

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (ST) NO. 93475 OF 2020**

Dr.Sanchit Mohan and Ors. } Petitioners
} versus
State of Maharashtra and Ors. } Respondents

Mr.V.M.Thorat for the petitioners.
Mr.B.V.Samant-AGP for State.

**CORAM :- DIPANKAR DATTA, CJ &
 G. S. KULKARNI, J.**

DATE :- OCTOBER 9, 2020

PC :-

1. This writ petition is at the instance of three doctors, seeking relief for themselves. It is also filed in a representative capacity on behalf of 92 other doctors, who the petitioners claim are similarly placed.

2. The petitioners were selected for admission in Government medical colleges or in colleges established and run by various municipal corporations for pursuing postgraduate medical courses of study. Such admission was given to them on concessional rates. At the time of admission, the petitioners and the other similarly placed doctors were required to execute separate bonds that after successful completion of the postgraduate medical courses of study, they would be available to serve the State of Maharashtra for a period of 1 (one) year. The result of the final year post graduate examination has since been declared in August/September, 2020 and the petitioners have been successful in obtaining postgraduate medical degrees.

3. In view of the pandemic, the Government requested for placement of the successful doctors to complete the period of service in terms of the bond executed by them. A list of doctors has been published on 23rd September, 2020 (hereafter “the list”, for short), whereby the doctors named therein have been directed to report at the hospitals/colleges mentioned against their names.

4. According to Mr.Thorat, learned advocate for the petitioners, the list has been arbitrarily prepared without bearing in mind a binding decision of a co-ordinate Bench of this Court as well as ignoring the merits of the respective candidates.

5. The main prayers in the writ petition are for setting aside of the list as well as for direction on the State to display all the available seats meant for candidates, who executed bonds, and to allow such candidates to fill up their preferences, which would lead to their selection in accordance with merit as was followed till the academic year 2019-20. The interim prayers made in the writ petition are also substantially the same, except that instead of setting aside of the list, stay of operation thereof has been prayed for.

6. In view of the principal relief and the interim relief claimed in the writ petition being substantially the same, we need to consider the question of granting interim relief bearing in mind the decision of the Supreme Court in *Deoraj vs. State of Maharashtra*, reported in **AIR 2004 SC 1975**. Law has been laid down therein as follows:

“Situations emerge where the granting of an interim relief would tantamount to granting the final relief itself. And then there may be converse cases where withholding of an interim relief would tantamount to dismissal of the main petition itself; for, by the time the main matter comes up for hearing there would be nothing left to be allowed as relief to the petitioner though all the findings may be in his favour. In such cases the availability of a very strong prima facie case — of a standard much higher than just prima facie case, the considerations of balance of convenience and irreparable injury forcefully tilting the balance of the case totally in favour of the applicant may persuade the court to grant an interim relief though it amounts to granting the final relief itself. Of course, such would be rare and exceptional cases. The court would grant such an interim relief only if satisfied that withholding of it would prick the conscience of the court and do violence to the sense of justice, resulting in injustice being perpetuated throughout the hearing, and at the end the court would not be able to vindicate the cause of justice. Obviously such would be rare cases accompanied by compelling circumstances, where the injury complained of is immediate and pressing and would cause extreme hardship. The conduct of the parties shall also have to be seen and the court may put the parties on such terms as may be prudent.”

7. A very strong prima facie case does not appear to have been set up by the petitioners so as to warrant grant of interim relief, as claimed. As it appears from the pleadings, the petitioners and the other doctors have to put in 9½ months' of service more in terms of the bonds executed by them. Therefore, refusal to grant interim relief, as claimed, may not render the writ petition infructuous. That apart, it is open to them to opt out of the rigours of the bonds in terms thereof.

8. There is one other reason for refusing interim relief, as claimed. We are of the considered view that grant of interim relief, as claimed, would cause more prejudice to the

respondents than refusal to grant interim relief would cause to the petitioners. In these difficult times of the pandemic, people in the rural areas need adequate medical treatment and we are of the *prima facie* opinion that doctors like the petitioners and the others should regard the call for service to be rendered as a call for joining 'national duty', so as to reach out to the distressed and the needy.

9. For the reasons as above, we refuse interim relief. We make it clear that any action taken during the pendency of the writ petition shall abide by its result.

10. We, however, have no doubt that having regard to the issue raised in the writ petition, the same deserves expeditious consideration and disposal. Let reply-affidavit be filed by 10 days; rejoinder thereto, if any, may be filed by 4 days thereafter. The petitioners shall be at liberty to apply for expeditious hearing after a fortnight from date.

11. The petitioners and the other doctors shall have time till Tuesday next (13th October, 2020) to report for duty.

12. This order will be digitally signed by the Private Secretary of this court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)