

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 17745 OF 2025**

Gajanan T. Bhagat ... Petitioner
V/s.
The State of Maharashtra & Ors. ... Respondents

Mr. Abhijeet Desai a/w. Adv. Daksha Punghera, Mr. Vijay Singh, Mr. Digvijay Kachare, Mr. Karan Gajra i/b Ms Mohini A. Rehpade for the Petitioner.

Ms Ushal Rahi, AGP for the Respondent Nos.1 and 4/State.
Ms Sultana Sonawane for the Respondent -MGM Hospital (through VC.).

**CORAM : M.S. KARNIK &
N.R. BORKAR, J.J.**
DATE : 23rd JUNE, 2025.

P.C.

1. Not on board. Upon mentioning, taken on production board.
2. Leave to amend is granted. Amendment to be carried out forthwith.
3. Heard learned counsel for the petitioner.
4. The challenge in this petition is to the impugned order dated 10th March 2025 issued by the Medical Superintendent, MGM Hospital, Parel, Mumbai directing the retirement of the petitioner on attaining 58 years of age on 30th June 2025. The petitioner is presently working as General Surgeon at Mahatma Gandhi Memorial Hospital.

5. It is the case of learned counsel for the petitioner that the retirement age of the petitioner is 60 years and not 58 years. Learned counsel for the petitioner relied upon several orders passed by this Court whereby this Court had protected the services of the said petitioners therein and permitted continuation till the age of 60 years. The continuation was made subject to outcome of the petitions. It was further observed that in case the petitions fail, the respondents would be at liberty to pass appropriate orders with regard to recovery/adjustment of the amounts paid to the petitioner for the services rendered under the interim order.

6. Learned counsel for the respondent - MGM hospital requested for some time to file affidavit-in-reply and opposed the grant of interim reliefs. It is submitted that serious charges are levelled against the petitioner and he has been charge-sheeted for misconduct for which there are departmental proceedings pending against him. It is submitted that any interim order passed in his favour will send wrong signals.

7. The issued regarding the age of retirement and the disciplinary proceedings against the petitioner for misconduct are two distinct and different things. It is open for the respondent- hospital to proceed against the petitioner departmentally in pending enquiry that has been initiated. However, so far as the age of retirement is concerned, *prima facie*, we find from the Minutes of 100th Meeting of the Board

of Management (BOM) , MGM Hospital held on 12th May 2022, the Board of Management has decided to adopt the retirement age as amended from time to time by the State Government GR/notification for specialists and Medical Officers of MGM Hospital. In this view of the matter, we are inclined to grant interim relief in favour of the petitioner by protecting his service.

8. Reply, if any, to be filed within a period of two weeks from today. Rejoinder, if any, to be filed within one week thereafter.

10. In the facts and circumstances of the case, during pendency of this petition, the petitioner's services shall stand protected till the next date. It is further made clear that if the petition fails, the respondents would be at liberty to pass appropriate orders with regard to recovery/ adjustment of the amounts paid to the petitioner for the services rendered under the interim order. It is further made clear that the respondents may proceed with departmental enquiry and the same can always be taken to its logical conclusion in accordance with the rules applicable.

11. List on 21st July 2025.

(N.R. BORKAR, J.)

(M.S. KARNIK, J.)