



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

CRIMINAL WRIT PETITION NO. 1169 OF 2024

1. Shri. Pradeep S/o Shamrao More
Age 37 Years, Occu: Secretary of
State Level Association for Deaf
R/o: C-11/12, Viswa Building, Govind Nagar,
Malad (E), Mumbai-400 097.
2. Shaikh Mujahed Shaikh Nabi
Age : 36 Years; Occu: Social Worker
R/o: Choice Tailor, Gulshan Bagh,
Super market Road, Parbhani.
Taluka and District: Parbhani-431 401.

...Petitioners

VERSUS

1. State of Maharashtra
Through the Secretary of
Social and Welfare Department
Mantralaya, Mumbai.
2. State of Maharashtra
Through the Secretary of Home Department
Mantralaya, Mumbai
3. State of Maharashtra
Through the Chief Secretary of Public Health Department
Department of Public Health Administration, Mumbai.
4. Joint Director, of Public Health Department
Public Health Department, Mumbai
5. Deputy Director of Public Health Department
Public Health Department, Aurangabad.
6. District Civil Surgeon,
Civil Hospital, Jalna
Taluka and District : Jalna
7. Superintendent of Police, Jalna
Taluka and District : Jalna
8. Additional Chief Secretary, Public Health Department,

Public Health Administration, Mumbai

...Respondents

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Mrs. Rashmi Kulkarni h/f. Mr. S. S. Kurundkar, Advocate for the Petitioner
Mr. P. K. Lakhotiya, A. P. P for Respondent Nos.1-State

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CORAM : **SANDIPKUMAR C. MORE AND
ABASAHEB D. SHINDE, JJ.**

Reserved on : **04.02.2026**

Pronounced on : **25.02.2026**

JUDGMENT (PER : ABASAHEB D. SHINDE, J.) :

1. Heard.
2. Rule. Rule is made returnable forthwith. With the consent of the parties Writ Petition is taken up for final hearing at the stage of admission.
3. The petitioners have approached this Court by invoking the jurisdiction under Article 226 of the Constitution of India and have put forth the following main reliefs :

A) Be pleased to direct the respondent No.3 to register the FLR in pursuance to the complaints filed before the Hon'ble Lokayukta, Maharashtra for issuance of fake Disability Certificates in favour of Dr. Anand Deshmukh and against the medical officers of Jalna Civil Hospital who have been found guilty in the enquiry under the provisions of Indian Penal Code and also under the provisions Rights of Persons With Disability Act, 2016.

B) Be pleased to direct the respondents to grant sanction as per the provisions of Section 94 of the Rights of Persons With Disability Act, 2016.

C) Be pleased to direct the Respondent no. 3 to conduct the enquiry and submit the report as directed by the Hon'ble Lokayukta, Maharashtra vide order dated 27.9.2023 and give effect to the said order in its true letter and spirit.

D) Be pleased to direct the Respondent No.3 to initiate disciplinary

action against Dr. Prakash Ujagare under the Maharashtra Civil Services for major penalties.

E) Be pleased to quash the administrative order dated 2.3.2023, issued by the Respondent No.3 pardoning the delinquent doctor Shri. Prakash Ujagare with a mere warning for issuing fake and fabricated certificates.”

4. Learned Counsel for the petitioners submits that the petitioners are Divyang with 100% hearing disability. Petitioner No.1 is the Secretary of the State Level Association for Deaf (for short “SLAD”), whereas, Petitioner No.2 is a Member of the SLAD and is also the Secretary of the Parbhani District Association for Deaf and is a social worker. Learned Counsel for the petitioners submits that one Dr. Anand Deshmukh who is a medical practitioner and had been in service with various government hospitals had applied for the Distributorship of LPG distribution of Indian Oil Corporation, Jalna in pursuance of advertisement dated 29.09.2013. The said distributorship was reserved for a person with disability only. According to the learned Counsel for the petitioners the said Dr. Anand Deshmukh was in fact never a person with permanent disability and in order to acquire the dealership he in connivance with other government medical officers obtained a forged and fabricated medical certificate showing him to be a permanent disabled person with 42% disability. She would submit that on the basis of said forged and fabricated medical certificate he managed to acquire dealership from the Indian Oil Corporation. She would further submit that one Mr. Manoj Patwari, who infact was having 100% disability had applied for the same dealership

and had made grievance about said forged and fabricated disability certificate. She would submit that said Mr. Manoj Patwari infact had filed complaint before the Lokayukta, Maharashtra State seeking an enquiry into the said disability medical certificate issued in favour of Dr. Anand Deshmukh.

5. Learned Counsel for the petitioners would further submit that the record depicts that said Dr. Anand Deshmukh had obtained a forged and fabricated certificate for which she invited our attention to the communication dated 16.03.2017 issued by Respondent No.6- District Civil Surgeon, Civil Hospital, Jalna as well as communication dated 08.11.2016 issued by the Medical Officer, Class-II, Civil Hospital, Jalna. She would further submit that these two communications are sufficient to show that said Dr. Anand Deshmukh had obtained forged and fabricated disability certificate. She would further submit that the person, namely, Dr. B. L. Survase who had no authority to sign the said Medical Certificate in fact issued the same and therefore the said certificate could not have been used by said Dr. Anand Deshmukh. She would further submit that even the certificate signed by one Dr. Prakash Ujagare is erroneous and the same could not have been relied upon. She further submit that the complaint filed by said Mr. Manoj Patwari before the Lokayukta, Maharashtra State came to be disposed of by an order dated 08.05.2018.

6. Learned Counsel for the petitioners further submits that the petitioners therefore filed complaint before the Lokayukta in respect of same forged and fabricated certificates bearing Complaint No. LA/COM/3255/2021 (T-2). In the said complaint on 27.09.2023 the Lokayukta passed an order observing that, under the provisions of the Maharashtra Lokayukta and Upa-Lokayuktas Act, 1971 there is no power or authority vested with Lokayukta to direct to lodge FIR, however, the Lokayukta directed the Additional Chief Secretary, Public Health Department to hold an enquiry in the matter of fabricated certificates and take action in accordance with law. It is her contention that since nothing has been done by the Respondents therefore the petitioners are constrained to approach this Court.

7. Per contra, learned APP by relying on the affidavit in reply filed by Respondent Nos.3 and 8 would submit that pursuant to the complaint lodged by Mr. Manoj Patwari the Lokayukta, issued a communication dated 23.02.2017 expecting Respondent No.4-Joint Director, Public Health Department to enquire into the allegations. Upon receipt of the said communication, the Additional Director, Public Health Department, by order dated 15.03.2017, appointed the Respondent No. 5 Deputy Director of Public Health Department as the Enquiry Officer to conduct an enquiry into the allegations. The Respondent No. 5, in turn, constituted a five-member committee for the purpose of conducting a detailed enquiry. Accordingly, the said committee conducted an enquiry

and submitted its report on 14.07.2017 to the Commissioner, Public Health Department, Mumbai. In the said enquiry it was transpired that the action of Mr. Prakash Ujagare was not proper. He would further submit that, a Departmental Enquiry was also proposed against said Dr. Prakash Ujagare pursuant to the proposal submitted by the Director, Health Department, Mumbai dated 31.08.2020. He would further submit that pursuant to the said directions charge sheet was served on said Dr. Prakash Ujagare on 24.02.2021. Dr. Prakash Ujagar submitted his written explanation to the said charge sheet on 09.09.2021 by contending that the disability certificates issued by him to Dr. Anand Deshmukh one mentioning disability in right leg and the other in left leg were issued inadvertently due to crowd of patients/beneficiaries who were present at the hospital. He therefore submits that said Dr. Prakash Ujagare had accepted his fault of inadvertently issuing two different certificates and requested pardon. It is thus contended that considering the explanation submitted by Dr. Prakash Ujagare, the Public Health Department with an approval of the Minister in charge imposed punishment of giving “warning” to Dr. Prakash Ujagare vide Memorandum dated 03.02.2022.

8. He would further submit that said Dr. Prakash Ujagare has retired from service upon attaining the age of superannuation on 30.04.2022. In short, it is contended by the learned APP that necessary enquiry had already been conducted and reached to the conclusion. Learned APP

would further submit that so far as order dated 27.09.2023 passed by the Lokayukta pursuant to the complaint filed by the petitioners is concerned, the order depicts that the Lokayukta has no power to issue direction to lodge FIR, however, so far as directions to hold an enquiry in the matter and take action in accordance with law are concerned, the Respondent-Authorities have decided not to initiate departmental enquiry against the erring doctors again since the earlier enquiry had attained finality.

9. Learned APP has pressed into Service Rule 25A of Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 to contend that once an order is passed in Departmental Enquiry the same cannot be made subject matter of review, he thus submits that, once the earlier Departmental Enquiry had already attained finality no further enquiry can be conducted against the erring doctors.

10. Learned APP relying on Rule 27 (2)(b)(ii) of the Maharashtra Civil Services Pension (Rules) 1982 would further submit that after the retirement of government servant from the government service a Departmental Enquiry cannot be initiated against him. In short, it is contention of the learned APP that once the erring doctors have retired from the service it is not permissible to again initiate departmental enquiry against them. Last but not least, learned APP would submit that since Dr. Surawase and Dr. Ujagare have already retired in the year 2013 and 2022 respectively and since the alleged incident of issuing disability

certificates pertains to the year 2010-2013, it would not be proper after a period of almost 12-14 years to re-open and hold an enquiry once again in respect of the same incident. He therefore submit that the Writ Petition is devoid of any substance and the same deserves to be dismissed.

11. Having heard the learned Counsel for the petitioners and learned APP for the Respondents and after perusal of the documents annexed with the Writ Petition as well as affidavit in reply filed by Respondent Nos.3 and 8, we find that the disability certificates alleged to have been issued by the erring officers were at the time of allotment of Distributorship of LPG by Indian Oil Corporation, Jalna pursuant to advertisement dated 29.09.2013. One Mr. Manoj Patwari who participated in the said distributorship, had infact made complaint to the Lokayukta in the year 2015 and during that period the enquiry was conducted as a result of which the complaint filed by said Manoj Patwari was closed by the Lokayukta on 08.05.2018. It is pertinent to note that said Manoj Patwari who in fact could be said to be a person aggrieved, had accepted the order passed by the Lokayukta of closing his complaint. It is now the petitioners who after a period of almost 5 years thereafter have filed complaint before the Lokayukta in respect of same incident of issuance of disability certificates to Dr. Anand Deshmukh and sought direction for lodging FIR against the erring doctors and for making an enquiry. The Lokayukta pursuant to the complaint filed by the petitioners

by order dated 27.09.2023 in unequivocal terms has held that the lokayukta has no jurisdiction and powers to issue directions for registration of FIR. Lokayukta however, has issued directions for holding an enquiry in the matter and for taking action in accordance with law. The respondents pursuant to the said order however have decided not to initiate a *de-novo* enquiry since earlier enquiry has already culminated into giving punishment to the erring doctors in terms of warning. The Respondents-Authorities, therefore, found that since previous enquiry had already been concluded in the year 2022 it would not be appropriate again to conduct enquiry in respect of the same incident.

12. We find from the material available on record that once the enquiry had already been conducted by Respondents, the prayers made by the petitioners for initiation of enquiry and for direction to register FIR cannot be entertained. It would not be out of place to mention, at the cost of repetition that, the person who was really aggrieved by the issuance of disability certificate and the consequential deprivation of allotment of distributorship of LPG distribution at the relevant time had accepted the earlier order passed by the Lokayukta thereby closing his complaint. The petitioners by no stretch of imagination could be said to be the persons aggrieved. We also find that the petitioners have not been able to demonstrate violation of any of their fundamental rights much less the legal rights. We do not find any reason for this court to exercise

extraordinary jurisdiction under Article 226 of the Constitution of India to entertain this Writ Petition. The Writ Petition is devoid of any substance and the same is liable to be dismissed. We, therefore, pass the following order :

:: O R D E R ::

- (i) The Writ Petition is dismissed.
- (ii) Rule is discharged.

(ABASAHEB D. SHINDE, J.)

(SANDIPKUMAR C. MORE , J.)