

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3365 OF 2013

Vinod Shahji Tambe

....Petitioner

Versus

Union of India & ors.

...Respondents

Mr. Sachin Gite, for the Petitioner.

Mr. A. M. Sethna, a/w A. Mandviwala, I/b Mr. P. K.

Sonawane, for Respondent no.1.

Mr. Yatin S. Kochare, AGP for Respondent no.2/State.

CORAM: B. R. GAVAI &
N. J. JAMADAR, JJ

DATED: 3rd January, 2019

PC:-

1. The Petitioner has approached this Court being aggrieved by non-inclusion of the term “Cancer Cured Handicapped” in the definition of the “disability” under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, ('the Act', for short).

2. The perusal of the record reveal that a Division Bench of this Court by order dated 3rd September, 2015 permitted the Petitioner to make a representation to the Expert Committee appointed by the Government of India to examine the Rights of Persons with Disabilities under the Rights of Persons with Disabilities Bill, 2014. The Court had further directed the said Committee to consider the said representation.

3. In pursuance of the direction issued by this Court, the

Petitioner had made representation, which has been considered by the High Powered Inter Departmental Committee. An Affidavit dated 13th January, 2018 has been filed on behalf of Respondent no.1 by one K.V.S. Rao. In the said Affidavit it is affirmed that the High Power Committee was of the view that there is clear distinction between disability and medical condition. It has been further considered by the Committee that the Act mainly focuses on disability. It has been further noted that if a person develops any of the disabilities mentioned in the Schedule of the said Act, it can be covered in the ambit of the said Act. Further it did not find any merit in the representation to include "Cancer Cured Handicapped" as "Specified Disability", *per se*, in the Schedule to the Act.

4. The Schedule to the said Act is part and parcel of the said statute. In this view of the matter, the legislature has to consider what sorts of disabilities ought to be included in the Schedule to the said Act. In any case, the Expert Committee under the directions of this Court has already considered this issue and had found no merit in the grievance of the petitioner.

5. We do not find any case for interference.

6. Petition is rejected.

[N. J. JAMADAR, J.]

[B. R. GAVAI, J.]