



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 6194 OF 2024

(Jayshri d/o Vijay Kawale Vs. The District Selection Committee, through its President, Yavatmal & Ors.)

WITH WRIT PETITION NO. 5718 OF 2024

(Azharbaig Fahimbaig Mirza Vs. The District Selection Committee, through its President, Yavatmal & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Ajinkya Reddy, Counsel for the petitioner.
Mr. A.J. Gohokar, A.G.P. for respondent no.1/State.
Ms Sonali Saware – Gadhawe, Counsel for respondent no.2.
Mr. P.M. Pande, Counsel for respondent no.3.

.....

CORAM : ANIL L. PANSARE AND
NIVEDITA P. MEHTA, JJ.
APRIL 10, 2026

The issue involved in both the petitions is identical, but for the sake of convenience, we will refer to the facts of Writ Petition No. 6194/2024.

2] Heard.

3] A peculiar but difficult situation has arisen because of the lapses committed by respondent nos. 1 and 2. An advertisement for the post of 'Pharmacy Officer' was issued by respondent no.2 on 4/8/2023. Prior thereto, on 15/3/2023, the Public Health Department of the State Government, had also issued an advertisement for the post of 'Pharmacy Officer'. Neither the petitioner nor respondent no.3 applied for the post under the advertisement dated 15/3/2023. The petitioner has applied for the post in terms of the advertisement published by respondent no.2 on 4/8/2023. The

eligibility Clause, as on 25/8/2023, required the candidates to have Graduate Degree or Diploma in Pharmacy, along with Registration under the Pharmacy Act, 1948 (for short “the said Act”). One of the Clauses in the advertisement was, whether the candidate is a registered Pharmacist under the said Act. Respondent no.3 answered in the affirmative, and accordingly, submitted the form.

4] It revealed, during the course of argument, that respondent no.3, though applied for registration on 22/8/2023, was registered on 13/9/2023. Thus, on the date of submitting the application, she, admittedly, was not a registered Pharmacist under the said Act. It is a different matter she otherwise possesses degree in Pharmacy.

5] Respondent no.1 is the Chairman of the Committee constituted for the purpose of selection of candidates. The Committee consists of Collector, Yavatmal, Chief Executive Officer, Zilla Parishad, Yavatmal, and other Officers. Respondent no.1 – Selection Committee having found respondent no.3 scored more marks than the petitioner, selected her.

6] The argument of the petitioner is that since respondent no.3 was not a registered Pharmacist on the date of submitting the application, she stood disqualified in terms of the Clauses of the advertisement, so also, the authorities on this point. One such judgment is in the case of *Supriya Vinayak Gawande Vs. State of Maharashtra* [2023 (1) ABR 143].

7] As against, the argument of respondent no.3 is that there is a difference between submitting a false information and an incorrect information. In support, the Counsel for respondent no.3 has relied upon a judgment of the Division Bench of this Court in the case of *Shri Rajnish Marotrao Andhe Vs. The State of Maharashtra & Ors.* [Writ Petition No. 4894/2013 decided on 19/9/2016].

8] We have gone through the relevant Clauses of the advertisement, so also, the judgments placed before us. It appears that respondent nos. 1 and 2 committed mistake while processing the applications of the candidates. Further, we find that respondent no.3 has, while applying for the post, submitted information that she is a registered Pharmacist. Her case is that she was under a genuine impression that the date, on which the application was filed for registration, would be the relevant date for the purpose of this Clause. In other words, it is suggested that the mistake, if any, is unintentional, and cannot be said to be a false information given to attract disqualification under the judgment in the case of *Supriya Vinayak Gawande (supra)*. The Counsel for respondent no.3 further submits that she has been appointed in June – 2024, and is rendering services meticulously. There is no complaint against her. He further submits that if her appointment is cancelled, at this stage, her future prospects will be in jeopardy.

9] Thus, the situation is such, which, as such, is a result of the mistake committed by respondent nos. 1

and 2, where we find that the petitioner was best suited for the post, at the same time, to displace respondent no.3, at this stage, will cause irreparable losses to her. When enquired as to the availability of posts to accommodate the petitioner, the learned A.G.P, on instructions, submits that two posts are available to accommodate both the petitioners, i.e., petitioner in Writ Petition No. 6194/2024 and petitioner in Writ Petition No. 5718/2024, though the posts are not for reserved category.

10] That being so, and as a one time measure, which otherwise shall be not treated as a precedent for any purpose, we direct respondent nos. 1 and 2 to consider candidature of the petitioner for the post of 'Pharmacy Officer' reserved for Scheduled Caste (Female Category) and economically weaker category, which otherwise are deprived classes, if there is no other legal impediment. Necessary steps shall be taken within four weeks from today.

11] As regards seniority of the petitioner, the Appointing Authority shall consider the same in the light of the peculiar facts of the case, where the petitioner ought to have been appointed on the date when the first appointment was made.

12] The petitions are disposed of in terms of above. No costs.

Sumit
(JUDGE)

(JUDGE)