



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

WRIT PETITION NO. 13945 OF 2025

Priyanka Sidu Nimse
Age 31 years, Occu. Nil,
R/o. At Sakat, Post Shiradhon,
Tal. And Dist. Ahmednagar

---Petitioner

VERSUS

1. The State of Maharashtra
Through its Principal Secretary,
Publish Health Department,
Mantralaya, Mumbai.
2. The Chief Executive Officer
Zilla Parishad, Ahmednagar.
3. The District Health Officer,
Zilla Parishad, Ahmednagar.
4. Maharashtra Nursing Council
Through its Registrar Mumbai.

---Respondents

Mr. R. B. Dhakane h/f Mr. B. S. Borde, Advocate for petitioner
Mr. A. D. Aghav, Advocate for respondent Nos. 2 and 3
Mr. S. B. Pulkundwar, AGP for respondent-State

**CORAM : Smt. Vibha Kankanwadi &
Hiten S. Venegavkar, JJ.**

DATE : 12th January, 2026

JUDGMENT (PER : Hiten S. Venegavkar, J.) :-

1. The petitioner has approached this Court under Article 226 of the Constitution of India questioning the legality of her disqualification from the recruitment process conducted by the Zilla Parishad, Ahmednagar, for appointment to the post of Arogya Sevak (Female). The

relief sought is a direction to the respondent authorities to consider her candidature and appoint her to the said post on the ground that she possesses a qualification which, according to her, is higher than the qualification prescribed in the advertisement.

2. The relevant facts, which are largely undisputed, may be noted at the outset. Respondent No. 2 issued an advertisement inviting applications for filling up various posts, including 496 posts of Arogya Sevak (Female). The advertisement clearly stipulated that the essential educational qualification for the said post was possession of a diploma in Auxiliary Nurse Midwifery (ANM), together with registration with the Maharashtra Nursing Council, Vidarbha Nursing Council, or eligibility for such registration. The petitioner, claiming herself to be eligible, submitted her online application and appeared for the written examination conducted on 19.07.2024. She secured sufficient marks and her name appeared at Serial No. 34 in the combined merit list. Thereafter, she was called for document verification on 11.09.2024. Upon completion of the verification process, the respondent authorities published two lists, one of selected candidates and another of disqualified candidates. The petitioner's name appeared in the list of disqualified candidates on the ground that she did not possess the qualification of ANM but held a diploma in General Nursing and Midwifery (GNM).

3. The petitioner's grievance is that despite qualifying in the written examination and being registered with the Maharashtra Nursing Council, her candidature has been rejected solely because she holds a GNM diploma instead of an ANM diploma. According to the petitioner, such disqualification is arbitrary and illegal.

4. Learned counsel appearing for the petitioner contended that the qualification of GNM is higher and superior to ANM and, therefore, the petitioner ought to have been treated as eligible. It was argued that admission to the GNM course requires completion of the 12th standard, whereas admission to the ANM course requires only completion of the 10th standard, which itself indicates that GNM is a higher qualification. Reliance was placed on the definitions contained in Section 2(k) of the Maharashtra Nurses Act, 1966 and Sections 2(7) and 2(8) of the Bombay Nursing Homes Registration Act, 1949 to contend that a person registered as a nurse or midwife is competent to perform functions which include those performed by an auxiliary nurse midwife. It was further submitted that once the petitioner is registered with the Nursing Council, she cannot be excluded from consideration for the post in question. Learned counsel thus urged that the action of the respondents defeats merit and deserves interference by this Court.

5. Per contra, learned AGP appearing for the State and learned

counsel for respondent Nos. 2 and 3 submitted that the recruitment process is governed entirely by the terms of the advertisement. It was argued that the advertisement specifically prescribed ANM as the essential qualification and that neither the recruitment rules nor the advertisement recognized GNM as an equivalent or alternative qualification. It was further contended that ANM and GNM are distinct courses with different objectives, training modules, and functional roles, and that one cannot be treated as superior or inferior to the other unless such equivalence is declared by the competent authority. It was pointed out that all candidates possessing qualifications other than ANM, including those holding GNM diplomas, have been uniformly disqualified, and, therefore, there is no arbitrariness or discrimination. Learned counsel submitted that permitting the petitioner's claim would amount to rewriting the eligibility criteria, which is impermissible in law.

6. Having heard the learned counsel for the parties and having perused the record, the first and foremost aspect that emerges is that the petitioner does not dispute the fact that the advertisement prescribed ANM as the essential qualification. She also does not challenge the validity of the advertisement or the prescription of the said qualification. The entire edifice of her claim rests on the assertion that GNM is a higher qualification and, therefore, must be treated as sufficient.

7. The law on this issue is well settled. The Supreme Court, in **Zahoor Ahmad Rather v. Sheikh Imtiyaz Ahmad ((2019) 2 SCC 404)**, has held as under:-

26. We are in respectful agreement with the interpretation which has been placed on the judgment in Jyoti K.K. in the subsequent decision in d Anita. The decision in Jyoti K.K. turned on the provisions of Rule 10(a)(ii). Absent such a rule, it would not be permissible to draw an inference that a higher qualification necessarily presupposes the acquisition of another, albeit lower, qualification. The prescription of qualifications for a post is a matter of recruitment policy. The State as the employer is entitled to prescribe the qualifications as a condition of eligibility. It is no part of the role or function of judicial review to expand upon the ambit of the prescribed qualifications. Similarly, equivalence of a qualification is not a matter which can be determined in exercise of the power of judicial review. Whether a particular qualification should or should not be regarded as equivalent is a matter for the State, as the recruiting authority, to determine. The decision in Jyoti K.K. turned on a specific statutory rule under which the holding of a higher qualification could presuppose the acquisition of a lower qualification. The absence of such a rule in the present case makes a crucial difference to the ultimate outcome. In this view of the matter, the Division Bench of the High Court was justified in reversing the judgment of the learned Single Judge and in coming to the conclusion that the appellants did not meet the prescribed qualifications. We find no error in the decision of the Division Bench.

27. While prescribing the qualifications for a post, the State, as employer, may legitimately bear in mind several features including the nature of the job, the aptitudes requisite for the efficient discharge of duties, the functionality of a qualification and the content of the course of studies which leads up to the acquisition of a qualification. The State is entrusted with the

authority to assess the needs of its public services. Exigencies of administration, it is trite law, fall within the domain of administrative decision-making. The State as a public employer may well take into account social perspectives that require the creation of job opportunities across the societal structure. All these are essentially matters of policy. Judicial review must tread warily. That is why the decision in Jyoti K.K. must be understood in the context of a specific statutory rule under which the holding of a higher qualification which presupposes the acquisition of a lower qualification was considered to be sufficient for the post. It was in the context of specific rule that the decision in Jyoti K.K. turned.

The Hon'ble Supreme Court has categorically held that equivalence or superiority of qualifications is a matter for expert bodies and the rule-making authority, and not for courts to determine on the basis of assumption or perception. The Court held that possession of a higher qualification does not automatically confer eligibility for a post requiring a specific qualification unless the rules or advertisement expressly so provide.

8. This principle was lucidly stated in **State of Rajasthan v. Lata Arun ((2002) 6 SCC 252)**, which is as under :

10. The points involved in the case are twofold: one relating to prescription of minimum educational qualification for admission to the course and the other relating to recognition of the Madhyama Certificate issued by the Hindi Sahitya Sammelan, Allahabad as equivalent to or higher than +2 or 1st year of TDC for the purpose of admission. Both these points relate to matters in the realm of policy decision to be taken by

the State Government or the authority vested with power under any statute. It is not for courts to determine whether a particular educational qualification possessed by a candidate should or should not be recognized as equivalent to the prescribed qualification in the case. That is not to say that such matters are not justiciable. In an appropriate case the court can examine whether the policy decision or the administrative order dealing with the matter is based on a fair, rational and reasonable ground; whether the decision has been taken on consideration of relevant aspects of the matter; whether exercise of the power is obtained with mala fide intention; whether the decision serves the purpose of giving proper training to the candidates admitted or it is based on irrelevant and irrational considerations or intended to benefit an individual or a group of candidates.

13. From the ratio of the decisions noted above, it is clear that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority.

The Supreme Court observed that even if a qualification appears to be higher, a candidate cannot claim eligibility unless the rules themselves recognize such qualification as equivalent. The Court cautioned that judicial interference in such matters would amount to rewriting recruitment rules, which is impermissible.

9. In **P.M. Latha v. State of Kerala ((2003) 3 SCC 541)**,

10. We find absolutely no force in the argument

advanced by the respondents that BEd qualification is a higher qualification than TTC and, therefore, the BEd candidates should be held to be eligible to compete for the post. On behalf of the appellants, it is pointed out before us that Trained Teacher's Certificate is given to teachers specially trained to teach small children in primary classes whereas for BEd degree, the training imparted is to teach students of classes above primary. BEd degree-holders, therefore cannot necessarily be held to be holding qualification suitable for appointment as teachers in primary schools. Whether for a particular post, the source of recruitment should be from the candidates with TTC qualification or BEd qualification, is a matter of recruitment policy. We find sufficient logic and justification in the State prescribing qualification for the post of primary teachers as only TTC and not BEd. Whether BEd qualification can also be prescribed for primary teachers is a question to be considered by the authorities concerned but we cannot consider BEd candidates, for the present vacancies advertised, as eligible.

The Hon'ble Supreme Court clarified that a higher qualification cannot be treated as a substitute for the prescribed qualification. The Court emphasized that recruitment rules must be strictly construed and that courts cannot dilute eligibility criteria on the ground of perceived superiority of qualifications. The same view was reiterated in **Yogesh Kumar v. Government of NCT of Delhi ((2003) 3 SCC 548)**,

8. This last argument advanced also does not impress us at all. Recruitment to public services should be held strictly in accordance with the terms of advertisement and the recruitment rules, if any. Deviation from the rules allows entry to ineligible persons and deprives many others who could have competed for the post. Merely because in the past some

deviation and departure was made in considering the BEd candidates and we are told that was so done because of the paucity of TTC candidates, we cannot allow a patent illegality to continue. The recruitment authorities were well aware that candidates with qualification of TTC and BEd are available yet they chose to restrict entry for appointment only to TTC-pass candidates. It is open to the recruiting authorities to evolve a policy of recruitment and to decide the source from which the recruitment is to be made. So far as BEd qualification is concerned, in the connected appeals (CAs Nos. 1726-28 of 2001) arising from Kerala which are heard with this appeal, we have already taken the view that BEd qualification cannot be treated as a qualification higher than TTC because the nature of the training imparted for grant of certificate and for degree is totally different and between them there is no parity whatsoever. It is projected before us that presently more candidates available for recruitment to primary school are from BEd category and very few from TTC category. Whether for the aforesaid reasons, BEd qualification can also be prescribed for primary teachers is a question to be considered by the authorities concerned but we cannot consider BEd candidates for the present vacancies advertised as eligible, In our view, the Division Bench of the Delhi High Court was fully justified in coming to the conclusion that Bed candidates were rightly excluded by the authorities from selection and appointment as primary teachers. We make it clear that we are not called upon to express any opinion on any BEd candidates appointed as primary teachers pursuant to advertisements in the past and our decision is confined only to the advertisement which was under challenge before the High Court and in this appeal.

It was held that eligibility conditions must be fulfilled as prescribed and cannot be altered by judicial interpretation.

10. Applying the aforesaid principles to the present case, it is evident that the petitioner has not produced any statutory notification,

expert report, or authoritative declaration issued by the Nursing Council or the State Government to establish that GNM is equivalent or superior to ANM for the purpose of appointment to the post of Arogya Sevak (Female). The sole basis of her argument is the difference in entry-level educational qualification for the two courses. In the absence of any comparative material regarding curriculum, training, functional duties, or statutory recognition, such an argument cannot be accepted. Determination of equivalence of professional qualifications is a technical matter and lies beyond the scope of judicial review.

11. It is also significant that the respondents have applied the eligibility criteria uniformly. All candidates possessing qualifications other than ANM have been disqualified. This uniform application of standards rules out any allegation of arbitrariness, mala fides, or discrimination. The reliance placed on statutory definitions under nursing-related enactments is misplaced, as those provisions operate in a regulatory framework and do not override specific recruitment qualifications prescribed for a particular post.

12. In the considered view of this Court, accepting the petitioner's contention would amount to judicially expanding the scope of eligibility prescribed in the advertisement, which is clearly impermissible. Courts are required to exercise restraint in matters of recruitment and

cannot substitute their own views for those of the employer or expert bodies.

13. For these reasons, this Court finds no illegality, arbitrariness, or perversity in the decision of the respondent authorities to disqualify the petitioner for want of the prescribed qualification. The petitioner, not possessing the essential qualification of ANM, has been rightly excluded from consideration.

14. The writ petition is, therefore, dismissed. There shall be no order as to costs.

(Hiten S. Venegavkar, J.)

(Smt. Vibha Kankanwadi, J.)

B. S. Joshi