 22.01.2018 was issued once again derecognizing the diploma. In this context the coordinate bench found merit in their case and they were held entitled for the exemption of one year by treating their qualification to be valid. Those petitioners held to be qualified when they had appeared for CET. The requisite recognition was in place when they were admitted for diploma course.

13. However, in the matter at hand there was no recognition to

the post graduation diploma when the petitioner was admitted in the year 2016. The recognition was granted and subsequently withdrawn when he was to complete the diploma. Considering the distinguishing facts, we are not inclined to give benefit of the judgment to the petitioner.

14. We find no substance in the petition. The writ petition is dismissed.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]

bsb/March 25