

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

PUBLIC INTEREST LITIGATION NO. 47 OF 2021

Syed Imtiaz Jaleel

... Petitioner.

Versus

The State of Maharashtra
and others

... Respondents.

....

Petitioner in person.

Mr. S.G. Karlekar, A.G.P. for Respondent Nos. 1, 3 and 14.

Mr. Shrimant Mundhe, Advocate for Respondent No.12

Mr. S.G. Chapalgaonkar, Advocate for Respondent No.15.

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**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 07th MAY, 2021

PER COURT:-

1. We have heard Mr. Imtiyaz Jaleel, the Member of Parliament and Party in Person. The anxiety of the petitioner appears to be that there are large number of Class-I to Class IV posts vacant with the Government Health Department in its various institutions and no steps are taken to fill in the vacant posts. According to the petitioner, about 2048 posts are vacant in the Government Medical College and Hospital, Aurangabad,

Aurangabad Municipal Corporation Health Department, Aurangabad Zilla Parishad Health Department, Government Cancer Hospital and the other Hospitals. The Government is not taking any steps. In June 2020, the Government had decided to fill in 100% such posts and now in March 2021 it has decided to fill in only 50% posts. According to the petitioner, in this trying times when the number of Covid-19 patients are increasing, the Government ought to have filled in the posts of Doctors and Nurses, Ward Boys. These are the front line workers and would be saving the life of patients. These Doctors and Nurses would be catering to the patients. It is because of the apathy on the part of Government, the posts are not filled in.

2. On 04.05.2021, we had heard the matter. We had asked the learned A.G.P. to take instructions about the steps being undertaken to fill in the vacancies so also to ramp up the infrastructure.

3. Today, Mr. Karlekar, learned A.G.P. on oral instructions, submits that 50% of the vacant posts would be filled in within 3 months.

4. The judicial notice can be taken of the fact that Covid-19 pandemic is at its peak. The lack of infrastructure and the necessary man power is an impediment to tackle the surge Covid-19 patients. The Government is required to take steps to fill in such vacancies at its earliest and on priority basis.

5. On 28.03.2020 in Writ Petition No.5402 of 2018, the Division Bench of this Court, to which one of us (S.V. Gangapurwala,J.) was a party had observed that considering the large vacancies in health department, it is expected that the State Government should take necessary steps to fill in the vacancies expeditiously, in the interest of public at large. The Division Bench of this Court while passing the order on 28.03.2020 was apprised of the situation arising due to Covid-19 pandemic. The Covid-19 pandemic in March 2020 was it is in incipient stage.

6. Even after one year of the passing of the order referred to above, the steps do not appear to have been taken. We cannot approve of such apathy in filling up the vacancies. The large number of vacancies would create more burden and pressure on the existing Doctors, Nurses and other staff in treating the Covid-19 patients.

7. We feel that three (03) months time as suggested by the learned A.G.P. on the basis of instructions received from the Director of Medical Department for filling in the vacancies, ought to be curtailed. We expect the Government to start process of filling in the vacancies of the employees in the Health Department preferably within a week from today and take emergent steps to fill in the vacancies expeditiously. We hope and trust that within 6 to 8 weeks such vacancies would be filled in. The Government may not treat the present PIL as adversarial litigation and take emergent steps for filling the vacancies and ramping the infrastructure. The Respondents shall file the detail reply with regard to the averments made in the PIL on the number of vacancies because we find that there is disparity in the information submitted by the petitioner and details given by the respondents so also clarify of the steps to be undertaken for ramping the infrastructure.

8. Place the matter on 14.06.2021.

(SHRIKANT D. KULKARNI)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

S.P. Rane