



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

916 WRIT PETITION NO.265 OF 2026

NIKETAN PRAKASH LINGAYAT AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. A.A. Aghav, Advocate for petitioners
Mr. R.S. Wani, AGP for respondent Nos.1 to 3

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CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.

DATE : 12th MARCH, 2026

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

. Present petition has been filed challenging Rule 4 of the Staff Nurse (Group-C) Recruitment Rules, 2025 issued by the Directorate of Medical Education and Research (DMER) to the extent it mandates of 80:20 gender based reservation for the post of Staff Nurse.

2 Heard learned Advocate Mr. A.A. Aghav for petitioners and learned AGP Mr. R.S. Wani for respondent Nos.1 to 3. No necessity to issue notice to respondent No.4.

3 The petitioners contend that they are duly qualified Bachelor of Science in Nursing and registered as Nurse and Midwife, however, they are now been arbitrarily denied fair opportunity in public employment solely on the ground of gender. The petitioners have acquired their Bachelor of Science in Nursing from Maharashtra University of Health Sciences, Nashik. They have undergone the four rigorous academic years to complete the said course and acquired the knowledge and expertise in critical healthcare delivery. They have legitimate expectation that they would be getting fair opportunity in the employment at the Government Health Care Sector. However, by Notification dated 10.06.2025 new rules for the recruitment of Staff Nurse (Group-C) have been published through D.M.E.R. Rule No.4 prescribes that 100% of the appointments of post of Staff Nurse shall be made by nomination and within such nominated appointments 80% shall be reserved exclusively for female candidates, leaving only 20% of the posts accessible to male candidates. According to petitioners, this abrupt and disproportionately ratio in reservation is not based on any policy. The said ratio of 80:20 is gender based, however, it is arbitrary and violative of doctrine of legitimate expectation. While fixing this ratio the State has not undertaken any research. No empirical study, demographic analysis or staffing requirement report was considered, but instead it appears that rules are based on outdated and regressive gender stereotype which presume that

the nursing profession is primarily a woman's role. According to learned Advocate, such a presumption is wholly contrary to the health care policy, professional standards and evolving recognition of nursing as a gender inclusive and skill based medical profession worldwide.

4 Learned Advocate for petitioner relies on the decision in **Anuj Garg and others vs. Hotel Association of India and others** [(2008) AIR (SC) 663], wherein the State is constitutionally barred from formulating policies that perpetuate gender stereotypes or reinforce traditional roles. The petitioners have fundamental rights guaranteed under the Constitution of India for their right to practice lawful profession and right to live with dignity. The impugned Rule No.4 by mandating that 80% of the Staff Nurse posts be reserved exclusively for female candidates, imposes a hostile discrimination against male nursing professionals solely on the ground of gender and, therefore, it is violative of the principles of Constitution of India. He also relies on the decision in **Air India vs. Nergesh Meerza and others** [(1981) AIR (SC) 1829], wherein, it has been held that any differentiation based solely on sex, without strong and compelling justification, is unconstitutional and violative of Articles 14, 15 and 16.

5 It is to be noted that the petitioners are challenging the

Notification dated 10.06.2025 issued by Medical Education and Drugs Department, Mumbai, wherein in the exercise of the powers conferred by the proviso to article 309 of the Constitution of India and in supersession of all existing rules, orders or the instruments made in this behalf the Hon'ble the Governor has notified the rules, regulating recruitments to the post of Staff Nurse (Group-C) of nursing services working in the Medical Colleges, Hospitals and Health units on the establishment of Directorate of Medical Education and Research, under the administrative control of Medical Education and Drugs Department, Government of Maharashtra. We are more concerned with Rule No.4, which runs thus -

“4. Appointment by nomination for the post mentioned in Rule 3, shall be in the ratio of 100 percent, out of which the ratio of female and male shall be 80:20, respectively.”

For understanding Rule No.4, we must consider Rule No.3 i.e. 'Mode of Appointment'. It is stated that mode of appointment would be by nomination from amongst the candidates recommended by the selection committee on the basis of the result of the competitive examination conducted thereof, who fulfills the criteria in respect of lower age limit or upper age limit as well as the minimum educational qualification, then in that respect Rule No.4 states that the appointment by nomination for the post

mentioned in Rule 3, shall be in the ratio of 100%, out of which the ratio of female would be 80%, whereas for male it is 20%. So, it appears that only in respect of rules regarding a category have been made and it is not a generalized reservation. The petitioners are aggrieved regarding the percentage and the learned Advocate for petitioners then submits that it ought to have been 50:50. Here, we must consider Article 15(3) of the Constitution of India, which empowers the State to make special provision including the affirmative action and beneficial legislation for women and children. The said article in fact acts as an exception to the provision of discrimination on the ground of sex. Though the job of a nurse cannot be stereotyped for women; yet the reason behind the same can be that they take care of ailing persons properly. The objective of Article 15(3) of the Constitution of India is in view of the social background and to give a just equal opportunity to the women also to which they were deprived of in the past. *Prima facie* the recruitment reservation appears to be to give benefit to the women as a whole who were recommended by the selection committee on the basis of result of competitive examination conducted thereof. So, these provisions are not for a particular section, but even amongst the women they should undergo the competitive examination and then only they can participate in the further process. We would like to take note of the decision in **B.R. Acharya and another vs. State of Gujarat and another** [1987

SCC OnLine Gujarat 85], wherein Hon'ble the Gujarat High Court upheld the recruitment rules that prefer female officers for the post of Superintendent in-charge of District Shelters / Homes under Article 15(3) of the Constitution of India on the grounds that these Homes were exclusively for women and duties were better suited to the women. Of Course, here, that was in respect of the recruitment on the Shelter Homes for the women but the underlined principle was that such legislation / provision can be made under Article 15(3) of the Constitution of India. It appears that the percentage of the reservation in Staff Nurse (Group 'C') varies by institution and State, but in many Central Government institutions like AIIMS, the reservation is 80:20. Hon'ble the Central Administrative Tribunal (CAT) and Delhi High Court have upheld the 80% reservation for female nursing officers in direct recruitment to AIIMS by holding that it is a special provision to ensure better patient care rather than a gender base discrimination. We are also of the same view. When Article 15(3) of the Constitution of India gives power to the State to make special provisions for recruiting female candidates, then certainly, it cannot be said to be violative of the Articles 14, 15 and 16 of the Constitution of India. We do not find any merit in the present petition, stands **dismissed**.

(HITEN S. VENEGAVKAR, J.)

agd

(SMT. VIBHA KANKANWADI, J.)