

HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.32157 OF 2018

Between:

P Jangaiah, S/o Narsimulu, HT No 1717000070,
Aged about 35 years, Occupation Unemployee,
R/o. 524, Keshampeta village and Mandal,
Mahboobnagar District and others.

.....Petitioners.

And:

The State of Telangana, represented by its
Principal Secretary School Education Department,
Secretariat Buildings, Saifabad, Hyderabad and another.

....Respondents.

The Court made the following:



HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.32157 OF 2018****ORDER:**

1. Heard.
2. The present writ petition is filed seeking to declare the action of the respondents in issuing the impugned "Supplementary Information Notification" of the 2nd respondent in concluding the selection process for the posts of Art Teachers in various residential educational institutions societies, vide notification No.17/2017 dated 14.4.2017 under "physically handicapped category" without filling all the existing vacancies and denying the petitioners for appointment in spite of their eligibility and selection, as illegal and arbitrary and consequently direct the respondents to consider the candidatures of the petitioners for the posts of Art Teachers and appoint them under "physically handicapped category".
3. According to the petitioners, all of them having physical disability and they have applied to the posts of Art Teachers in pursuance of the recruitment notification No.17/2017 dated 14.4.2017. All the petitioners were qualified in the examination conducted by the Telangana Public Service Commission and the petitioners were called for certificate verification, but appointments were not given to them and the appointments were restricted to two vacancies only. Petitioners allege that when the notification specifies four vacancies, restricting the vacancies only to two posts is arbitrary and illegal.
4. To appreciate this contention, learned counsel for the petitioners placed on record the annexure appended to the recruitment notification showing the break up of vacancies appended to I.A.No.2 of 2018. The annexure would show that there was only one vacancy in TMREIS (Minority) Institution under the category of physically handicapped and another vacancy was meant for woman in the same institution.

5. In TMREIS, one vacancy for orthopedically handicapped meant to be filled by woman is shown. Thus, even the notification itself prescribed only two vacancies and these two vacancies are filled up. Therefore, it is not correct to contend that even though four vacancies were notified, only two vacancies are filled up.

6. Learned counsel for the petitioners sought to contend that as per the system evolved by the Telangana State Public Service Commission, candidates in the ratio of 1:3 are called for certificate verification. Fourteen disabled candidates were called for certificate verification as there are four vacancies available and thus ultimate selection could not have been restricted to two vacancies only. Merely because, a large number of candidates are called for certificate verification, it cannot be assumed that there were more than two vacancies, more specifically when recruitment notification indicted only two vacancies.

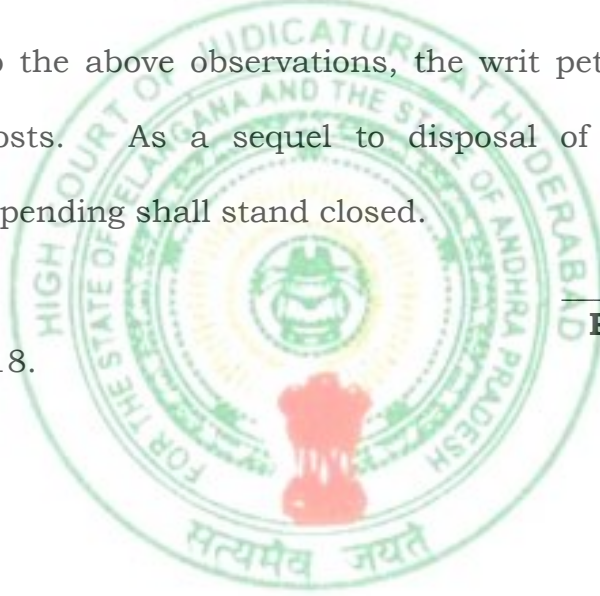
7. At this stage, learned counsel for the petitioners also sought to contend that in view of the provisions of 'the Rights of Persons with Disabilities Act, 2016 (Act 4 of 2016), in any recruitment, the vacancies reserved for any of the disabled categories, are not filled up by such sub category viz. visually handicapped, orthopedically handicapped and Hearing Impaired as the case may be, and in the next recruitment also if the candidates belonging to that particular category are not available, the vacancies can be diverted to other category and be filled up. Learned counsel for the petitioners further submits that the vacancies now notified are carried over from earlier recruitment and therefore by applying the provisions of Act 49 of 2016, those vacancies meant for visually handicapped and Hearing Impaired ought to have been diverted to orthopedically handicapped and be filled up as large number of vacancies meant for those two categories remained unfilled.

8. However, no material is placed on record to support this contention. Further, the notification clearly indicates break up of vacancies to three categories. In the absence of any material placed on record to show that these are all carry forward vacancies, at this stage, no direction can be issued to appoint petitioners by diverting vacancies meant for the other two categories, to be filled by orthopedically handicapped candidates. However, it is open for the petitioners to work out their remedies with reference to applying the provisions of the Act, 49 of 2016 and to seek direction to employer to take up the special recruitment for disabled persons to the available vacancies by strictly applying the provisions of Act 49 of 2016.

9. Subject to the above observations, the writ petition is dismissed. No order as to costs. As a sequel to disposal of the writ petition, W.P.M.Ps if any pending shall stand closed.

Dated:17.09.2018.
Gk

P. NAVEEN RAO, J



HON'BLE SRI JUSTICE P. NAVEEN RAO

15.



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Date:17.09.2018

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