

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

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

Court's or Judge's orders

910 WRIT PETITION NO. 915 OF 2016

WITH WP/839/2016 WITH WP/882/2016 WITH
WP/884/2016 WITH WP/885/2016

RADIOGRAPHERS ASSOCIATION OF MAHARASHTRA
THROUGH ITS PRESIDENT VILAS BHILAJI BHAD
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner/s : Mr.A.N. Nagargoje h/f Mr.
Deshmukh Vijay Vasantao; Mr.Naiknavare R.V.
AGP for Respondents/State: Mr.S.B. Yawalkar, Mr.U.H.
Bhogle, Mr.A.G. Magre.
ASG for Respondent No.11 : Mr.S.B. Deshpande.

...
CORAM : S.S. SHINDE & P.R. BORA, JJ.

Dated: JANUARY 29, 2016

...
Heard learned Counsel for the parties.

2 Notice before admission, returnable on 3rd
March, 2016.

4 Learned AGP waives service for respondents /
State authorities. Mr.Deshpande, learned ASG
waives service for Union of India.

5 We have considered the submissions of the learned Counsel for the petitioners for the purpose of ad-interim / interim relief. The learned Counsel for the petitioners submit that the members of the petitioner association and the petitioners in other petitions, though possess the qualification required under the Atomic Energy Act, 1962 and the Safety Code for Medical Diagnostic X-Ray Equipment and Installations. Those qualifications are neither mentioned in the rules nor in the advertisement. It is further submitted that the candidates who are not possessing the qualification mentioned in the rules, will be eligible to participate in selection process. The learned Counsel for the petitioner in Writ Petition No.885/2016 and connected writ petitions thereto, submits that the petitioners therein are possessing equivalent qualifications which are mentioned in the advertisement and rules. Therefore, they may be allowed to fill in the on-line applications for the posts of X-Ray Technician, Laboratory Technician and ECG Technician.

6. Learned AGP for the State has tendered across the Bar the affidavit-in-reply and submits that, qualifications possessed by the petitioners are not mentioned in the rules nor in the advertisement for direct appointment of the candidates for the posts of X-Ray Technician,

Laboratory Technician and ECG Technician and therefore, the petitioner's case for seeking interim directions to permit them to fill in the on-line forms, cannot be considered.

7. Upon hearing the learned Counsel for the parties, we are prepared to examine the issue raised in these petitions that, the candidates/petitioners are possessing the qualifications which are prescribed in the Appendix-III to the Safety Code for Medical Diagnostic X-Ray Equipment and Installations; however, those are not available either in the Rules or Advertisement. However, unless the petitions are heard finally, it may not be possible for this Court to direct the respondents to incorporate such qualifications either in the Rules or the Advertisement.

8. Prima facie, it appears that the qualifications which are mentioned in the Advertisement for making appointments on the posts of X-Ray Technician, Laboratory Technician and ECG Technician are in conformity with the Rules of 1983 framed by the Government of Maharashtra in Public Health Department.

9. In that view of the matter, issuing any interim directions to the respondents to allow any

candidate / candidates who does not / do not possess the requisite qualifications mentioned in the Rules or advertisement, will be incorporating something in the rules or advertisement by passing interim order on judicial side which would be transgression or encroachment within the domain of the legislators.

10. In that view of the matter, we refuse to issue any ad interim / interim directions to the respondents.

The respondents to file detailed affidavits-in-reply on all the issues raised in the petitions including the aspect as to why the qualifications which find place in the Central Rules are not incorporated in the State Rules and also why the equivalence cannot be given to other degree holders while considering their candidature for the said posts.

(P.R. BORA, J)

(S.S. SHINDE, J)

kadam/