

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

WRIT PETITION NO.11937 OF 2024

1. Dr.Padmsinha Sakhare,
Occ.Medical Officer, R/o.Pune,

2. Dr.Rupesh Mohanlal Agarwal,
Occ.Medical Officer, R/o.Pune.

Petitioners

versus

1. The State of Maharashtra through
Secretary, Public Health Department,
Mumbai.

2. The Director of Health Services,
Maharashtra State, J.J.Hospital compound,
Mumbai.

3. Municipal Commissioner,
Pune Municipal Corporation, Pune.

Respondents

Mr.Vinod P.Sangvikar, Advocate for Petitioners.

Mr.N.C.Walimbe, Additional G.P with Smt.G.R.Raghuwanshi, AGP, for Respondents
1 and 2 State.

Mr.Rishikesh M.Pethe, Advocate for Respondent no.3.

**CORAM : SHREE CHANDRASHEKHAR &
AARTI SATHE, JJ.**

DATE : 21st August 2025

PC :

Dr.Padmsinha Sakhare and Dr.Rupesh Agarwal seek to challenge the provisions under Clauses 4.1, 4.3, 4.4, 4.5 and 4.7 of the Government Resolution dated 7th August 2012. They have made an alternative prayer to the effect that the provisions under the Government Resolution dated 7th August 2012 do not apply to them and they are entitled to exercise an option for non-practicing allowance or to carry on private practice while serving under the Pune Municipal Corporation.

2. The petitioners have stated that they obtained the qualifications of M.B.B.S degree and entered in service under Pune Municipal Corporation around February-March 2013. The petitioner no.1 was posted at USG Department in Pune hospitals

and the petitioner no.2 is working at Gangaram Karne Hospital, Yerwada. They have stated that the government is unable to provide medical services to the large population of society and, therefore, there should not be any prohibition to the government doctors against carrying on private practice to provide medical assistance and facilities to general public. They are aggrieved by the restrictions contained in Clauses 4.1, 4.3, 4.4, 4.5 and 4.7 of the Government Resolution dated 7th August 2012 under which a complete ban has been imposed on private practice by the doctors working under Government of Maharashtra and its hospitals. The learned counsel for petitioners referred to the orders passed by this Court in (a) Writ Petition No.11548 of 2014 and connected matters dated 16th February 2015 (b) Writ Petition No.723 of 2015 and connected matters dated 29th June 2015 (c) Writ Petition No.4161 of 2022 and connected matters dated 13th April 2022 and (d) Writ Petition No.7760 of 2022 dated 8th July 2022 to impress upon this Court to grant indulgence in the matter.

3. The learned counsel for the petitioners has also referred to the judgment of Hon'ble Supreme Court in *"Improvement Trust Ludhiana v. Ujagar Singh & ors."* (2010)6 SCC 786 to submit that delay and laches on the part of the petitioners is not fatal and an interim order as passed by this Court in aforementioned cases may be granted to the petitioners. In *"Improvement Trust Ludhiana"*, the Hon'ble Supreme Court observed that delay may be condoned in cases where *mala fides* are writ large on the conduct of the aggrieved party and an attempt should be made to allow the parties to contest the matter on merits. Quite clearly, this observation in *"Improvement Trust Ludhiana"* came in a different set of facts. Not only there is no explanation by the petitioners for approaching this Court about 10 years after the Government Resolution dated 7th August 2012 was in force, it seems that one batch of the doctors immediately came to this Court by filing writ petitions in the year 2014 and an interim order was passed. The petitioners have not indicated whether those writ petitions are still pending and the interim orders passed on 16th February 2015 and 29th June 2015 have been continued. This is a matter of judicial propriety that without examining the pleadings in the previous

writ proceedings similar order should not be extended to another set of persons who have come to the Court after more than 10 years. The conduct of the petitioners in approaching this Court 10 years after the said Government Resolution was in force indicates that they had approached this Court only after they could know that “some order” was passed by this Court in “some cases”.

4. This Court is quite alive that the delay and laches on the part of the aggrieved party shall be an important aspect not to exercise the jurisdiction under Article 226 of the Constitution of India unless the aggrieved party demonstrates that (i) he is entitled for a similar relief; (ii) the cause of action is still continuing and (iii) he is entitled to similar treatment. No such statement has been made by the petitioners in the writ petition. Besides that, this Court is of the opinion that the very nature of the directions sought by the petitioners who are working as doctors under different government hospitals is improper. A government employee cannot seek a direction from the writ Court that he should be permitted to carry on private service while working at the same time under the government. The exercise of powers under Article 226 of the Constitution of India is in furtherance of the justice, equity and good conscience and not for such a matter in which a person comes to the Court for a personal unethical benefit and challenges the provisions in the Government Resolution dated 7th August 2012 which were framed in public interest.

5. Writ Petition No.11937 of 2024 is dismissed.

(AARTI SATHE, J.)

(SHREE CHANDRASHEKHAR, J.)