



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 7892/2024

Pooja Vyas D/o Shri Motilal Vyas, Wife Of Shri Deepak Sharma,
Aged About 33 Years, Resident Of Village/post Dhadhot Kalan,
District Jhunjhunu, Presently Residing At 69, Hanwat-B, Bjs
Colony, Jodhpur (Raj.).

-----Petitioner

Versus

1. State Of Rajasthan, Through Its Additional Chief Secretary, Medical And Health Services, Government Of Rajasthan, Secretariat, Jaipur.
2. The Director (Regulations), Food Safety And Standards Authority Of India, Fda Bhawan, Kotla Road, New Delhi - 110 002.
3. The Joint Secretary, Dental Council Of India, Aiwan E Ghalib Marg, Kotla Road, Temple Lane, Opp. To Mata Sundari College For Women, New Delhi 110 002.
4. National Medical Commission Of India, Through Its Secretary, Pocket 14, Sector 8, Dwaraka Phase 1, New Delhi 110 077.
5. Director (Non Gazetted), Medical, Health And Family Welfare Department, Swasthya Bhawan, Tilak Marg, Jaipur.
6. Rajasthan Public Service Commission, Through Its Secretary, Ajmer.

-----Respondents

For Petitioner(s) : Mr. Yashpal Khileree
For Respondent(s) : Mr. Rajesh Punia with Mr. Madan Lal
Ms. Rakhi Choudhary with Mr. Sher Singh

**HON'BLE MS. JUSTICE REKHA BORANA****Order****14/08/2025**

1. The present petition has been filed aggrieved of the order dated 02.05.2024 (Annex.9) whereby the candidature of the petitioner has been rejected on the count that she was not holding the requisite qualification.

2. Admittedly, the petitioner is holding a degree of 'Bachelor of Dental Surgery (BDS)'.

3. The recruitment for the post of 'Food Safety Officer' was initiated vide advertisement dated 21.10.2022 (Annex.4). The candidature of the petitioner has been rejected on the count that a BDS degree has not been included in the educational qualifications as prescribed and hence, she could not have been considered eligible.

4. Counsel for the petitioner submits that a degree of BDS is definitely a 'Degree in Medicine' and as a 'Degree in Medicine' has been prescribed to be a requisite qualification, the petitioner ought to have been considered.

5. Counsel, while relying upon the judgment of Madras High Court in ***Vetriselvi & Anr. vs. The Member Secretary & Ors.; W.P. (MD) No.4882/2023*** (along with connected matters) submitted that the expression 'Degree in medicine' should be understood expansively and that a Medical degree awarded by any recognized University would fall within the sweep of the Rule.

6. Counsel for the petitioner further submits that even otherwise, now the Central Government has issued a specific notification whereby a bachelors Degree in Dental Surgery has



been incorporated as the requisite qualification for a Food Safety Officer. Counsel submits that the said action is sufficient to prove that a bachelors Degree in Dental Surgery is definitely a Degree in Medicine.

7. Per contra counsel for the respondents submitted that the educational qualifications as prescribed in the advertisement are in consonance with the Rajasthan Medical and Health Subordinate Service Rules, 1965. The qualifications prescribed for the Food Safety Officer in the advertisement are as per the said Rules. Therefore, the recruiting agency is under an obligation to abide by the said condition and the petitioner being not possessing a degree as prescribed under the advertisement has rightly been rejected.

8. So far as the fact of the Central Government now having notified the qualification of BDS also to be a requisite qualification for a Food Safety Officer is concerned, counsel submits that the same definitely would have a prospective effect and not a retrospective effect. The notification having been issued on 28.03.2025 would definitely not apply to the present petitioner as the recruitment in question is of the year 2022.

9. Counsel for the respondents while relying upon a recent judgment of a co-ordinate Bench of this Court at Jaipur in ***Sakshi Apurva vs. State of Rajasthan & Anr.; S. B. Civil Writ Petition No.5343/2024 (decided on 29.04.2024)*** submitted that notification dated 28.03.2025 would not have a retrospective effect. Counsel submitted that ***Sakshi Apurva (supra)*** was affirmed by the Division Bench in ***D. B. Special Appeal Writ No.367/2024*** (decided on 22.08.2024).



10. On the ground that degree of BDS cannot be said to be a Degree in Medicine, counsel relied upon the judgment of Telangana High Court in ***Dr. Nagaraju Tanneru & Anr. vs. State of Telangana & Ors.; W. P. No.12961/2020 (decided on 05.06.2023).***

11. Heard counsel for the parties and perused the material on record.

12. The requisite qualification as prescribed vide advertisement dated 21.10.2022 was as under :

*"1. (i) A degree in Food Technology or Dairy technology or Biotechnology or Oil Technology or Agriculture Science or Veterinary Sciences 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 any financial interest in the manufacture, import or sale of any article of food shall be appointed to be a Food Safety Officer under these rules.

2. Working knowledge of Hindi written in Devnagari Script and knowledge of Rajasthan Culture."

13. As is clear from the above clause, BDS is not prescribed to be an eligible qualification for the post of 'Food Safety Officer'. The issue whether a degree in Bachelor in Dental Surgery can be termed to be a Degree in Medicine seems now to be settled vide





notification dated 28.03.2025 as issued by the Union of India, wherein the following paragraph has now been inserted :

*"13 The other disciplines recognised for the post of Food Safety Officer, shall include the following, namely:
- Bachelor of Medicine and Bachelor of Surgery or Bachelor of Dental Surgery or Bachelor of Homeopathic Medicine and Surgery or Bachelor of Unani Medicine and Surgery or Bachelor of Siddha Medicine and Surgery or Bachelor of Ayurvedic Medicine and Surgery or Bachelor of Sowa Rigpa Medicine and Surgery."*

14. Vide the said notification, a Degree of BDS has also been incorporated as a requisite qualification for a Food Safety Officer. What can be concluded from the same is that BDS was not considered to be a Degree in Medicine and hence, now the said degree has additionally been incorporated as requisite qualification. The said inclusion cannot be termed to be an inclusion of BDS Degree in the term for 'Degree in Medicine'. The BDS Degree has been added as one of the requisite qualifications.

15. Further while dealing with the same issue as to whether qualification of BDS could be considered as a 'Degree in Medicine' or equivalent to qualification for the post of Food Safety Officer, the Telangana High Court in **Dr. Nagaraju Tanneru's** case (supra) while relying upon the earlier Allahabad High Court judgment in **Dr. Amit Pandey & Others Vs. State of Uttar Pradesh & Ors.;W.P. No.2754/2015** (decided on 27.01.2025) observed as under :

"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 enactment.

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."

16. A Division Bench of this Court too in ***Rajnish Sharma & Ors. vs. State of Rajasthan & Ors; (2020) 2 RLW 1352*** while dealing with the similar issue held as under :

"It is well settled that the essential qualification for appointment to a post is the matter to be exclusively dealt with by the employer. It is for the employer to decide the requirements which candidate must possess for appointment to the post taking into consideration its need and nature of the work. If taking into consideration the nature of the work and duties to be performed by the Food Safety Officer, the graduation in Chemistry is not included within the eligibility qualification for recruitment to the said post by the rule making authority, this Court cannot direct the respondents to include such eligibility qualification within the qualification as prescribed. As a matter of fact, the issue as to what should be the eligibility qualification for recruitment to a particular post, cannot be gone into by this Court."





17. In view of the above settled position of law, this Court is of the clear opinion that BDS Degree not been prescribed under the advertisement to be a requisite qualification, the petitioner who was holding a BDS Degree was rightly not considered. The BDS Degree cannot be termed to be a Degree in Medicine and hence candidature of the petitioner has rightly been rejected.

18. So far as the inclusion of BDS Degree as a requisite qualification vide notification dated 28.03.2025 is concerned, the same definitely cannot have a retrospective effect. The additional qualification as incorporated vide the above notification would definitely apply with effect from the date it was brought into force. The recruitment in question being of year 2022, notification dated 28.03.2025 could definitely not have applied to the same. Further as observed by a Co-ordinate Bench of this Court in **Sakshi Apurva's** case (supra) [affirmed by the Division Bench], merely because the appellant was permitted to appear in the examination, the same would not make her eligible for the post of 'Food Safety Officer' as she was not having requisite minimum qualification as provided in advertisement issued on 21.10.2022.

19. So far as the Madras High Court judgment in **Vetriselvi's** case (supra) as relied upon by the learned counsel for the petitioner is concerned, the same would definitely have no application to the present matter as therein it was a degree in Siddha System which was held to be a 'Degree in Medicine' keeping into consideration the syllabus and course content of the said degree. The ratio therein would definitely not apply to the present matter, also in view of the ratio laid down by the Division Bench of this Court in **Rajnish Sharma's** case (supra).



20. No case for interference is made out and the writ petition is **dismissed.**

21. Stay petition and pending applications, if any, stand **disposed of.**

(REKHA BORANA),J

310-AjaySingh/-

