



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S. B. Civil Writ Petition No. 7617/2025

Arvind Kumar Gupta Son of Shri Kailash Chand Gupta, aged about 43 Years, Resident of Shree Goverdhan Tent House, Patti Kalan Bamanwas, District Sawai Madhopur 322211

-----Petitioner

Versus

1. State of Rajasthan, through Principal Secretary, Department of Medical, Health and Family Welfare, Government of Rajasthan, Secretariat, Jaipur.
2. Rajasthan Public Service Commission, Ajmer having its address at Ghooghara Ghati, Jaipur Road, Ajmer, 305001, Through Chairman.

-----Respondents

For Petitioner : Mr. Siddharth Ranka Advocate.
For Respondents : Mr. Archit Bohra Additional Government Counsel with Mr. Rahul Verma Advocate and Mr. Jitendra Kumar Advocate.

HON'BLE MR. JUSTICE ANAND SHARMA

Judgment

29/08/2025

1. Petitioner has assailed legality, validity and propriety of order dated 23.04.2025 issued by the Assistant Secretary, Rajasthan Public Service Commission, Ajmer (hereinafter to be referred as 'RPSC'), whereby, candidature of the petitioner for appointment on the post of Food Safety Officer has been rejected on account of not possessing requisite educational qualification.
2. Briefly stated the facts of the case are that the respondent-RPSC issued advertisement dated 05.08.2019 inviting applications from eligible candidates for recruitment on the post of





Food Safety Officer. As per the advertisement, the requisite educational qualifications were as under:

*"1. (i) A degree in Food Technology or Dairy technology or Biotechnology or Oil Technology or Agriculture Science or Veterinary Science or Bio-Chemistry or Microbiology or Masters Degree in Chemistry or **Degree in Medicine from a recognized University.***

or

any other equivalent/recognized qualification notified by the Central Government; and

(ii) has successfully completed training as specified by the Food Authority in a recognized institute or institution approved for the purpose:

(Note:- There is no requirement for training prior to selection. This training shall be provided to the selected candidates during probation period.)

Provided that no person who has financial interest in the manufacture, import or sale of any article of food shall be appointed to be Food Safety Officer under these rules.

2. Working knowledge of Hindi written in Devnagri Script and knowledge of Rajasthani Culture."

3. The petitioner has come out with a case that he is possessing Degree of Bachelor of Dental Surgery (BDS) acquired from Rajasthan University of Health Sciences, Jaipur, which is a recognised University. Learned counsel for the petitioner submits that on account of acquiring aforesaid degree of BDS, the petitioner was eligible for participating in the recruitment process initiated pursuant to advertisement dated 05.08.2019.

4. In order to press his submission, learned counsel for the petitioner stated that as per the advertisement, the requirement is that the candidate should possess 'Degree in Medicine' and the qualification of BDS possessed by the petitioner falls within the purview of 'Degree in Medicine'. It has been submitted that the Indian Medical Council Act, 1956 (hereinafter to be referred as 'the Act of 1956'), prescribes the definition of "medicine", which lays down that "medicine" means modern





scientific medicine in all its branches and includes surgery and obstetrics, but does not include veterinary medicine and surgery.

Learned counsel for the petitioner emphasised that definition of "medicine" given in the Act of 1956 specifically excludes veterinary medicine and surgery. Otherwise, definition of "medicine" is inclusive and covering modern scientific medicine in all its branches. Thus, bare perusal of the definition of "medicine" as provided under the Act of 1956 makes it clear that it, by necessary implication, also includes degree of BDS for all practical purposes and, therefore, the petitioner was eligible on account of possessing requisite educational qualification.

5. Learned counsel for the petitioner also submits that the petitioner also filed an application under the provisions of the Right to Information Act, 2005 (hereinafter to be referred as 'the Act of 2005') before the Centre for Dental Education and Research, All India Institute of Medical Sciences, New Delhi, wherein query made by the petitioner was as to whether dental surgery is a branch of medicine or not and the answer so communicated by the Centre for Dental Education and Research was that, "Yes, Dental surgery is a branch of medicine". Learned counsel has also referred to one similar reply given by Jawaharlal Institute of Post Graduate Medical Education and Research, Ponducherry, which also confirmed that dental surgery is a separate branch of medicine.

6. Grievance of the petitioner is that despite there being clear cut definition of "medicine" under the Act of 1956 as well as National Medical Commission Act, 2019 (hereinafter to be referred





as 'the Act of 2019'), duly supported by the response given by the Centre for Dental Education and Research, AIMS, New Delhi, the respondent-RPSC has arbitrarily rejected the candidature of the petitioner by holding that 'degree of BDS' possessed by the petitioner cannot be termed as 'degree in Medicine'.

7. Learned counsel for the petitioner also relied upon decision rendered by Madurai Bench of Madras High Court in the case of **Dr. M. Divya Vs. The Director (Regulations), Food Safety and Standards Authority of India & Others, (WP (MD) No. 6087 of 2023 & other connected petitions decided on 23.03.2023)**, wherein the question of eligibility of the candidates holding degree of BDS for recruitment to the post of Food Safety Officer was decided and it was held that BDS degree holders are also eligible to participate in the recruitment process for the post of Food Safety Officer.

8. In view of above submissions, learned counsel for the petitioner prayed for quashing communication dated 23.04.2025 and for holding that the petitioner as eligible for participating in the recruitment process for the post of Food Safety Officer.

9. Per contra, learned Additional Government Counsel appearing for the respondents opposed the writ petition and submitted that degree in Medicine is altogether different from degree of BDS as possessed by the petitioner. In reply to the writ petition, the respondents have stated that the degree of Medicine means a degree possessed in the branch of Radiology, Cardiology, Pediatrics, Orthopedics, General Medicine, Neurology, Urology etc., but it does not include degree of BDS. It has also been submitted





that Food Safety and Standards Authority of India has also issued clarification with regard to educational qualification of Food Safety Officer on 05.08.2019 and it has been clarified that degree in Medicine should not include in any other system of medicine and it will not be proper to include any other degree awarded in any branch other than degree in Medicine.

10. Learned Additional Government Counsel submits that State Government, in the capacity of employer, is entitled to prescribe qualifications as a condition of eligibility after taking consideration the nature of the job, the aptitude required for efficient discharge of duties, functionality of various qualifications, course content leading up to the acquisition of various qualifications etc. Hence, after taking into consideration all the aforesaid factors, quite consciously, the requirement of educational qualification for the post of Food Safety Officer has been prescribed by the respondents, which is degree in Medicine and not degree of BDS. Learned counsel for the respondents also submits that decision of Single Bench of Madurai Bench of Madras High Court in the case of **Dr. M. Divya (surpa)** was challenged before the Division Bench by way of filing WP(MD) Nos. 102 & 103 of 2024, wherein, while issuing notices vide order dated 06.02.2024, judgment of Single Bench of Madurai Bench of Madras High Court has been stayed.

11. Learned Additional Government Counsel appearing for the respondents submits that in the similar circumstances, High Court of Telangana at Hyderabad in the case of **Dr. Nagaraju Tanneru & Another Vs. the State of Telangana & Others**





(Writ Petition No. 12961/2020 decided on 05.06.2023),

examined the question with regard to equivalence of degrees of BDS and MDS to that of a degree in Medicine. In the aforesaid judgment, it has come out that an Expert Committee consisting of three professors was constituted to ascertain the equivalence of various qualifications including BDS and MDS and after examination of all the factors, the Expert Committee resolved that degree in Medicine referred in the Act of 1956 has not made any mention with regard to Dental degree, nor such degree finds place in the Schedule appended to the Act of 1956.

12. On the basis of aforesaid submissions, learned counsel for the respondents prayed for dismissal of the writ petition filed by the petitioner.

13. I have considered submissions made by learned counsels for the parties and examined the record.

14. It is settled proposition of law that an employer, having initiated a process for recruitment, is entitled to prescribe qualifications for the purpose of determining eligibilities and while doing so, all relevant factors, including the nature of job, functionalities of various qualifications, contents of different courses etc. can be taken into consideration by the employer.

15. It is also settled proposition of law that scope of judicial review under Article 226 of the Constitution of India is very limited and cannot be exercised to expand the ambit of prescription of qualifications or to decide the equivalence of the prescribed qualifications with any other qualification. It has been held by the Hon'ble Supreme Court in the case of **Zahoor Ahmad Rather &**





Others Vs. Sheikh Imtiyaz Ahmad & Others, (2019) 2 SCC 404 that equivalence of qualification is a matter within the sole ambit of the State as the recruiting authority and such equivalence can be decided by the State and not by the courts.

16. In the case of **Guru Nanak Dev University Vs. Sanjay Kumar Katwal & Another (2009) 1 SCC 610**, the Hon'ble Supreme Court has categorically held that the equivalence is a technical academic matter. Neither it can be implied, nor can be assumed. Any decision related to equivalence cannot be interfered by the courts.

17. In the case of **State of Rajasthan & Others Vs. Lata Arun, (2002) 6 SCC 252**, the Hon'ble Supreme Court has held that prescribed eligibility qualification for admission to a course or for recruitment in service or for promotion are matters to be considered by the appropriate authority and a clear cut observation has been given that it is not for the courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority.

18. In the case of **Dr. Nagaraju Tanneru (supra)**, the High Court of Telangana at Hyderabad also considered Government Order No. 20 dated 20.03.2018 and letter dated 02.08.2021 issued by the Under Secretary, Government of India, Ministry of Health and Family Welfare, Food Regulation Section, in which the doubt raised by Telangana State Public Service Commission was clarified in the manner that degree in Medicine does not include any other system of Medicine and after





considering all these factors, following observations were given by
High Court of Telangana at Hyderabad in the aforesaid case:

"10. National Medical Commission Registered Medical Practitioner (Professional Conduct) Regulations, 2022 defines "Modern Medicine" as follows:

e) "Modern medicine" or "Allopathy" is a healthcare discipline that involves a scientific understanding of disease processes and uses rational and evidence-based treatment methods. This system of medicine views disease as a biological abnormality in the function or structure of organs or organ systems, with effects on organs and the body as a whole. Animal experiments may be used to understand disease processes and the efficacy of therapeutic measures. Medical research using blinded studies and statistical analyses informs all aspects of diagnosis, testing, treatment, and disease prevention. Modern medicine has international uniformity in theory and practice. It has found universal acceptance in India and is currently practiced and taught in Government and Private hospitals and medical colleges governed/regulated and accredited by the National Medical Commission, Government of India.

The present issue pertains to notification issued by the 1st Respondent dated 13.12.2009, vide No.10/2009.

11. It is the specific case of the Petitioners that the 1st Petitioner is an MDS (Oral & Maxillo Facial Surgery) and the 2nd Petitioner is a BDS and both applied for selection to the post of Food Security Officer, pursuant to the Notification issued by the 1st Respondent vide No.10/2019, dt. 13.12.2009. Both the Petitioners came out successfully in the written examination held on 23.02.2020 and were hopeful of the selection to the said posts. But the 1st Petitioner though he scored 45th rank with 183 marks however 63rd ranker with 180 marks had been selected against BC-A vacancy and that the 2nd Petitioner though he scored 160 marks with rank 400 however 429th ranker who scored 159 marks was selected to the post of Food Security Officer against the ST (Woman) vacancy. It is further the case of the Petitioners that the State of Andhra Pradesh in its recently concluded selection to the same posts of Foods Safety Officer have treated the BDS degree as an equivalent qualification to a degree of Medicine and selected BDS candidates on the basis of their merit, but however, the Respondents have not applied a proper discretion and arbitrarily rejected the cases of the Petitioners for selection to the post of Food Safety Officer.

12. Petitioners specifically contend that a degree of BDS and MDS is a degree in Dental Surgery which is equivalent qualification of a Medical degree and IMC Act, 1956 also defines Medicine as Modern Scientific Medicine in all its branches and includes surgery and obstetrics but does not include Veterinary Medicine and Agricultural Degree, and that the Dentists Act, 1948 clearly defines the profession of Dentistry as including Surgery/Treatment of Human Oral Cavities and Organs like teeth and jaws and further that as per Indian Medical Degrees Act, 1916, Western Medical





Science means the western methods of Allopathic Medicine, Obstetrics & Surgery but does not include that Homeopathic or Ayurvedic or Uani System of Medicine, and therefore a degree in dental surgery and also masters degree is a degree in medicine and is equivalent to the degree of MBBS and it satisfies the prescription given in the notification cited above i.e., Degree in Medicine or an equivalent qualification as recognized by Government of India. Petitioners also place reliance on the definition of modern medicine and Indian systems of medicine as defined U/s.2 (o) & (m) of Kaloji Narayana Rao University of Health Science Act, 1986, Act No.6 of 1986 respectively and contends that modern medicine includes Dental Medicine.

13. A bare perusal of the specific averments made in the counter affidavit filed on behalf of the 1st Respondent referred to and extracted above clearly indicates the stand of the Respondents that since qualifications of the Petitioners i.e., MDS (Oral and Maxillo & Facial Surgery) and BDS are not either prescribed or equivalent qualification as per the notification and therefore the Petitioner's candidature along with other candidates with the qualification of BDS, BAMS, BHMS were rejected and that an expert committee was also constituted to ascertain the equivalency of the various qualifications i.e., MDS, BDS, BAMS, BHMS with 3 Professors and the subject issue was examined in detail and certain resolutions passed which clearly held that the qualifications of the Petitioners i.e., MDS and BDS are not equivalent to that of the qualifications for the posts of FSO prescribed in the notification dt. 31.12.2019 vide Notification No.10/2019 and hence Petitioners candidature cannot be considered for the posts of Food Safety Officers.

14. This Court takes into consideration the contents of the letter dated 02.08.2021 in No.P.15025/44/2020-PR, Government of India, Ministry of Health & Family Welfare, Department of Health & Family Welfare, (Food Regulation Section), Nirman Bhavan, New Delhi-11, dated 02-08-2021, (referred to and extracted above) which refers to the order dated 27.01.2015 of the High Court of Allahabad in **W.P.No.2754/2015 in Dr. Amit Pandey & Others Vs. State of Uttar Pradesh & Others**, which observed that 'Degree in Medicine does not include any other stream of Medicine and further that it will not be proper to include or read any other degree awarded by councils under other acts into Degree of Medicine and further that medicine is defined only under Indian Medical Council Act, 1956 and not in other enactments'.

15. This Court also takes note of the fact that the qualification for the post of Food Safety Officer has been prescribed under Rule 2.1.3 (1) (i) of Food Safety and Standards Rules, 2011 and further Rule 2.1.3(1)(ii) provides "or any other equivalent/ recognized qualification notified by the Central Government". However no such qualification is notified by the Central Government notifying equivalency of BDS and MDS to that of a Degree in Medicine."

19. In the light of above, when the Expert Committee has already examined the issue of equivalence and has come to the





conclusion that degree of BDS cannot be termed as degree in Medicine as also in view of above settled proposition of law, there is no scope of interference in the instant writ petition, as while exercising the jurisdiction under Article 226 of the Constitution of India, this Court cannot interfere with the eligibility criteria in such a manner which will have the effect of revising or modifying the eligibility criteria prescribed by the employer.

20. In view of foregoing discussion, there is no substance and merit in the writ petition filed by the petitioner and the same is, hereby, dismissed.

21. Pending applications, if any, also stand dismissed.

(ANAND SHARMA),J

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