

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15779 OF 2023

Sudhakar Vishnu Deshmukh

..... Petitioner

Vs.

State of Maharashtra and Ors.

..... Respondents

Mr.A.V.Anturkar, Senior Advocate a/w Mr.Yatin Malvankar for the
Petitioner

Mr.B.V.Samant, Addl. G.P. a/w Mr.K.S.Thorat, A.G.P. for the Respondent
nos.1 to 4

Mr.Vinod Joshi for the Respondent no.5 – UPSC

CORAM: A.S.CHANDURKAR &
FIRDOSH P. POONTWALLA, JJ.
DATED : 21st DECEMBER 2023

P.C.:

1. By this Writ Petition, the Petitioner seeks a direction to the Respondents to consider his candidature under the Persons with Benchmark Disability for promotion in the Non-State Civil Service category. This process of appointment by promotion is being undertaken pursuant to the time line fixed by the G.R. dated 3rd November 2023.

2. A preliminary objection has been raised on behalf of the learned Counsel for the Respondents that the remedy to approach the Central Administrative Tribunal is available to the Petitioner since the matter

pertains to a step being taken towards recruitment. When this objection was raised yesterday, the matter was kept today to enable the learned Senior Advocate for the Petitioner to consider the legal effect of the judgment of the Division Bench dated 27th September 2023 in the case of Samajik Vikas Prabodhini vs. State of Maharashtra – Writ Petition No.3854 of 2023 to which one of us (Hon’ble Shri Justice Firdosh P. Pooniwalla) was a party. By the said decision, the provisions of the Administrative Tribunals Act, 1986 have been considered in detail and the effect of the expressions “recruitment” and “service matter” have been taken into consideration.

3. Today at the outset, the learned Senior Advocate for the Petitioner submitted that in the light of this decision, the remedy to approach the Central Administrative Tribunal is available to the Petitioner. He further submits that considering the short time in hand coupled with the fact that the recommendations of the State Government ought to reach the Union Public Service Commission by 25th December 2023, an interim direction be issued by this Court to safeguard the Petitioner’s interest.

4. This request is opposed by the learned Counsel for the Respondents by submitting that the results of the online examination undertaken by 281 candidates came to be declared on 4th December 2023. The Petitioner’s name is at Serial No. 191 of the merit list. Since the Petitioner was aware of this result on 4th December 2023, he ought to have taken immediate

steps in the matter. However, the present proceedings have been filed only on 13th December 2023. The grant of any interim relief is thus opposed.

5. In the light of what has been held by the Hon'ble Supreme Court in the case of *L. Chandra Kumar vs. Union of India and Others*¹ and especially the exceptions carved out in the matter of exercising writ jurisdiction by the High Courts, we find that such exceptional case is not made out in the present facts.

6. No doubt the learned Senior Advocate for the Petitioner, sought to rely upon the decision in the case of *Akul Bhargava and Others vs. Union Public Service Commission and Others*² to seek such indulgence. We, however, find in the facts of the present case that, when the merit list was declared on 4th December 2023 itself, it was necessary for the Petitioner to have taken immediate steps.

7. In that view of the matter, without entering into the merits of the claim as raised, we are not inclined to grant any interim direction. The Petitioner is at liberty to approach the Central Administrative Tribunal to seek appropriate relief. All points raised in the Writ Petition are kept open.

8. The Writ Petition is disposed of in aforesaid terms.

(FIRDOSH P. POONIWALLA, J.)

(A.S.CHANDURKAR, J.)

1 (1997) 3 SCC 261

2 (2021) 278 DLT 410