



W.P. No.42636/2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 11.12.2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.42636 OF 2025

AND

W.M.P. NOS.47686 & 47688 OF 2025

1. R.Vignesh
2. Govardhanan
3. Isaivannan
4. Bharathkumar
5. Veeranantha
6. Vevekavathi
7. Senthamizh Selvi V
8. M.Priyadersini

.. Petitioners

- Vs -

1. Union Territory of Puducherry
Rep. By Chief Secretary
Main Building, Chief Secretariat
Puducherry 605 001.
2. The Secretary
Government of Puducherry
Department of Health & Family Welfare Services
Main Block of Old Maternity Hospital Complex
Victor Simonel Street, Puducherry 605 001.
3. The Indira Gandhi Medical College &
Research Institute rep. By its Director
Vazhudhavur Road, Kathirkamam
Puducherry 605 009.



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4. Perunthalaivar Kamaraj Medical College

Society rep. By its Chairman
No.225, Vazhudavur Road
Kathirkamam, Thattanchavadi
Puducherry 605 009.

5. The Puducherry Examining Authority

Government of Puducherry
Chief Secretariat, Puducherry 605 001.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the 3rd respondent impugned Notification No.6794/IGMC&RI/Estt/A1/2025 dated 07.10.2025 and quash the same with respect to Clause VII “Method of Selection” alone and consequently direct the respondents to conduct competitive examination through the 5th respondent for selection of candidates for appointment to the post of Nursing Officer in the 3rd respondent Institute.

For Petitioners : Mr. V.Vijayashankar

For Respondents : Mr. AR.L.Sundaresan, ASG
Assisted by Mr. Ravee Kumar
GP (Ponndy) & Mr. V.Vasantha
Kumar, AGP (Pondy)

ORDER

The present writ petition is directed against Clause VII of the notification dated 07.10.2025 issued by the 3rd respondent which relates to



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the “Method of Selection” to the post of Nursing Officer in the 3rd respondent institute and prayer is made to quash that portion of the notification with a further prayer to direct the 3rd respondent to call upon the 5th respondent to conduct competitive examination for filling up the said post.

2. It is the case of the petitioner that the 3rd respondent issued notification dated 9.6.2017 for contractual engagement of staff nurse and nurse in which written competitive examination was prescribed. Further vide notification dated 16.7.2019, for filling up the post of nurse and ward attendant, the 3rd respondent had issued notification by prescribing written competitive exam.

3. It is the further case of the petitioner that the 3rd respondent issued memorandum of draft proposal dated 17.3.2023 for amendment of the recruitment rules relating to the nursing cadre and, thereafter, on 14.3.2025, the 3rd respondent passed the recruitment rules for the posts of Upper Division Clerk, which is a Group C post, for which also method of direct recruitment through competitive examination was prescribed.



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4. It is the further case of the petitioner, vide G.O. Ms. No.65 dated 19.8.2025, the 5th respondent was constituted by the Government of Puducherry for conducting examination for direct recruitment for filling up the vacancies in Group 'C' and Group 'B' (Non-Gazetted cadre) in various departments with a view to streamline the process of direct recruitment.

5. It is the further case of the petitioner that the 3rd respondent issued the impugned notification dated 7.10.2025 calling for applications from eligible candidates for filling up the posts of 'Nursing Officer' in the 3rd respondent institute and the petitioners are fully eligible to apply for the said post, having the requisite qualifications and within the prescribed age limit.

6. It is the further case of the petitioners that Clause VII of the impugned notification provides for the "Method of Selection" in which it prescribes that the selection shall be on the basis of maximum of 120 marks with weightage being given to the marks secured in i) Academic qualification, ii) Employment Exchange registration seniority and iii) incentive marks for Covid-19 duty. Clause VII (a) and (b) of the notification further provides that 50% of marks obtained in higher secondary examination or equivalent and 50% of marks obtained in degree in nursing/diploma in General Nursing and



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Midwifery or equivalent subject after deducting 5% for every additional attempt will be given weightage, in all totaling to 100 marks.

7. It is the further case of the petitioners that clause VII (c) of the notification further provides that 1.5 marks are to be awarded for every completed years from the date of registration of degree/diploma qualification of nursing in the employment exchange, Puducherry upto the last date for receipt of duly filled in application subject to maximum of 15 marks and lastly clause VII 9d) provides for incentive of 5 marks for COVID-19 duty. Therefore, the marks cumulatively aggregated will be calculated to the total of 120 marks and select list is to be drawn from the overall merit list by following the rule of reservation.

8. It is the case of the petitioners that the selection process prescribed under the impugned notification is flawed as through the selection process, weightage is being given to academics, employment exchange seniority and COVID-19 duty, which will not bring the best of the talent of the meritorious candidates as academic performances vary as per different streams of education. Though it is the uniform pattern that recruitment should be only by way of competitive examination and the rules of the 3rd respondent also



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provides for selection only through competitive examination and the 5th respondent has been specifically established for the said purpose, the present impugned notification has been issued.

9. It is the further case of the petitioners that they gave representation to respondents 1 to 3 and other authorities requesting them to conduct qualifying entrance exam for nursing officer recruitment by pointing out several grounds and also given representation to the Lieutenant Governor of Puducherry on 11.10.2025. Similar representation dated 14.10.2025 was also given by a Human Rights Organization to the Lieutenant Governor and respondents 2 and 3 herein on 14.10.2025, however, the same has not elicited any action from the respondents and, therefore, left with no other alternative, the present writ petition has been filed.

10. Learned counsel appearing for the petitioners submits that Clause VII, viz., “Method of Selection” of the impugned notification dated 7.10.2025 is arbitrary, contrary to statutory provisions and violative of Articles 14, 16, 19 and 21 of the Constitution.



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11. It is the further submission of the learned counsel that Nursing Officer is a Group 'B' post for which recruitment should be through competitive examination or equivalent merit-based assessment, however, the impugned notification solely relies on the academic marks, employment exchange seniority and COVID-19 incentive marks without any competitive examination. In this regard, pointing out the ratio laid down by the Courts in various decisions relating to recruitment in public employment, it is submitted that such recruitment should be unblemished, meritocratic and in strict accordance with established rules and, therefore, competitive examination alone ensures such a process and the act of the respondents in resorting to other forms of weightage without resorting to competitive examination is grossly arbitrary and perverse.

12. It is the further submission of the learned counsel that the rules of the 3rd respondent institute relating to recruitment published by the 3rd respondent clearly prescribed that for filling up the Group 'B' posts, viz., Nursing Officer, would be only on the basis of Recruitment Rules, 2023, which prescribe competitive examination and when the rules have been adopted by the 3rd and 4th respondents, it becomes imperative for the said respondents to follow the said rules in the matter of recruitment of Nursing Officers and not



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following the same is clearly an abdication of the authority and is an arbitrary and perverse act requiring the interference from this Court.

13. It is the further submission of the learned counsel that the grant of weightage marks is clearly against the ratio laid down by the Apex Court, which mandate that recruitment should be through open advertisement and competitive examination and that employment exchange seniority should not override merit and, therefore, granting of weightage marks for employment exchange seniority and COVID-19 duty clearly discriminates the group of persons and restricting the benefit to a section of persons, who worked in Governmental institutions.

14. It is therefore the submission of the learned counsel that inequality in consideration is perpetuated by the act of the respondents in giving weightage marks and, therefore, clause VII mandating the “Method of Selection” is against the settled legal principles and ratio laid down by the Courts and narrows the field for a few candidates and gravely undermines the principle of level playing field between various persons, who compete for the said post.



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15. In fine, it is the submission of the learned counsel that the non-holding of competitive examination as a method of selection for Nursing Officer is purely for extraneous consideration to benefit a few and there is a huge possibility of nepotism in the selection process, paving way for selection of candidates by undermining merit consideration and, therefore, the said clause VII in the impugned notification deserves to be interfered with by this Court.

16. In support of the aforesaid submissions, learned counsel placed reliance on the following decision :-

i) Union of India thro' Govt. of Pondicherry & Anr. – Vs – V.Ramakrishnan & Ors. (2005 (8) SCC 394);

ii) Abraham Jacob & Ors. – Vs – Union of India (1998 (4) SCC 65); and

iii) Chandigarh Administration thro' The Director Public Instructions (Colleges), Chandigarh – Vs – Usha Kheterpal Waie & Ors. (2011 (9) SCC 645).

17. Per contra, learned Addl. Solicitor General appearing for the respondents submitted that the impugned recruitment notification is issued strictly in accordance with the recruitment rules and that it has been duly approved by the competent authority of the Government of Puducherry. It is



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the further submission of the learned Addl. Solicitor General that the post of Nursing Officer is a Group 'B' (non-gazetted post) and the method prescribed for recruitment is by Direct Recruitment.

18. It is the further submission of the learned Addl. Solicitor General that the selection method notified is based on merit of marks, which is a merit based selection and, therefore, the grievance espoused by the petitioners are grossly misconceived. It is further submitted that the marks, as weightage, which is given for COVID-19 duty is based on the directions issued by this Court in W.P. No.5583/2024 and, therefore, the contention of the petitioner is patently flawed.

19. It is the further submission of the learned Addl. Solicitor General that the method of selection on the basis of marks is neither arbitrary nor discriminatory and it is an established practice within the Union Territory of Puducherry and it is further submitted that the previous recruitment carried out in the year 2012 was also carried out in the same pattern, viz., mark-based selection procedure without written test and, therefore, it is not for the first time that such a procedure is followed, as put forth by the petitioners.



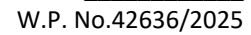
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20. It is the further submission of the learned Addl. Solicitor General that even in the recruitment for the very same post conducted in the year 2023, mark based selection was adopted and there was no complaints of any sort in the said selection process. Therefore, the methodology adopted by the respondents ensures uniformity, fairness and parity with other similar recruitments, which were undertaken by the Health Department of the Government of Puducherry.

21. It is the further submission of the learned Addl. Solicitor General that the extant recruitment rules for the post of Nursing Officer do not mandate that selection is to be made exclusively through written competitive examination. Therefore, when the rules do not provide for written competitive examination, and the rules provide discretion to the appointing authority to prescribe a merit-based selection process, considering the administrative exigencies, the contention to the contra advanced on behalf of the petitioners is wholly misconceived.

22. It is the submission of the learned Addl. Solicitor General that the allegation of the petitioners that the recruitment should be by way of written competitive examination on the basis of the Recruitment Rules is erroneous,



23. There is no right vested on the petitioner to seek for a particular mode of selection and it is the policy of the Government, which determines the mode of selection and when the Rules do not specifically spell out that the recruitment should be based on written competitive examination, it is for the appointing authority to decide the manner in which the recruitment should be taken up. All the contentions put forth on behalf of the petitioners are mere allegations without any materials to substantiate their claim and in the absence of such materials, necessarily the case of the petitioners deserve to be dismissed. Accordingly, learned Addl. Solicitor General prays for dismissal of the present writ petition.

i) *P.U.Joshi & Ors. – Vs – Accountant General, Ahmedabad & Ors. (2003 (2) SCC 632);*

ii) *Directorate of Film Festivals & Ors. – Vs – Gaurav Ashwin Jain & Ors. (2007 (4) SCC 737);*



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iii) *Chandigarh Administration thro' The Director, Public Instructions (Colleges), - Vs – Usha Kheterpal Waie & Ors. (2011 (9) SCC 645);*

iv) *The State of Maharashtra & Anr. – Bhagwan & Ors. ((MANU/SC/0025/2022 :: 2022 Live Law (SC) 28).*

25. This Court gave its careful consideration to the submissions advanced by the learned counsel on either side and perused the materials available on record.

26. Before venturing into the merits of the issue, the law on the manner in which the recruitment process is to be taken up, when such recruitment is by way of direct recruitment, requires consideration.

27. In ***Chandigarh Administration thro' The Director, Public Instructions (Colleges), - Vs – Usha Kheterpal Waie & Ors. (2011 (9) SCC 645)***

the Apex Court held that it is within the domain of the rule making authority or the appointing authority to prescribe the mode of selection and minimum qualification for retirement. In this context, the Apex Court held thus :-

“22. It is now well settled that it is for the rule-making authority or the appointing authority to prescribe the mode of selection and minimum qualification for any



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recruitment. Courts and tribunals can neither prescribe the qualifications nor entrench upon the power of the concerned authority so long as the qualifications prescribed by the employer is reasonably relevant and has a rational nexus with the functions and duties attached to the post and are not violative of any provision of Constitution, statute and Rules. [See J.Rangaswamy vs. Government of Andhra Pradesh - 1990 (1) SCC 288 and P.U. Joshi vs. Accountant General - 2003 (2) SCC 632]. In the absence of any rules, under Article 309 or Statute, the appellant had the power to appoint under its general power of administration and prescribe such eligibility criteria as it is considered to be necessary and reasonable.”

28. Similar view has been adumbrated by the Apex Court as early as in the decision in ***P.U.Joshi & Ors. – Vs – Accountant General, Ahmedabad & Ors. (2003 (2) SCC 632)***, wherein, the Apex Court held thus :-

“10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of Policy and within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the Statutory



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Tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a Government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service.”



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29. The scope of judicial review in matters relating review of Governmental policy has been discussed by the Apex Court in ***Directorate of Film Festivals & Ors. – Vs – Gaurav Ashwin Jain & Ors. (2007 (4) SCC 737)***, wherein the Supreme Court held thus :-

“16. The scope of judicial review of governmental policy is now well defined. Courts do not and cannot act as Appellate Authorities examining the correctness, suitability and appropriateness of a policy. Nor are courts Advisors to the executive on matters of policy which the executive is entitled to formulate. The scope of judicial review when examining a policy of the government is to check whether it violates the fundamental rights of the citizens or is opposed to the provisions of the Constitution, or opposed to any statutory provision or manifestly arbitrary. Courts cannot interfere with policy either on the ground that it is erroneous or on the ground that a better, fairer or wiser alternative is available. Legality of the policy, and not the wisdom or soundness of the policy, is the subject of judicial review. [vide : Asif Hameed v. State of J&K MANU/SC/0036/1989 : [1989]3SCR19 ; Shri Sitaram Sugar Co. Ltd. v. Union of India MANU/SC/0249/1990 : - [1990]1SCR909 ; Khoday Distilleries v. State of Karnataka MANU/SC/0242/1996 : AIR1996SC911 , Balco Employees Union v. Union of India MANU/SC/0779/2001 : (2002)ILLJ550SC , State of Orissa v. Gopinath Dash MANU/SC/2387/2005 : AIR2006SC651 and Akhil Bharat



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Goseva Sangh v. State of Andhra Pradesh
MANU/SC/1795/2006 : (2006)4SCC162].”

30. Recently, in ***The State of Maharashtra – Vs – Bhagwan & Ors.*** (***MANU/SC/0025/2022 :: 2022 Live Law (SC) 28***), the right of the employees of autonomous bodies to claim service benefits on par with Government employees was dealt with, wherein the Apex Court held thus :-

*“10.2 In the case of **T.M. Sampath and Ors. v. Secretary, Ministry of Water Resources and Ors. (supra)**, the employees of National Water Development Agency (NWDA), an autonomous body under the aegis and control of Ministry of Water Resources claimed the pensionary benefits on par with the Central Government employees. Refusing to allow such pensionary benefits to the employees of NWDA on par with the Central Government employees, in paragraphs 16 and 17, it was observed and held as under:*

*“16. On the issue of parity between the employees of NWDA and Central Government employees, even if it is assumed that the 1982 Rules did not exist or were not applicable on the date of the OM i.e. 1-5-1987, the relevant date of parity, the principle of parity cannot be applicable to the employees of NWDA. NWDA cannot be treated as an instrumentality of the State Under Article 12 of the Constitution merely on the basis that its funds are granted by the Central Government. In *Zee Telefilms Ltd. v.**



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Union of India [MANU/SC/0074/2005 : (2005) 4 SCC 649], it was held by this Court that the autonomous bodies having some nexus with the Government by itself would not bring them within the sweep of the expression "State" and each case must be determined on its own merits. Thus, the plea of the employees of NWDA to be treated on a par with their counterparts in the Central Government Under Sub-rule (6)(iv) of Rule 209 of the General Financial Rules, merely on the basis of funding is not applicable.””

31. Therefore, from the aforesaid decisions, there could be no quarrel with the fact that insofar as recruitment is concerned, based on the rules, which is in force, it is within the domain of the rule-making authority/appointing authority to decide the manner in which the process of recruitment is to be taken up and the posts filled. Further, the scope of judicial review in such matters is very limited and unless arbitrariness and perversity is shown, the Courts shall not enter into the said controversy by exercising its powers of judicial review.

32. In the present case, it is fairly accepted on behalf of the respondents that on the date of the notification, the prescription of recruitment is through direct means. However, there is no prescription in the



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with.

rules as to the manner in which the said direct recruitment is to be proceeded with.

33. It is borne out by record that draft rules have been framed for recruitment to various posts, including the posts of Nursing Officer in which written competitive examination has been prescribed as the mode of recruitment. However, the said draft rules has not been approved and published by the Government and, therefore, placing any reliance on the said rules to claim that the post of Nursing Officer should be filled up only on the basis of written competitive examination is grossly misconceived.

34. When the rules do not prescribe a specific method of selection except spelling out that it should be direct recruitment, it is open to the appointing authority to decide the method by which the said posts are to be filled up so long as it is not arbitrary, perverse or unreasonable. When a policy decision has been taken to fill up the posts of Nursing Officers by adopting weightage method, which is given to all the persons irrespective of their status, then the said rule cannot be said to be erroneous or arbitrary and, more especially, as pleaded by the petitioners for ulterior purposes unless the petitioners are able to show the perversity or the ulterior purpose which is



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writ large on the said selection method. To allege is one thing and to establish the same is another thing. Mere allegation cannot be a tool to derail the whole selection process, which has otherwise not been questioned and more particularly when the earlier selection process of the year 2010 and 2023 have been undertaken on the same method, which is not controverted by the petitioners.

35. The weightage of marks is awarded to all persons who fulfills the qualifications and the merit is adjudged based on the marks which is obtained by the individual. Though it is the case of the petitioners that weightage marks is awarded for COVID-19 duty, which, according to them, is unreasonable, yet, as pointed out by the respondents, the said award is based on the directions of this court, which is only to appreciate and acknowledge the selfless service rendered by such persons during critical time. Different acts have to be weighed on different scale and different benefits need to be provided to acknowledge such acts and only in that backdrop, this Court has passed directions to give weightage marks to persons, who had rendered COVID-19 duty and without testing the said order before the appropriate higher judicial forum, the petitioners cannot claim that award of COVID-19



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marks is erroneous and, therefore, the said contention deserves to be dismissed.

36. On the whole, a careful perusal of the entire papers placed by the petitioners coupled with the contentions advanced on behalf of the petitioners, no substantial ground is made out to hold that the method of selection adopted by the respondents is perverse, arbitrary or unreasonable and the mere grievance of the petitioners cannot be a ground to set at naught the selection process, which is otherwise in order. Therefore, this Court is of the considered view that the process of awarding weightage marks devised as a mode of selection cannot be said to be flawed, arbitrary or perverse and, therefore, the same does not require any interference at the hands of this Court.

37. For the reasons aforesaid, the writ petition fails and the same is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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