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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3440 OF 2013

Smt. Jaywanti H. Karve and Anr.

..Petitioners.

V/s.

CIDCO limited and Anr.

..Respondents.

Mr.R.P.Lote for the petitioners.

Mr.G.S.Hegde and Mr.C.M.Lokesh i/b.G.S.Hegde for respondent No.1.

Mr.V.S.Gokhale, AGP for respondent No.2.

**CORAM : A.S.OKA AND
V.L.ACHLIYA, JJ.**

DATED : 19TH OCTOBER, 2015

P.C. :-

1. Heard the learned counsel for the petitioners. The petitioners are claiming to be the project affected persons whose lands have been acquired for a public purpose. Their contention is that as per the policy of the State Government, priority is required to be given to the project affected persons in terms of employment. It is pointed out that first respondent-City and Industrial Development Corporation Ltd. (for short 'the CIDCO') issued an advertisement in the year 2010. It is stated therein that a priority will be given to the projected affected persons. The second petitioner applied and he was called for the written test in April, 2011 for the post of accounts clerk and computer operator. It is

stated that in December, 2012 the second petitioner was again called for written test but the result has not yet been intimated to the second petitioner. The substantive prayer in the petition is for issuing a writ of mandamus directing the first respondent CIDCO to give suitable job to the second petitioner.

2. The submission of the learned counsel appearing for the petitioners is that even the first respondent has not disputed the policy of the State Government. He submitted that though the first respondent claims that there is a 5% quota for the project affected persons, the first respondent has not completed the process of recruitment from the year 2012. He urged that by not even proceeding with the process of recruitment, the rights of the project affected persons cannot be defeated.

3. We have heard the learned counsel appearing for the first respondent. He relies upon the statements in the affidavit of Shri Tulsidas Laxman Parab, Manager (Personnel) of the first respondent. He urged that for the reasons stated in the affidavit, no relief can be granted to the petitioners.

4. We have given careful consideration to the submissions. What is disclosed in the affidavit of Shri Tulsidas Laxman Parab can be summarised as under:-

- A. As per the prevailing policy of the State Government vide Government Resolution dated 27th October, 2009, preference of 5% of the total strength of the cadre is given in the recruitment of class C and D to the project affected persons;
- B. The first respondent invited applications for various posts such as, computer operator, accounts clerks, etc. under advertisement dated 11th December, 2010. It is stated that as a result of agitation of the projected affected persons and political leaders, the State Government by a letter dated 30th March, 2011 directed the first respondent to stay the process of recruitment till further orders;
- C. The State Government vide letter dated 12th March, 2012 directed the first respondent to conduct recruitment as per the prevailing Government policy and as per the advertisement published earlier. After the receipt of the said communication, the tests were rescheduled on 2nd December, 2012;
- D. On 30th November, 2012 there was again an agitation by the project affected persons for calling upon the first respondent to cancel the written tests. However, the written tests were

conducted under police protection but further process is kept pending due to the agitation;

5. In paragraph 5 of the said reply, the Manager of the first respondent has stated as under:-

"5. Further Govt. vide GR No.Kra.Prakalp-1006/Mu.S.396/Pra.Kra. 56/06/16-A, dated 3-2-2007, has relaxed the age criteria for the PAP's and accordingly PAP can apply for C & D posts, upto 45 years of age. The copy of the said Government Resolution dated 3-2-2007 shall be relied upon when produced. Since as per the documents submitted by petitioner No.2, his age as on today is 29 years. Hence his fear of crossing age limit for job is baseless in view of this GR.

6. From the affidavit, we find that the first respondent has taken all possible steps to conduct the process of the recruitment. However, further progress could not be made due to repeated agitations and protests. There is no rejoinder filed to the said reply.

7. Now to enable the first respondent to complete the process of recruitment, the State Government will have to step in and it is for the State Government to issue appropriate directions to the first respondent.

8. It is pointed out in the affidavit dated 20th August, 2015 that the present age of the second respondent is 29 years and the age criteria has been relaxed by the State Government. The relaxed criteria is that the project affected persons can apply for C and D posts upto 45 years of age. In view of the statements made in the affidavit of Shri Tulsidas Laxman Parab (Manager Personnel) of the first respondent, a writ of mandamus cannot be issued against the first respondent. However, it is for the petitioners to make proper representation to the first respondent and the State Government. The petition is disposed of accordingly.

(V.L.ACHLIYA, J.)

(A.S.OKA. J.)