

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3210 OF 2007

Vijaykumar Ramrao Dhoke ...Petitioner

V/s.

State of Maharashtra & Ors. ...Respondents

Mr. Sariputta Sarnath i/by Mr. Mihir Desai for the Petitioner

Mr. A.B. Vagyani, A.G.P., for Respondent No. 1

Mr. Abhijeet A. Joshi i/by Mr. S.R. Ganbavale for Respondent No. 3

**CORAM: MOHIT S. SHAH, C.J., &
N.M. JAMDAR, J.**

DATE: OCTOBER 05, 2012

P.C.:-

In this petition under Article 226 of the Constitution of India, the petitioner, visually impaired teacher in respondent No. 3-school being run by the Pune Municipal Corporation, has challenged the communication dated 15 December, 2005 (Exhibit 'F') from the Government of Maharashtra, in the Social Justice, Cultural Works and Special Assistance Department, by which the petitioner was informed that the post of Supervisor is reserved for Partially Disabled

(Partially Sighted) Category, in that it was not proper to appoint completely blind person on the same post. The petitioner also challenges Government Resolution dated 23 August, 2005 (Exhibit 'H').

2. The petition was admitted on 15 June, 2007. In the said order, this Court also made an observation as under:-

“Petitioner in the instant case challenges the Government Resolution by which persons who are blind are not eligible for being appointed to the post of Supervisor in Primary School. Learned Counsel points out to us the Government Resolution under the M.E.P.S. Act and the Rules. We find from that, blind persons are eligible for consideration for the appointment...”

3. The learned counsel for the petitioner points out that, after admission of the petition, the Commissioner for Persons with Disability, Government of Maharashtra, has passed order dated 3 December, 2011 directing the respondents to take action for including the petitioner's name in the Service Seniority List of General Teachers from the date of his appointment and within 30 days thereafter, the benefits of time-bound promotion, regular promotion and the monetary and service benefits accruing therefrom should be made applicable to the petitioner.

4. The copy of the said order and English translation thereof are placed on record, and marked 'X' and 'Y' for identification.

5. The learned counsel for the petitioner submits that the respondents are, accordingly, bound to implement the aforesaid order dated 3 December, 2011 of the Commissioner for Persons with

Disability, and the petitioner hopes that the respondent-Authorities will implement the said order. Hence, the petitioner would request the respondents – particularly respondent No. 3 – to grant the petitioner benefits of the said order dated 3 December, 2011.

6. We, accordingly, dispose of this petition, with a direction to the respondents to implement the aforesaid order dated 3 December, 2011 of the Commissioner for Persons with Disability, Government of Maharashtra, and redress the petitioner's grievance, in the light of the observation made by the Court at the time of admission of the petition on 15 June, 2007 that blind persons are eligible for consideration for appointment to the post in question.

7. We are informed that the petitioner is going to attain the age of superannuation within about an year's time. The respondents shall, therefore, carry out the above direction within four weeks from the date of receipt of this order.

8. Rule is made absolute. No order as to costs.

CHIEF JUSTICE

N.M. JAMDAR, J.