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

WRIT PETITION NO. 1187 OF 2020

Suresh Laxman Ganeshkar

.. Petitioner

Vs

Maharashtra State Electricity Distribution
Company Ltd. and another

.. Respondents

Mr.Uday P.Warunjikar, for the Petitioner.

Mr.Kiran Gandhi a/w Mr.Aakash Kothari i/b Little & Co., for
Respondent No.1.

Ms.Rupali Shinde- Addl. Government Pleader, for Respondent No.2.

***CORAM : NITIN JAMDAR &
M.S.KARNIK, JJ.***

Date : 4 March 2020.

P.C. :

Heard learned Counsel for the parties. Though various contentions have been raised by the Petitioner, the Petitioner is restricted to its case to inadequate consideration of exercise of power by the Respondents to relax the condition No.6 of the Maharashtra Civil Services (Declaration of Small Family) Rules, 2005.

2. The Petitioner had applied pursuant to advertisement No.1 of 2019 for the post of Regional Director /Executive Direction to the Respondent No.1 -Maharashtra State Electricity Distribution Company Limited -(MSEDCL). It is the case of the Petitioner that

three persons were selected and a Select list was notified on 8 March 2019, as out of the three who were selected two have been appointed and Petitioner's case has not been considered. The learned Counsel submits that the reason why Petitioner's case is not being considered is the Rule 6 of the Maharashtra Civil Services (Declaration of Small Family) Rules, 2005 adopted by Respondent No.1. The learned Counsel further submits that the Select list would expire on 8 March 2020.

3. On the aspect of relaxation we note that power exists under the rules to relax condition No.6. We also note that on 8 February 2016 when Petitioner's case for earlier appointment was considered, this rule was relaxed. While this Petition was pending an order is passed by the Respondent on 21 January 2020 rejecting the request of the Petitioner for relaxation of the Rules. There are no reasons given in this order as to why the representation is rejected particularly, when it was granted for some other post earlier. The learned Counsel for the Petitioner submitted that suitable directions be given to the Respondents to exercise these powers. In a writ jurisdiction it is not possible for us to issue a mandamus to exercise the power in a particular manner, but we do note that the Select list would expire on 8 March 2020.

4. In these circumstances it would be appropriate that the unreasoned order dated 21 January 2020 is set aside and Respondent

No.1 to take a decision on the aspect of relaxation afresh by giving reasons. This exercise be carried out before 8 March 2020, the date on which Select list would expire. Our attention is drawn to Rule 29(a) of Classification and Recruitment Regulations 2005. It is thus always open under this Rule to the Respondent-authorities to exercise its power of extension if the contingency is so made out.

5. With these observations liberty to the Petitioner to make a fresh representation which the learned Counsel for the Petitioner states will be tendered tomorrow. The Respondent will take a necessary decision as per law.

6. Petition disposed of. In view of the paucity of time parties will act upon this order without waiting for a copy of this order.

M.S.KARNIK, J.

NITIN JAMDAR, J.