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HIGH COURT OF CHHATTISGARH, BILASPUR**CONT No. 206 of 2017**

Rajendra Kumar Singh S/o Shri Ranjit Singh, Aged About 59 Years
Presently Posted And Working As Assistant Director (Agriculture),
Department Of Agriculture, Bilaspur, R/o Maharana Pratap Nagar,
Tifra, Bilaspur, P.S. Sirgitti, Tehsil And District Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. Shri Anup Kumar Shrivastava Secretary, Department Of Agriculture & Bio Technology, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh
2. Shri Xavier Kerketta, Under Secretary, Department Of Agriculture & Bio Technology, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh
3. Shri M.S. Kerketta, Director, Directorate Of Agriculture, Indrawati Bhawan, Naya Raipur, District Raipur, Chhattisgarh
(Contemnors) **---- Respondents**

For Petitioner : Mr. Amrito Das, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****01/05/2017**

Heard.

1. This contempt petition has been filed by the petitioner alleging willful disobedience of the direction issued by this Court on 08.01.2016 in WPS No.202 of 2015 and batch of petitions and also subsequent order passed on 05.10.2016 in contempt No.449 of 2016.

2. Learned counsel for the petitioner submits that the spirit of the direction of the Court was to first identify the post, which could be earmarked for the purposes of granting reservation to the category of physically challenged employees in the department in the matter of promotion. When this was not done within a reasonable time, the contempt petition was filed, which was disposed off on 05.10.2016 directing that the policy decision be taken within an outer limit of three months. It is submitted that even till now, exercise has

not been taken and the respondents authorities have rejected representation only on the ground that the vacancies are not available.

3. It appears that communication dated 10.11.2016 by which, the representation has been rejected proceeds on an assumption that the occasion to consider cases of promotion will arise only when there are vacancies and that would be stage when as per the post identified by the Government, the petitioners may be considered against the post reserved for physically challenged employees.

4. The contents of the impugned communication only reflects that though authorities have deferred the claim of the petitioners for consideration due to non availability of vacancies, there does not appear to be any exercise undertaken by the authorities, as a policy decision in the matter of identifying the post.

5. Learned counsel for the petitioner has also referred to the statutory scheme of the New Act under the Right of Persons with Disabilities, 2016, which is enacted subsequent to the order passed earlier by the Court in the writ petition.

6. Having considered the totality of the circumstances, I do not think it is a case of willful disobedience as such but slight confusion in the mind of the authority with regard to the manner in which the direction of this Court has to be implemented.

7. Even if, at present, the vacancies are not available, the direction issued by this Court obliges the competent authority to undertake the exercise of identifying the post in a particular cadre consistent with the scheme of the Act. That should have been done without waiting till vacancies arise. Therefore, this contempt petition, at this stage, is disposed off. The competent authority, who is enjoined with the statutory duty and function of identification, shall undertake the exercise without waiting for vacancy to arise in future. It should now be done positively within a period of three months and due communication should be made to the petitioner.

Sd/-

(Manindra Mohan Shrivastava)

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