

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 6135 of 2018**

Rajendra Kumar Singh S/o Shri Ranjit Singh, Aged About 60 Years
Presently Posted And Working As Assistant Director (Agriculture), Tifra,
Bilaspur, R/o. Maharana Pratap Nagar, Tifra, Bilaspur, P.S. Sirgitti, Tehsil
And District Bilaspur (Chhattisgarh), District : Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Agriculture
And Bio Technology, Mahanadi Bhawan, Mantralaya, Naya Raipur, District
Raipur (Chhattisgarh), District : Raipur, Chhattisgarh
2. Director Directorate Of Agriculture, Indravati Bhawan, Naya Raipur, District
Raipur (Chhattisgarh), District : Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Amrito Das, Advocate
For State	:	Mr. Chandresh Shrivastava, Dy. AG

Hon'ble Shri Justice P. Sam Koshy**Order on Board****08/07/2019**

1. The challenge in the present writ petition is to the order of the State Government dated 26.06.2018 passed by the respondents.
2. Vide the impugned order the respondents have taken a stand that reservation for the persons with physical disability in matters of recruitment and promotion has been fixed at 3%.
3. The impugned order has been passed in the light of the direction given by this Court in a bunch of writ petitions, leading of which being WPS No. 202/2015 decided on 08.01.2016 whereby this Court had directed the respondents to pass appropriate order deciding the reservation in promotions for persons with disabilities.
4. The challenge in the present writ petition is on the ground that 3% reservation for persons with disabilities is contrary to the basic act i.e.

Right of the Persons with Disabilities Act, 2016 where Section 34 envisages that minimum percentage of reservation required for persons with disabilities would be 4%. Counsel for the petitioner refers to the circular of the State Government dated 27.09.2014 (Annexure P-13) where the State Government as a policy decision itself has held that persons with disabilities would get a reservation for recruitment as well as promotion at 6%. Thus, prima facie, it appears that the impugned order Annexure (P-1) passed by the respondent firstly being in violation to the Right of the Persons with Disabilities Act, 2016 as also contrary to the policy decision of the State Government dated 27.09.2014, this Court is of the opinion that the reply that the respondents have filed is not sustainable.

5. Thus, the impugned order passed by the respondents would not be maintainable and is apparently bad in law and is also contrary to the law as well as the policy decision of the State Government and the same therefore is set aside/quashed. It is further directed that the respondent State Government shall pass a fresh order taking into consideration the provisions of the Act of 2016 and also the policy decision of the State Government dated 27.09.2014 and any further subsequent policy decision of the State Government so far as the reservation for the persons with disabilities in promotion matter are concerned at the earliest.
6. With the aforesaid observation, the writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge