



2025 INSC 690

IN THE SUPREME COURT OF INDIA
EXTRAORDINARY JURISDICTION

SPECIAL LEAVE PETITION (C) Nos. 26650-26651 OF 2024

BHARAT KISHAN GANGAWANE

...PETITIONER(S)

VERSUS

THE STATE OF MAHARASHTRA & ORS.

...RESPONDENT(S)

ORDER

1. These special leave petitions are against the two orders passed by the High Court of Judicature at Bombay, the first being an interim order dated 10.10.2024 and the second is the final order dated 18.10.2024 in Writ Petition No. 13081 of 2024 by which the writ petition stood disposed of.

2. The short facts leading to the filing of the present petition are as follows: the Maharashtra Public Service Commission issued an advertisement on 11.05.2022 calling for recruitment to 161 posts in different departments of the State. As per the advertisement, out of 161 posts, 22 posts were reserved for PwD candidates, out of which 8 posts were reserved for the candidates belonging to Category D and E relating to mental illness and multiple disability.

3. The petitioner, respondent no. 3 and others applied and participated in the recruitment process conducted by the Maharashtra Public Service Commission. The preliminary examination was held on 21.08.2022 and the mains were held from 21.01.2023 to 23.01.2023 and the results were declared on 11.10.2023. Those who qualified in the preliminary as well as in the mains were called for interview on 09.01.2024. Respondent no. 3 cleared all the three stages of the recruitment process and secured a place in the general merit list dated 18.01.2024 and the provisional selection list dated 20.03.2024 in which he is said to have figured at Sl. No. 1807 having secured a total of 360.5 marks. However, the problem arises because of the following events.

4. It appears that, though the petitioner also cleared the preliminary and written examination and was also called for interview, his name did not appear in the provisional list. He approached the Maharashtra Administrative Tribunal by filing an Original Application, not so much about his non-selection, but for a direction to the respondents to inquire into the disability certificate of the selected candidates.

5. It is also important to mention at this stage that though the petitioner impleaded certain candidates as respondents in the

Original Application, he chose not to implead respondent No. 3. The Tribunal by its order dated 25.07.2024 directed that the petitioner along with other candidates to appear before the Appellate Authority (JJ Hospital) as per sub-clause (1) of Clause (g) of Government Resolution (GR) dated 14.09.2018 and further directed the Appellate Authority (JJ Hospital) to decide about the genuineness of the disability certificate of the candidates. Respondent no. 3 was apparently unaware of these proceedings till he was specifically directed to appear before the Appellate Authority. He abided by the call and the Appellate Authority examined and opined that his disability is below the benchmark of 40%. The findings of the Appellate Authority (JJ Hospital) came as a big blow to respondent no. 3 as he ceased to be an eligible candidate and his appointment became unsustainable.

6. Respondent no. 3 filed a writ petition before the High Court challenging the order of the Administrative Tribunal dated 25.07.2024 and the consequential order, including the findings, of the JJ Hospital.

7. The High Court initially passed an interim order dated 10.10.2024 at the request of the Additional Government Pleader that on the basis of the Government Resolution dated 14.09.2018

the Maharashtra Institute of Mental Health can be directed to give a second opinion about respondent no. 3, who was the writ petitioner before the High Court. The order passed by the High Court on 10.10.2024 reads as follows:

“Pursuant to the order dated 9th October 2024 it is suggested by the learned Additional Government Pleader by referring to the Government Resolution dated 14th September 2018 that the Maharashtra Institute of Mental Health, Survey No. 34A, Panchwati, Pashan, Pune-411 021 can be directed to give a second opinion on the mental illness of the petitioner. This is for the reason that the petitioner is issued Disability Certificate on 3rd November 2021 by the Government Medical College And Sassoon General Hospital, Pune.

2. Accordingly it is directed that the petitioner shall appear at the Maharashtra Institute of Mental Health, Survey No. 34A, Panchwati, Pashan, Pune-411 021 on 11th October 2024 to enable the said Institute to examine the petitioner in the light of his Disability Certificate dated 3rd November 2021 and express its opinion.

3. The opinion of the Maharashtra Institute of Mental Health be sent to the Office of the Government Pleader.

4. Till the said date, the final results of the selection process shall not be published by the Maharashtra Public Service Commission.

5. Put up for further consideration on 15th October 2024 under the caption “For Directions”.

6. The parties to act on the authenticated copy of this order.”

8. Following the direction of the High Court, the Maharashtra Institute of Mental Health examined respondent no. 3 and submitted the psychiatric assessment report dated 11.10.2024 clearly indicating that his disability is above the benchmark of 40%. Following the said assessment the High Court by its order

dated 18.10.2024 proceeded to dispose of the writ petition directing as under:-

“1. Learned Counsel for the Petitioner submits that on 11th October 2024 the National Institute of Mental Health, Pune has identified the disability of the Petitioner to be more than 40%. She therefore submits on instructions that nothing further survives for adjudication in the Writ Petition.

2. Interim Applications have been filed by the two applicants seeking leave to intervene in the proceedings. Since nothing survives in the Writ Petition, it is disposed of. The contentions raised by the applicants in the respective Interim Applications are kept open for being raised in appropriate proceedings, if necessary. Interim Applications are disposed of accordingly.

3. Needless to state that the interim order stands vacated. The Respondents are free to take necessary consequential steps accordingly.”

9. It is clear from the above that the position as regards the respondent no. 3, having more than 40% disability continues. The clarification as obtained from the Maharashtra Institute of Mental Health, must be seen in the context of the fact that the disability certificate issued to respondent no. 3 on 03.11.2021 has never been cancelled and the same continues to be in force. Whatever doubt that existed pursuant to the directions of the Administrative Tribunal, followed by the opinion of the Appellate Authority gets cleared after the assessment by the Maharashtra Institute of Mental Health. It is also important to note that, in the meanwhile the Maharashtra Public Service Commission published appointment orders on 21.02.2025 and candidates were appointed

as Probationary Officers and the selected candidates were advised to report for training. We are also in agreement with the submission of Mr. B. Adinarayana Rao, learned senior advocate appearing on behalf of respondent no. 3 that his client was greatly prejudiced when the petitioner chose not to make him a party to the proceedings before the State Administrative Tribunal and his disability certificate came under scrutiny without an opportunity to oppose the same. Mr. Adinarayana also raised a question of law as to the validity and propriety of the petitioner challenging the disability certification of respondent no. 3 on the ground that such a remedy is not available to a third party. Though there is some merit in the submission, this question did not detain us for deciding the present case, particularly when the procedure contemplated under Government Resolution dated 14.09.2018 justifies the decision of the High Court referring the question to the Maharashtra Institute of Mental Health at the instance of the Additional Government Pleader. The relevant portion of the Government resolution dated 14.09.2018 is extracted herein for ready reference:

“F) Complaint, Appeal and Specified Board:

1) In case from the nature of certificate of certain person or the certificate which he wanted to have is not issued to him, then, he will have liberty to file an appeal to any of these

concerned appellate Boards: The Divisional Deputy Director, Health Services (Zones) or Dean, J.J. Group of Hospitals, Mumbai or Head of Central Institution. As mentioned in the Government Resolution dated 17/10/2017 under reference no. 5, Complaint, Appeal and Specified Board have been reorganised as under:

Sr.NO.	Name of Institution Issuing certificate	Name of Board to be Appealed to	Member in the Appellate Board
1	National Institution (ALLPMR, AY JNISHD,, AFMC)	Committee under the chairmanship of the same Institution	1) Head of Institution 2) Head of Department 3) Concerned Specialist (excluding the Specialist who gave certificate earlier)
2	All Medical Colleges of the Government and Municipal Corporation	Dean, J.J. Group of Hospitals, G.M.C. Mumbai	1) Dean 2) Medical Officer 3) Senior Professor of Concerned subject.
3	All other Hospitals of Municipal Corporation and Government District/ General/ Sub District/ Orthopaedic Hospitals/ Divisional Reference services Hospitals/ Leprosy Hospitals.	Concerned Divisional Deputy Director, Health Services, Zones	1) Deputy Director, Health Services, Zones 2) District Civil Surgeon (Not related to Appellate Medical Boards) 3) Concerned Specialist (excluding those who have earlier issued certificate)

2) Upon filing of appeals before the specified Boards, such cases be disposed of by the Board possibly at the earliest.

Decision of the Specified Board shall be final and no appeal can lie against that

3) As for Hearing Impaired, the specified Board may take help of Aliyavar Jung National Institute of Speech and Hearing Disabilities (Persons with Disability) Bandra, Mumbai the Central Institution. For sending Certificate of Disability in Mental/Intellectual, the specified Board may take help of Maharashtra Mental Health Institution/Sasoon Hospital, Pune.”

10. Having considered the matter in detail and taking into account the larger perspective, we are of the opinion that the decision of the High Court was justified. The candidature of respondent no. 3 was accepted for recruitment vide provisional list dated 20.03.2024 and was followed by proceedings against him before the Administrative Tribunal, to which he was never made a party and therefore never got the opportunity to contest invocation of jurisdiction of the Appellate Authority at the behest of a third party, which as per the learned counsel for respondent no. 3 is impermissible in law. Further, the High Court based its decision on the Government Resolution dated 14.09.2018 to refer respondent no. 3 for re-examination before the Maharashtra Institute of Mental Health, at the instance of the Additional Government Pleader. Therefore, we are of the opinion that the decision of the High Court is unimpeachable. In any event of the matter, as there is no doubt about the fact that the Maharashtra Institute of Mental Health is a body recognised under the

Government Resolution and once respondent no. 3's disability is recognised as being above the benchmark, we see no reason to interfere with the judgment and order passed by the High Court.

11. In view of the above and in the facts and circumstances of the case, we are of the opinion that this is not a fit case for exercising our jurisdiction under Article 136 of the Constitution of India. In this view of the matter, the special leave petitions stand dismissed.

12. Parties will bear their own costs.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[JOYMALYA BAGCHI]

**NEW DELHI;
MAY 14, 2025**