

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8020 OF 2019

Director and Member Secretary
Institute of Banking Personnel Selection ... Petitioner

V/s

State of Maharashtra and Ors. ... Respondents

Mr. Dhananjay J. Bhanage, for the Petitioner.

Mr. Uday Warunjikar i/b Siddesh Pilankar, for Respondent No.3.

Mr. C.D. Mali, AGP for the Respondent Nos. 1 and 2.

CORAM : UJJAL BHUYAN, J.

DATE : NOVEMBER 18, 2019.

P.C.:-

Heard Mr. Dhananjay J. Bhanage, learned counsel for the petitioner; Mr. C.D.Mali, learned AGP for respondent Nos. 1 and 2; and Mr. Uday Warunjikar, learned counsel for respondent No.3.

2. By filing this petition under Article-227 of the Constitution of India, petitioner seeks quashing of order dated 19.07.2018 passed by Respondent No.2-State Commissioner for Persons with Disability, Government of Maharashtra as well as order dated 30.10.2018 passed by the said authority declining to reconsider the said order.

3. Petitioner is Institute of Banking Personnel Selection, represented by its Director and Member Secretary. According to the petitioner, it is public trust registered under the Bombay Public Trust Act, 1950 since re-named as the Maharashtra Public Trust Act and also registered under the Societies Registration Act, 1860.

4. Basic objective of the petitioner is to act as recruiting agency for various banking organizations.

4.1. Several nationalized banks initiated recruitment process for selection of Probationary Officers etc. and in this connection petitioner was entrusted with the task of conducting the recruitment process. Respondent No.3 was one of the candidates, who had appeared in the written examination, schedule of which was announced on 10.07.2013. The written examination was conducted on 23.10.2013. It appears that though respondent No.3 had cleared the written examination, she was not successful in the interview which followed. Therefore, her name was not recommended by the petitioner to any of the banks.

5. This compelled respondent No.3 to approach respondent No.2 by lodging complaint under Section 80 and 82 of the Rights of Persons with Disability Act, 2016 ('Disability Act') complaining that though she was a candidate with 100% visual impairment, yet her case was not considered under provisions of the Disability Act.

6. Despite notice by respondent No.2, petitioner did not submit its say to the complaint of respondent No.3 and remained absent. As a result, respondent No.2 proceeded ex-parte and thereafter, passed the order dated 19.07.2018 directing the petitioner (read as 'respondent No.1' in the complaint) to examine the documents to be produced by respondent No.3 including original disability certificate and thereafter, if she was found to be eligible, to recommend her for appointment against available vacancy in the post mentioned in the concerned advertisement, nearby her residence.

7. Petitioner filed an application before respondent No.2 seeking review of the aforesaid order. Respondent No.2 took the view that there was provision under the Disability

Act to entertain the Review Petition and in any case, there was no justification for review as sought for. Consequently, order dated 30.10.2018 was passed rejecting the Review Petition with a further direction to the petitioner to implement the order dated 19.07.2018 in accordance with the provisions contained under Sections 80 and 82 of the Disability Act without delay.

8. Assailing the above orders, the present writ petition has been filed.

8.1. Learned counsel for the petitioner submits that the recruitment was made in the year 2013 and all the vacancies have been filled up in the year 2013. Therefore, it would not be justified to reopen the selection after so many years. That apart, respondent no.3 lodged her complaint before respondent No.2 belatedly in the year 2017. Notice was received after hearing of the complaint.

8.2. On the other hand, learned counsel for the respondents support the impugned orders and seek dismissal of the writ petition. According to them, notice was served on the petitioner.

9. Submissions made by the learned counsel for the respective parties have been considered.

10. On due consideration, Court is not inclined to entertain the writ petition for more than one reason. Firstly, the writ petition has been filed by the petitioner which according to itself is a recruiting agency. Being a recruiting agency, petitioner can not have any grievance to the order passed by respondent No.2. Order dated 19.07.2018 is indicative of the above. Relevant portion of the order dated 19.07.2018 is extracted hereunder:

“e. After the receipt of the recommendation from the Respondent No.1, the concerned bank is directed to appoint the Applicant in its establishment under the category reserved for the disabled.”

10.1. Secondly, when notice was issued to the petitioner, petitioner did not respond to the same, though, it is contended that the notices were received post hearing of the complaint which is however contested by respondent No.3.

10.2. Thirdly, under the Disability Act, the concerned

banks are required to ear-mark 4% of the vacancies for people with disability including people suffering visual impairment. Supreme Court has explained the nature of reservation for physically disabled person, which is in the nature of horizontal reservation in contradistinction to vertical reservation. Horizontal reservation is vacancy based as opposed to post based reservation.

11. Therefore, having regard to the objective of the Disability Act which is a manifestation of India's international commitment to the rights of disabled persons, stand taken by the petitioner is quite unfortunate. Filing of the writ petition is misconceived.

12. In the circumstances, Court finds no merit in the writ petition. Writ Petition is dismissed.

(UJJAL BHUYAN, J.)