

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 3423 OF 2017

Smt. Reshma Nanasaheb Kadam
@Smt. Reshma Arun Rade

.....Petitioner

V/s.

The Union of India and Ors

....Respondents

WITH
WRIT PETITION NO. 10530 OF 2017

National Institute of Virology

....Petitioner

V/s.

Dhananjay S. Survase

....Respondent

Mr. R. M. Kolge for Petitioner in Writ Petition No. 3423 of 2017.

Ms. Heena Shah i/b Mr. Ajay Shinde for respondent no. 2 in Writ Petition No. 3423 of 2017 and for petitioner in 10530 of 2017.

Mr. R. V. Bansode for Respondent no. 3.

**CORAM : NARESH H. PATIL &
Z. A. HAQ, JJ.**

DATE : 18th SEPTEMBER 2017.

P.C.

1 The petitioner herein along with others including respondent no. 3 participated in the selection process pursuant to the advertisement issued by

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respondent no. 2, the Director, National Institute of Virology (Indian Council of Medical Research) for the post of Library and Information Assistant. It is the case of respondent no. 3 that as he was not permitted to participate in the selection process, he approached the Chief Commissioner for persons with disability appointed under Chapter 12 of the The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (Hereinafter referred as 'the said Act').

2 By an order dated 21/04/2016, the Chief Commissioner passed order.

Para 10 of the said order reads as under:

“10. The Court is of the view that against the vacancies reserved for persons with disabilities, if duly qualified candidates are available, they must be given a chance even by considering their performance in the written test/interview by relaxing the standards, whether or not prescribed in the extant relevant Recruitment Rules. The respondent should consider the appointment of Shri. Dhananjay S. Survase, the complainant to the post of Library and Information Assistant. Ordered accordingly. Compliance report must be submitted to this Court within 60 days.”

3 Aggrieved by the said order, petitioner herein filed a petition. Even respondent no. 2 filed writ petition challenging the said order.

4 We have heard the counsel appearing for the contesting parties, perused records. At this stage, we are not inclined to deal with the issues in respect of the persons having essential/required qualification in participating in selection process, method and manner of allotment of marks in written examination and oral interview. The Commissioner in the impugned order had directed respondent no. 2 to consider the respondent no. 3 for appointment to the post of Library and Information Assistant.

5 We clarify that the order of the Commissioner shall be considered to be a direction to the respondent no. 2 to select the candidate in accordance with law and keeping in view the purpose and object of the Said Act after taking into consideration essential qualifications, marks obtained in the examination.

6 The learned counsel appearing for respondent no. 2 submitted that so far as respondent no. 2 has not taken any decision to appoint any candidate to the said post.

7 We hereby direct the Core Committee of respondent no. 2 to take a final decision in this regard, keeping in view the aforesaid observations made by us. Needless to mention that while taking appropriate decision, the Core Committee shall strictly adhere to the purpose and object of enactment of the said Act, mandatory conditions of the advertisement and marks obtained by the candidate. Decision shall be taken by Core Committee of respondent no. 2 within 4 weeks from today and shall be communicated accordingly. If contesting parties are aggrieved by the decision taken by Core Committee, they are at liberty to resort to appropriate remedy as permissible in law.

8 Writ petitions stand disposed of.

[Z. A. HAQ, J.]

[NARESH H. PATIL, J.]