HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 13035 of 2026

Srinivasan Gandhi

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Akhtar Ali
Counsel for Respondent(s)	:	C.S.C.

Court No. - 38

HON'BLE SIDDHARTH NANDAN, J.

1. This Court, vide its order dated 24.08.2026, had identified the core issue that the Government Order has been issued which empowers a Principal of a Medical College to make contractual appointments and a number of writ petitions were being filed before this Court, by way of which one contractual employee was sought to be replaced by another contractual employee; and this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India had intervened on each and every occasion; but however the circumstances which gives rise to an exigency, taking benefit of which the Principal of the Medical Colleges are appointing incumbents on contractual basis, is on account of non-appointment of regular doctors in the Medical Colleges.

2. Taking note of the aforesaid, this Court vide its order dated 24.08.2026 has issued the following directions:-

> *"9. Respondent no. 3 shall also be required to bring on record, by way of a chart, the number of such State Medical Colleges/Nursing Colleges which are functioning with the Head of the Department, Medical Superintendent or Principal working on a contractual basis, and shall also specify the details of the vacancies which have not yet been notified for regular appointment in the said Medical Colleges/Nursing Colleges."*

3. Thereafter, the personal affidavit on behalf of Director General, Medical Education and Training, U.P., Lucknow (respondent No. 3) was filed in compliance of the order dated 24.08.2026.

4. It revealed a shocking state of affairs with respect to appointments in

Nursing Colleges and Government Medical Colleges. It depicted that more than 500 incumbents were working on contractual basis, all over the State of Uttar Pradesh and hardly 2-3% of the posts, were reflected to be on a regular basis. About 25% of the positions were being managed by officiating Principals and the only explanation which came forward from the State-respondents and by way of the personal affidavit of the Director General, Medical Education and Training, was the inadequacy in the appointments, to be made by the Commission.

5. This Court thereafter took judicial note vide its order dated 22.09.2026, regarding the statutory framework which regulates the appointments on regular basis. A draft Rules, i.e., "Uttar Pradesh Nursing Colleges Teachers, Service Rules, 2026" was also placed before this Court and an ad-interim mandamus was issued to the State to take up the Draft Rules, 2026 on priority and accord necessary approvals adhering to the process prescribed and forth with notify the Rules in order to ensure that the regular selections are made as expeditiously as possible. It was also informed that the Chairman of the UPPSC, had also sent a letter to the State Government, informing that UPPSC is not well equipped to handle appointments of Medical Officers; and citing the same "UP Specialist Doctors and Medical Teachers Recruitment Board" was sought to be constituted vide the G.O. 30.01.2026.

6. Thereafter a personal affidavit of respondent No. 3 was directed to be filed with the following details:-

> *"8. It is further directed that a personal affidavit of respondent No. 3 shall be filed on the next date of hearing, bringing on record the following:-*
>
> *(i) A chart giving details of "Head of the Departments" in various Medical Colleges in State of U.P., who have been appointed, (though they are having a designation of Associate Professor or Assistant Professor) on account of the fact, there are no 'Professors' in the Department, though there are existing vacancies.*
>
> *(ii) The number of vacancies for the post of Professors, in all the Medical Colleges in the State of U.P., which are lying vacant.*
>
> *(iii) Details of the requisition sent for filling up the post of Professors in various Medical Colleges, in the State of U.P.*

(iv) Details of the advertisement, which has been issued for filling up the post of Professors of the various Medical Colleges and their current status; and also details of vacancies, for which no advertisement has been issued, inspite of the requisition sent; alongwith the reasons, for not advertising such vacancies.

(v) Whether the post of Principals, which has been shown, to be filled up by Officiating Principals, has been advertised or not?"

7. When the matter was taken up on 13.10.2026, time was sought by learned Standing Counsel for filing the personal affidavit of respondent no.3. On instructions regarding the functioning of the various Heads of the Departments in 13 Medical Colleges and 2 Government Medical Institutions, the instructions which were placed before this Court shocked the conscience of the Court, as in the most of the Medical Colleges there were hardly any Professors working as the Head of the Department, and the same positions were being manged by the Associate Professors in the majority of the cases; and at times by those who have been appointed on contractual basis only to be replaced by another ad hoc employee.

8. Again clarifying the issues on which the respondents were to show cause, this Court passed an order dated 13.10.2026; and thereafter personal affidavit of Director General, Medical Education and Training, U.P., Lucknow was filed on the next date fixed, i.e., 03.11.2026.

9. The perusal of the same indicated that out of total sanctioned 517 posts of Professors, [out of which 25% was to be filled up by direct recruitment and 75% to be filled up by promotions], 108 posts of Professors were to be filled up by Direct Recruitment; but only on 26 posts, incumbents were working and the remaining posts were lying vacant.

10. Learned Standing Counsel has pointed out that requisition for 35 posts have already been sent pending issuance of advertisement by UPPSC and 44 posts have been advertised; and as per the Government Order dated 14.06.2024, Principals of the State Medical Colleges have the liberty to make appointment by way of walk-in interview and as a result of which majority of the departments in different State Medical Colleges were being managed by contractual employees or an Assistant Professors/Associate Professors, due to the fact that UPPSC has failed to discharge its duty. It has also been informed that doctors who are

appointed on contractual basis, are permitted to do private practice, though they have almost similar perks and privilege of a regularly appointed Doctor, for which reason they show little interest in medical college and more towards their private practice, which is the main reason for deteriorating standards of Medical Colleges.

11. The Court also took note of the notification dated 30.01.2026 which has been issued for constitution of "Uttar Pradesh Specialist Doctors and Medical Teachers Recruitment Board" but however it was informed that till date the Board has not been constituted. Taking note of the aforesaid situation, the following directions were issued on 03.11.2026:-

> *"9. In view of the aforesaid, let this case be listed on 25.11.2026, on which date the learned Standing Counsel shall file an affidavit of a responsible officer, to show cause as to why, the Board as contemplated under the Government Order dated 30.01.2026 has not been constituted till date; and also on behalf of the newly impleaded respondent i.e. the U.P. Public Service Commission, the personal affidavit of Secretary of the U.P. Public Service Commission, shall be filed, indicating therein the status of the proceedings and the timeline within which the 44 posts of Professors which have been advertised on 18.08.2026, shall be completed; and also as to why the 23 posts for which the State has already forwarded the requisition, has not been advertised till date, wherein there is no legal impediment. The affidavit of the Commission, shall also disclose the guidelines based on which panel of experts are appointed, to demonstrate transparency in the appointments."*

12. Today when the matter was taken up, the learned Standing Counsel has filed a compliance affidavit which has been sworn in by one Gyanendra Kumar, who is presently posted and attached as Principal in the office of Director General, Medical Education and Training, U.P., Lucknow.

13. The affidavit is as vague as it can be and it states that since the Legislative Assembly is not in session at present, a draft has been prepared to promulgate an Ordinance but it does not indicate the timeline regarding the promulgation of the Ordinance. The affidavit is also silent on the criteria based on which the members of the Board are to be appointed and to the Court, it only appears to be an eye-wash. The Court is also conscious of the fact that these criterias and the decisions for

issuance of any Ordinance is a policy matter but at the same time when a notification has been issued with the consent of the Hon'ble Governor on 30.01.2026, the Court is also not inclined to accept the explanation that the issuance of the Ordinance, without giving a timeline, can be an explanation or response, to the query raised by this Court.

14. In view of the aforesaid, Shri Saurav, learned Standing Counsel submits that more pertinent affidavit to the queries raised by this Court and as noted in this order itself shall be filed and also the stand of the Government as to the time frame within which the Board shall be constituted, as that can be a solution, to the issue raised in the present writ petition. The affidavit shall also indicate, if doctors appointed on contractual basis, are permitted to do private practice or not?

15. In view of the aforesaid, this Court deems it appropriate to grant a last indulgence to the State to address the issue and file an affidavit to the said effect, considering that the welfare of the citizens of the country is paramount and providing medical facilities to them is one of the primary duties of a welfare State. The respondent no. 2 shall file his personal affidavit giving out specific details as required by this Court and as detailed in this order, failing which he shall be present before this Court.

16. The second issue which concerns this Court is the lackadaisical approach which the U.P. Public Service Commission has adopted in carrying out the selection process and the personal affidavit of the Secretary, i.e., respondent No. 5, which has been filed, though gives details and the progress of the advertisements for the vacancies of Professors but it does not disclose the criterias ensuring transparency and the integrity of the selection panel, so that the appointments which are being recommended by the Commission not only can be said to be strictly in accordance with the procedure prescribed but also the said public appointments inspire confidence.

17. Shri Avnish Tripathi, Advocate appearing on behalf of the Commission, has placed before this Court Chapter IV, Paragraphs 9(1), (2) and (4) of the Uttar Pradesh State U.P. Public Service Commission (Regulation of Procedure) Act, 1985 detailing the procedure which is undertaken towards the appointments of examiners but the affidavit did

not disclose the undertakings which are being taken from the examiners to ensure that their integrity is of highest standards and the candidates whom they are examining are not known to them or that they have ever been in a position, so as to influence their judgement as an examiner. He however submits that the format of the undertaking shall be brought on record.

18. Learned Counsel for the petitioner has placed before this Court certain recommendations for appointment and on a pointed query as to whether prior to their assessment and issuance of the recommendation letters, whether the objections pertaining to the examiner, having known the candidates who were being interviewed, were taken note of or not, Shri Avneesh Tripathi, Advocate seeks time to take instructions. He submits that he shall ensure that if against a candidate recommended, there was any pending enquiry or proven case of mis-conduct, which has not been disclosed, the said recommendation shall be recalled.

19. The said issue is pertinent because once Paragraph-9(4) requires that in making any appointment, every precaution should be taken to ensure that no person is appointed who has been found guilty of misconduct or against whom any inquiry or investigation into allegations of misconduct is pending, is to be taken into account. For ready reference Paragraph-9(4) of Chapter-IV of the Act, 1985 is reproduced below:

> *"Paragraph-9(4)*
>
> *In making such appointments, every precaution shall be taken to ensure that no person is appointed who has been found guilty of misconduct by any University, the Government of a Governmental Body; against whom any inquiry or investigation into allegations of misconduct is pending; or whose integrity is doubtful."*

20. In view of the aforesaid, Counsel appearing on behalf of the Commission shall specifically state that the recommendations which have been made by them of the candidates, whether prior to the same, in case any complaints were received, whether they were adverted to in the light of Para-9(4) of the Act 1985; and as to whether any declaration was sought from the applicants whether they were ever found to be guilty of misconduct or whether any inquiry or investigation into allegations of misconduct is pending or not. An enquiry to the said effect shall be made from their parent Institution regarding pending enquiry, if any; and as

stated, in case such non-disclosure, if any, is found, their recommendation may be re-considered and brought on record by way of an affidavit.

21. The affidavit shall specifically state whether the examiners had given an undertaking that they do not know the candidates or they have ever been involved with the candidates so as to influence their judgement during the interview; and as to whether a declaration was also sought from the candidates whether they have been found to be guilty of misconduct or there was any inquiry or investigation pending against them or not. If on inquiry such allegations are found to be true against any examiner, he may be debarred.

22. If a report to the aforesaid effect is not submitted to this Court, on the next date fixed, the Secretary of Public Service Commission, Prayagraj shall remain present before this Court, with the records of the examiners, who were appointed and the declarations that were sought from them prior to the interviews being conducted by them; and as to whether any complaints were pending either against the examiners or the applicants and whether they were adverted to or not.

23. The Secretary, Public Service Commission, Prayagraj shall scrutinize as to whether any candidate who has been recommended was ever found guilty of misconduct or as to whether there is a pending inquiry of misconduct against them and shall file a specific response to the same in his affidavit.

24. Another surprising stand which the Commission has taken that though admittedly the requisition was forwarded by the State Government to the Commission in the year 2021, but now they say that there is some Government Order, which has not been appended along with the affidavit, which states that now on wards only E-requisitions shall be entertained by the Commission.

25. On a pointed query to the Counsel for the Commission as to whether the said Government Order has a retrospective application or not, he is not in a position to address the Court and seeks time to take instructions on the said issue. The affidavit to be filed by the Secretary, U.P. Public Service Commission shall also specify whether the Government Order

requiring e-requisition is retrospective or prospective in nature and also bring the same on record; and the letter of the Chairman, UPPSC, as referred to in Para-5 of this order shall also be brought on record.

26. The learned Standing Counsel very fairly submits that till such time the Commission does not submit it's report regarding compliance of Para-9 of Chapter-IV of Act, 1985, and subject to the orders of this Court, the recommendations made by the Commission shall not be given effect to and a copy of this order shall also be communicated to the Government within 48 hours.

27. On the request of the Counsel for the petitioner, Shri Sanjay Shrinet, the then Chairman of the Public Service Commission, Prayagraj is directed to be impleaded as a necessary party during the course of the day.

28. Shri Avneesh Tripathi, Advocate for the Commission, shall serve a copy of the petition and the order-sheet upon Shri Sanjay Shrinet to enable him to give his likewise response on the queries raised by this Court herein above, which this Court deems it necessary, since he was at the realm of the affairs when recommendations were issued and that too, just few days before his retirement, in must hurry.

29. List this case on 08.12.2026 at 2:00 P.M. showing the name of Shri Avneesh Tripathi as Counsel appearing on behalf of the respondents.

(Siddharth Nandan,J.)

November 25, 2026
S.Prakash

Digitally signed by :-
SHASHI PRAKASH
High Court of Judicature at Allahabad