

\$~61

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of Judgment: 17th July, 2018*

+ LPA 373/2018

ASHWIN JAWAHARLAL MEHTA

..... Appellant

Through: Mr Nikunj Dayal and Mr Shubham
Arya, Advs

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr Jaswant Rai Aggarwal with
Ms Satvika Goyal, Advs for R-1&2

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. Challenge in this appeal is to an order dated 20.04.2018 passed by the learned Single Judge by which the writ petition filed by the petitioner has been disposed of. Learned counsel for the appellant submits that the writ petition was decided on the first date of hearing without issuing notice in the matter and without respondent Nos. 2, 3 and 4 being represented in Court. It is further submitted that the primary relief is sought against the respondent Nos. 3 and 4.

2. Learned counsel for the appellant submits that the appellant has raised serious questions with regard to the rights of persons with disabilities. In this case, the son of the appellant is a disabled person with hearing impairment. For the sake of convenience he shall be referred to as the

appellant. The appellant has been appearing in the Graduate Aptitude Test in Engineering (GATE) Examination for the past five years and he has cleared the examination on four occasions but has not been finally successful on all four occasions, and has fallen short of the composite score which is required for qualifying the post which is comprised of a written examination, interview, group discussion and group task. He submits that as of today there are 100 vacancies for the disabled out of which 90 vacancies are backlogs. It is alleged that the entire procedure which is being followed is not disabled friendly, to say the least, an impression is created that the beneficial piece of legislation is not being adhered to and there is a systematic attempt to keep the persons with disabilities out of the jobs which are available.

3. We have heard the learned counsel for the appellant.

4. We find that the appellant has raised serious questions which require consideration and a response from respondent No. 3/IOC and respondent No. 4/ONGC would be necessary to examine the allegations which have been made in the writ petition. Without expressing any opinion on the merits of the matter, lest prejudice be caused to the rights of any of the parties especially respondent Nos. 3 and 4 who were neither represented before the learned Single Judge nor represented before Court today, although we are informed that advance copies were supplied to them, we are of the view that the impugned order requires to be set aside and the matter be remanded back for fresh hearing, after issuance of notice to all the respondents and upon receipt of a response from them.

5. Accordingly, the order dated 20.04.2018 is set aside. Matter is remanded back to the learned Single Judge. Parties to appear before the learned Single Judge on 13.08.2018. Counsel for the appellant will bring to the notice of all the respondents the order passed by this Court today. We make it clear that all legal objections of the respondents are kept open.

6. With these directions, the appeal is disposed of.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

JULY 17, 2018
SU