

rajshree

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

CIVIL WRIT PETITION NO.277 OF 2025

Dr.Rutuja Krishna Mahalunge & Ors.] .. Petitioners

vs.

The Government of Maharashtra]

Through the Chief Secretary] .. Respondents

Mr.Sachin Chandan, for the Petitioners.

Ms.P.B. Chavan, AGP for the State.

Mr.Vijay Patil, for Respondent No.3-UHC.

**CORAM : BHARATI DANGRE &
ASHWIN D. BHOBE, JJ**

DATE : 13th JANUARY, 2025.

P.C.

1. The four Petitioners, appointed as Medical Officers on contractual basis for a period of six months by an order dated 12/01/2021, were posted in the Urban Health Centre.

By giving technical break of one day, their services were continued.

2. As far as Petitioner No.1 is concerned, she possess qualification of BDS, whereas, the other three Petitioners are equipped with BAMS degree.

The services of the Petitioners were continued upto 07/01/2025 is the specific contention of the Petitioners and they continue to work on the same terms and conditions.

3. In contrast to the above submission, the learned counsel representing Respondent No.3 categorically state that the appointments were effected as stop gap arrangement during Covid, but thereafter a requisition was sent for filling up of 9 posts of Medical Officers with qualification of MBBS/BAMS (MBBS qualification to be given preference) for a period of one year on the honorarium of Rs.55,000/-.

Undisputedly this appointment is also on contractual period of one year, but a Selection Committee was constituted for effecting the selection and the list of 9 candidates was published.

4. The learned counsel for the Corporation did not dispute that the Petitioners were appointed in the year 2021 and continued from time to time on ad-hoc basis, but he would submit that all the Petitioners participated in the advertisement published by the Corporation inviting applications for 9 posts of Medical Officers. However, according to Respondent No.3, there can be no quarrel about the proposition that an ad-hoc employee cannot be replaced by ad-hoc employee, but willingly the Petitioners participated in the fresh selection process initiated by the Corporation and that is the precise reason why they cannot now turn back and call into question the selection process itself.

In any case, it is submitted before us that Petitioner No.1 is BDS and therefore she cannot be appointed as a Medical Officer and the learned counsel for the Petitioners concede to this position.

5. Our attention is also invited to the waiting list and we find Dr. Monika Jadhav (Petitioner No.3) and Dr. Vaishali Naik (Petitioner No.2) to be listed at Sr. No.1 and 2 respectively of the waiting list, whereas, Dr.Jyotsna Shinde, Petitioner No.4 is placed at Sr.No.4 in the waiting list, but above her is Dr.Gayatari Dhaktode, a candidate selected in the fresh selection process, who had secured more marks than Dr.Jyotsna Shinde.

As far as Dr.Monika Jadhav and Dr.Vaishali Naik are concerned, who have occupied Sr. No.1 and 2 of the waiting list, we are informed that three posts of Medical Officers have fallen vacant, since two of the doctors have chosen to resign and one did not join his post.

6. We have a fair statement from the learned counsel that Petitioners Dr.Monika Jadhav and Dr.Vaishali Naik shall immediately be accommodated against the said two posts, but the third post which is lying vacant would be offered to Dr. Gayatri Dhaktode, who has now been selected by following due process of law, but if she refuse to join, then Dr. Jyotsna Shinde, Petitioner No.4 shall be offered that post.

7. We must clarify that for any reason out of the remaining 6 posts, if any of the post fall vacant, Dr. Jyotsna Shinde shall be immediately appointed on the said post.

With the aforesaid directions and understanding reached, Writ Petition is disposed off.

No order as to costs.

(ASHWIN D. BHOBE, J.)

(BHARATI DANGRE, J.)