

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12340 OF 2017

Krishna Rajapure and ors.	.. Petitioners
Vs.	
Bombay Municipal Corporation of Greater Bombay and ors.	.. Respondents

Mr.Uday P. Warunjikar a/w Mr.Siddesh Pilankar, for the
Petitioners.
Mr.A.Y.Sakhare, Senior Advocate a/w Mr.Vinod Mahadik and
Mrs.Gharpure, for Respondents.

**CORAM : NARESH H.PATIL &
G.S.KULKARNI JJ.
DATE : 26th JUNE 2018**

P.C. :

. The petitioners who are suffering from low vision /
100% blindness have brought the subject issue to light which
has proved to be an eye opener for the Mumbai Municipal
Corporation. The respondents – Mumbai Municipal Corporation
of Greater Mumbai issued an Advertisement for recruitment of
candidates suffering with low vision/blindness. The
advertisement was issued on 21/10/2016 for the post of

'Hamal/Peon'. Admittedly the Corporation prepared a select list of 239 persons. Learned Counsel appearing for the Corporation on instructions of Chief Labour Officer (I/C) - Shri S.V. Mohite & Divisional Labour & Welfare Officer – Mrs.K.A.Kandarkar, submits that out of 239 selected candidates, 107 were issued appointment orders and they were posted at places identified by the Corporation. Further statement is made that in 10 cases, candidates were found not interested to join. In 15 cases, intimation was given but the candidates did not reply back to the Corporation. In respect of 82 cases, the Corporation informed that as the percentage of the blindness is 100%, they are not eligible to be appointed.

2. We have perused the terms and conditions of the advertisement. One of the conditions in the advertisement is that the candidates shall be entitled to apply having minimum 40% of the blindness. Prima facie, therefore, we are convinced to observe that the impugned communication made by the Corporation annexed at page 31 to the Petition dated

14/07/2017 is contrary to the condition of the advertisement. We have also perused the circular issued by the Government of Maharashtra dated 03/08/2010.

3. The petitioners who are 26 in number submit that they are suffering from low vision and/or 100% blindness. They were entitled to apply against the post advertised by the Corporation and accordingly participated in the selection process. Their names appeared in the select list of 239 candidates which is annexed at Exhibit 'C' to the Petition. For the reasons best known to the Corporation, the petitioners did not receive any appointment orders.

4. Learned Senior Counsel appearing for the Corporation on instructions now submits that the Corporation administration has decided to issue appointment orders to the petitioners and remaining candidates (total 82) and they would be posted in the posts identified by the Corporation. Their assuming charge will be subject to necessary procedure which

shall be followed by the Corporation in accordance with the settled procedure and conditions in the advertisement.

5. In respect of remaining candidates (10 candidates who were said to be not interested, 15 candidates who did not reply according to the Corporation Authorities), we do not express any opinion, but the Corporation shall have to take decision in respect of such posts at the earliest.

6. We may observe that the Corporation shall take into consideration the mandatory provisions and procedure enunciated under the Act namely the Rights of Persons with Disabilities Act, 2016 and in future shall adhere to the requirement envisaged under the Act and take necessary steps to implement the provisions of this Act and treat the provisions in its letter and spirit in respect of making appointment to the post available with the Corporation. We find that advertisement was issued in the year 2016. Vital period of 2 years is lost. The petitioners were deprived of the appointment orders and this

could have caused hardship to them financially and otherwise. During the course of hearing, we were assisted by learned Senior Counsel Shri Sakhare on behalf of Corporation. In spite of petitioner's name being appeared in the select list they were not given appointment order for the reasons best known to the Corporation administration. We would have imposed heavy cost on Corporation for this lapses, but in view of the statement made on behalf of the Corporation, we pass the following order.

ORDER

- i) As per the statement made above by the Corporation, necessary steps be taken in respect of appointment of these petitioners. The Head of the competent department to issue appointment orders as per statement within a week's time.
- ii) The Corporation would identify the posts and allocate necessary required duties to such persons as decided by Heads of the concerned departments.
- iii) We direct the Commissioner of Mumbai Municipal Corporation to oversee implementation of this order.

7. The Petition is allowed in the above terms. Registry is directed to forward copy of this order to the Commissioner of Mumbai Municipal Corporation.

(G.S.KULKARNI, J.)

(NARESH H.PATIL, J.)