



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION STAMP NO. 16 OF 2021

Khalil Ahmad Hasanmiya Wasta .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

**WITH
SUO MOTU PUBLIC INTEREST LITIGATION NO. 1 OF
2023**

High Court of Judicature at
Bombay on its own Motion .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

Mr. Mohit Khanna, Amicus Curiae present.

Mr. Rakesh Bhatkar a/w Mr. Satish Raut and Mr. Mohan Devkule for petitioner in PILST/16/2021.

Dr. Birendra B. Saraf, Advocate General with Mr. P. P. Kakade, Government Pleader a/w Mr. O. A. Chandurkar, Addl. Govt. Pleader and Ms. R. A. Salunkhe, AGP for State.

Mr. Dheeraj Kumar, Commissioner of Health Services, Mumbai is present.

Dr. Shailesh Shirodkar, Joint Director, Health Services, Mumbai is present.

Mr. Devendra Tawade, Dy. Secretary, MPSC is present.

Dr. Ajay Chandanwale, Joint Director, Medical Education & Research, Mumbai is present.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE: 8th DECEMBER, 2023

P.C.:

- 1.** The note submitted by the learned *Amicus* is taken on record.
- 2.** We have perused the affidavit filed by Shri Dinesh Waghmare, Principal Secretary, Government of Maharashtra in the Department of Medical Education and Drugs.
- 3.** As per the information revealed in the said affidavit, what we, *prima facie*, find is that the entire budget sanctioned for procurement of drugs and medical equipments has not been spent, though learned Advocate General has stated that after constitution of the Procurement Authority under the Maharashtra Medical Goods Procurement Authority Act, 2023 (hereinafter referred to as the "Procurement Act of 2023"), the process of procurement of drugs and medical equipments has gained pace.
- 4.** We, thus, expect that adequate and appropriate steps shall be taken to spend the budgetary allocation in its entirety otherwise after sanctioning the amount, if it is not used, the same gets lapsed at the cost of the health care system.
- 5.** Certain charts have been submitted by the learned Advocate General disclosing the occupancy and vacancy position in different posts, both in the Departments of Medical Education and Public Health. The said charts are taken on

record.

6. As per the information contained in the said charts, so far as the Department of Medical Education and Research is concerned, against the total Group "C" posts which are 21686 in number, 8721 posts are vacant. Similarly, in respect of the posts in the Public Health Department, as against total number of sanctioned posts of 57714, the posts which are vacant are 20402. Thus, roughly calculated, at least, 1/3rd Group "C" posts are vacant in the hospitals being run by both these departments. The Group "C" posts include the posts of nursing staff as also various technical staff involved in diagnostics etc. Any vacancy against these posts is bound to hamper the health care facilities and services in the hospitals being run by the State. Thus, it is needless to say that there is an urgent need to fill up all such vacancies, not only Group "C", but other vacancies also.

7. The learned Advocate General has submitted that various steps have been taken by the State Government to ensure that vacancies in the hospitals in the State are filled in at the earliest. It has been stated by the learned Advocate General that he is personally supervising the steps being taken by the State Government ensuring filling up of the vacancies. He has further assured the Court that so far as the posts which lie within the purview of Maharashtra Public Service Commission (MPSC) are concerned, the Commission has also been taking appropriate steps for filling up all these vacancies.

8. Having gone through the timelines, as per the submission of the learned Advocate General, for filling up of

the vacancies, we are of the opinion that the process of recruitment needs to be further expedited and accordingly, we direct the State Government, as also the MPSC, to act more promptly to expedite the process of recruitment of staff at various levels.

9. As far as the concern expressed by the Court in its earlier order about giving full-fledged charge of the post of Chief Executive Officer of the Procurement Authority created under the Procurement Act of 2023, it has been informed by the learned Advocate General that an officer has been appointed giving him full-fledged charge of the said post.

10. We appreciate the efforts taken by the learned Advocate General and expect and hope that on appointment of a full-fledged Chief Executive Officer of the Procurement Authority, the procurement of drugs and other medical equipments shall catch pace and staff in adequate number shall be provided to the end-users at the earliest.

11. Let an additional affidavit be filed by the State Government giving details about the steps taken for filling up of the vacancies in different posts and cadres. The affidavit shall also contain reply in terms of paragraphs 17 and 18 of our order passed on 6th October, 2023. We specifically direct that the affidavit to be filed under this order shall clearly indicate as to what steps are going to be taken by the State Government and other related authorities to ensure that the sanctioned budgetary allocation is spent. The affidavit shall also disclose reasons as to why in past the entire budgetary allocation has not been released and as to why the released amount has not been spent.

12. We direct that an affidavit shall be filed by the MPSC as well giving timeline for completion of the process of recruitment against posts which fall within its purview. We direct the Secretary and the Chairman of the MPSC to consider as to how the timeline, as indicated by the learned Advocate General, for completion of process of recruitment can be shortened further.

13. Stand over to **1st February, 2024.**

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)