

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CIVIL APPLICATION NO. 817 OF 2018
IN
WRIT PETITION NO. 5859 OF 2008

State of Maharashtra.	...	Appellant.
In the matter of		
Prerna Apang Seva Sanstha.	...	Petitioner.
V/s.		
The State of Maharashtra and others.	...	Respondents.

Mr.Y.S.Khochare, AGP for the applicant- State.

Mr.Uday P. Warunjikar, Amicus Curiae.

CORAM : A.S.OKA AND A.A.SAYED, JJ.

DATE : 3rd January 2019.

P.C. :

Heard the learned AGP appearing for the applicant- State and the learned counsel Shri Warunjikar who has been appointed as Amicus Curiae. The main writ petition which is in the nature of public interest litigation (PIL) was disposed of by the judgment and order dated 14th December 2016. The judgment of this Court will show that this Court found that implementation of many of the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short “the said Act of 1995”) was not at all made by the State Government and, therefore, very detailed directions

have been issued under the said judgment and order directing the State Government and other authorities to implement the provisions of the said Act of 1995.

2. The present civil application taken out by the State Government is for modification of the directions incorporated in the final judgment dated 14th December 2016. The present civil application is based on the provisions of the Rights of Persons with Disabilities Act, 2016 (for short “the said Act of 2016”). By the said Act of 2016, the provisions of the said Act of 1995 have been repealed. Sub-section (1) of section 102 of the said Act of 2016 is the repealing section.

3. After having heard the learned AGP and the learned counsel appointed as Amicus Curiae, we find that there is a drastic difference between provisions of the said Act of 2016 and the said Act of 1995. The learned Amicus Curiae is right in pointing out that the writ petition which is in the nature of PIL was filed with the object of ensuring that the State implements the said Act of 1995 and since this writ petition concerns with rights of the persons with disabilities, the issue of implementation of the provisions of the said Act of 2016 will have to be gone into in the said petition. However, for that purpose, the State Government will have to be permitted to file a reply setting out the steps taken to implement the said Act of 2016. Hence, the said writ petition will have to be reheard.

4. Shri Warunjikar, learned counsel appointed as Amicus Curiae has pointed out that vide GR/order dated 11th September 2018 he has

been appointed as a Member of the Advisory Board by the State Government.

5. Considering the fact that Shri Warunjikar earlier appeared in the writ petition and assisted the Court throughout, notwithstanding his appointment as a Member of the Advisory Board, we are of the view that he should continue to assist the Court as an Amicus Curiae.

6. We, therefore, dispose of this civil application by passing the following order:

- (i) Writ Petition No.5859/2008 is restored to the file of this Court;
- (ii) We, however, make it clear that those directions issued under the judgment and order dated 14th December 2016 which are not in any manner inconsistent with the provisions of the said Act of 2016 will continue to operate as interim directions till further orders are passed in the writ petition;
- (iii) The learned Amicus Curiae submitted that as this Bench has spent considerable time in dealing with the issue, this Bench should hear and dispose of the main petition after considering the issue of implementation of provisions of the said Act of 2016. However, it will be appropriate if the writ petition is placed before the

Hon'ble the Chief Justice for passing appropriate order of assignment. We, accordingly, direct the Registrar (Judicial-I) to immediately place a copy of this order along with the record before the Hon'ble the Chief Justice for passing appropriate orders on the administrative side.

(A.A.SAYED, J.)

(A.S.OKA, J.)