

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2997 OF 2025

Sachin Prabhu Pawar

...Petitioner

Versus

State Of Maharashtra Throu. Its Ministry
Of Medical Education And Drugs And Ors

...Respondents

Mr. V.M. Thorat a/w Adv. Amar Bodke i/b M.V. Thorat, for the Petitioner.

Ms. S.A. Prabhune, AGP for State.

Mr. Brijesh Kiran Rathod, for the Respondent No. 2.

Ms. Priyanka N. Patil, for the Respondent No. 3.

CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE : 05 MARCH 2025

P.C.:

1. Prima facie we find substance in the contentions as urged on behalf of the petitioner that the appointment of respondent no. 3 as returning officer for the election to be held of the Maharashtra Medical Council is not in terms of the requirement of Rule 6 of the Maharashtra Medical Council Rule 1967, for two reasons; firstly that respondent no. 3 is the person who is in fact discharging duties as the In-charge Registrar of the respondent no. 2 - Maharashtra Medical Council and as such was required to undertake and discharge several duties and functions under the Maharashtra Medical Council Act and the Rules thereunder, including in regard to the enrollment and maintaining register of the medical practitioners, who would be the candidates participating in the election, either by contesting the election or by voting in the said election. It is

for such reason, a person who is actively involved in the administration of respondent no. 2 cannot serve as an independent election officer to conduct a free and fair election, is the contention of the petitioner.

2. However, before we proceed to pass appropriate orders on the present petition, we are of the opinion, that the appointing authority namely the Deputy Secretary of State Government who has issued impugned notification dated 13 October 2023 considering the position in law on the purport and applicability of Rule 6, needs to take an appropriate stand on an affidavit, so that we can proceed to hear the parties and pass further appropriate orders.

3. In the event, the respondent no. 3 is not discharging function as the Registrar of the Maharashtra Medical Council and if she is no manner, whatsoever concerned and involved with the functioning of the Maharashtra Medical Council, the same be also clarified and stated in such affidavit.

4. Stand over to **13th March 2025 'High on Board'**

5. The parties to act on authenticated copy of this order.

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]