

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION AND
WRIT PETITION NO. 15385 OF 2024

Life Insurance Corporation Of India .. Petitioner

Versus

Election Commission Of India And Ors. .. Respondents

WITH
INTERIM APPLICATION (ST) NO. 32069 OF 2024
IN
WRIT PETITION NO. 15385 OF 2024

National Organization Of Insurance
Officer (NOINO) And Ors. .. Applicant

IN THE MATTER BETWEEN :

Life Insurance Corporation Of India .. Petitioner

Versus

Election Commission Of India And Ors. .. Respondents

WITH
(ORDINARY ORIGINAL CIVIL JURISDICTION)
WRIT PETITION (L) NO. 33453 OF 2024

Life Insurance Corporation Of India .. Petitioner

Versus

Election Commission Of India And Ors. .. Respondents

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Mr. Mustafa Doctor, Senior Advocate a/w Mr. Omprakash Jha,
Mr. Roop Basu, Mr. Ahmed Padela i/b The Law Point, for the
Petitioner in WP/L/.No. 33453 of 2024.

Mr. Mayur Khandeparkar a/w Mr. Omprakash Jha, Mr. Roop Bas, Mr. Ahmed Padela i/b The Law Point, for the Petitioner, in WP/15385/2024.

Mr. Akshay Shinde, for the Respondent No.1.

Mr. Bhupesh Samant, Addl.G.P. a/w Ms. Vrishal Raje, A.G.P., for the Respondent Nos.3 to 5 and 7 in WP/15385/2024.

Ms. P. H. Kantharia, G.P. a/w Ms. Jyoti Chavan, Addl.G.P., for the Respondent Nos.2 to 6, in WP/L/33453/2024.

Ms. Sujata Rajguru, for the Collector Officer, Mumbai in WP/L/33453/2024.

Ms. Arya Ambekar, for the Collector Officer-Sub Registrar, Mumbai, in WP/L/33453/2024.

Mr. Abhijeet Joshi (Through Video-Conferencing) i/b Ms. Divya Shetty, for the Applicant.

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**CORAM : SANDEEP V. MARNE &
MANJUSHA DESHPANDE, JJ.
(Vacation Court)**

DATED : 29th OCTOBER, 2024

P.C:-

1. Leave granted in Writ Petition (L) No. 33453 of 2024 to amend the Petition as per the draft tendered. Amendment to be carried out forthwith. Re-verification dispensed with.

2. These Petitions challenge various orders passed by the Returning Officer drafting the staff of Life Insurance Corporation of India ("LIC"), for election duty. It is the grouse of LIC that large number of its staff is drafted for election duty, which would hamper its business. It is sought to be pointed out

that in some of the branches, as many as 80% to 90% of the staff is directed to be deputed for election duty. Reliance is placed by the Petitioners on Division Bench Judgment of this Court in case of **The Thane Janta Sahakari Bank V/s. Election Commissioner of India And Ors. in Writ Petition No. 8039 of 2009** alongwith connected Petitions, decided on 25.09.2009.

According to the Petitioner-LIC, orders passed by the Returning Officer requisitioning the staff of LIC are in violation of the ratio laid down by the Division bench of this Court in case of **The Thane Janta Sahakari Bank** (Supra). Reliance is also placed on para 3.2.1 (i) and (vi) of the Handbook for Returning Officer 2023, in support of the contention that drafting of as many as 70% to 80% LIC staff is in violation of the Guidelines which envisage drafting of minimum staff of banks, LICs etc.

3. Section 159 of the Representation of Peoples Act, 1951, provide thus :

“159. Staff of certain authorities to be made available for election work.--

(1) The authorities specified in sub-section (2) shall, when so requested by a Regional Commissioner appointed under clause (4) of article 324 or the Chief Electoral Officer of the State, make available to any returning officer such staff as may be necessary for the performance of any duties in connection with an election.

(2) The following shall be the authorities for the purposes of sub-section (1), namely:

(i) every local authority;

(ii) every university established or incorporated by or under a Central, Provincial

or State Act;

(iii) a Government company as defined in section 617 of the Companies Act, 1956;

(iv) any other institution, concern or undertaking which is established by or under a Central, Provincial or State Act or which is controlled, or financed wholly or substantially by funds provided, directly or indirectly, by the Central Government or a State Government.”

4. There is no dispute to the position that LIC is a Government Company as defined in the Companies Act, 1956, and in that sense, it is covered by the term ‘authority’ within the meaning of Sub-Section 2 of Section 159 of the Representation of Peoples Act, 1951.

5. The Division Bench of this Court in case of **The Thane Janta Sahakari Bank**, while setting aside the orders requisitioning the staff of the Petitioners therein, specifically permitted requisitioning of the staff of the institutions covered by Section 159(2) of the Representation of the People’s Act, 1951, in paragraph 30 of its order. Paragraph 30 of the order in The Thane Janta Sahakari Bank reads thus :

“30. The Respondents have also placed on record the figures in respect of availability of the staff. We find from the guidelines that the respondents are entitled to requisition 125% staff required for election duty and beyond that they cannot requisition. We do not desire to go into the said aspect as to how much staff is required and how much staff is to be requisitioned. In our view since the power is of the Chief Electoral Officer of the State of Maharashtra to requisition the staff, he should take into consideration the availability

of the staff from the State Government and Central Government and thereafter keeping in mind the guidelines prescribed, may requisition the staff of the institution which are covered under section 159 of the Act of 1951 in consultation with the Nodal officers of the said institutions keeping in mind the guidelines contained in Chapter-III of the Handbook of the Returning Officer and also the judgment of the Apex Court as has been pointed in the matter of State Bank of India Staff Association (supra).”

6. Ms. Chavan and Mr. Samant, the learned Addl. Government Pleaders would place on record the communication dated 15.10.2024 issued by the Chief Electoral Officer, Maharashtra State, which reads thus :

“Sir,

The provisions of Section 159 of the Representation of Peoples Act, 1951 (extract enclosed) empowers the Chief Electoral Officer of Maharashtra State to request you to provide the required staff to Returning Officers of the Assembly Constituencies for the conduct of General Elections to Maharashtra Legislative Assembly-2024.

2. The requirement of staff will be communicated to you by the respective Commissioner, Brihamumbai Municipal Corporation and District Election Officer, Mumbai City & Mumbai Suburban, Collector and District Election Officer (Except Mumbai City & Mumbai Suburban), All Additional District Election Officers, Mumbai City & Mumbai Suburban for the conduct of General Elections to Maharashtra Legislative Assembly-2024, it is requested under section 159 of the Representation of Peoples Act, 1951, that on receipt of such communication the required staff shall be provided to the

respective District Election Officers for conduct of General Election of Maharashtra Legislative Assembly-2024.”

7. Prima-facie therefore it appears that, the Chief Electoral Officer has exercised the power conferred upon him under Section 159(1) of the Act, by directing various authorities to make available to the Returning Officer such staff as may be necessary for performing election related duties. It would be too far-fetched to hold that the Chief Electoral Officer would himself undertake the exercise of determining the requisite number of staff for every constituency for being requisitioned. The correct reading of provision of sub-Section (1) of Section 159 would mean that the Returning Officers shall decide the exact number of staff from the authorities enlisted under sub-Section 2 for being deputed for election duty.

8. In our view therefore, prima-facie there is no violation of the Judgment of the Division Bench of this Court in case of **The Thane Janta Sahakari Bank**.

9. So far as the Guidelines issued in the Handbook are concerned, Guideline No.3.2.1(i) and (vi) provide thus :

“3.2.1. While requisitioning staff, the following guideline should be kept in mind:

i) Based on the availability of staff in the institutions covered under Section 159(2) of the R.P. Act 1951, and the requirement of staff, the staff may be requisitioned from such institutions.

ii)

iii) ...

vi) *Employees of banks, LIC may be drafted on election duty to the minimum extent possible, only in a constituency where sufficient numbers of govt. employees are not available or in emergent circumstances such as strike etc by the Govt. employees. Care should be taken to ensure that minimum numbers of employees of such institutions are requisitioned so that the business of these institutions is not hampered. However, they can be requisitioned for the duty of Micro-observers."*

Petitioner-LIC seeks to highlight the words "to the minimum extent possible" in support of its contention that an exercise needs to be undertaken of first finding out the deficiency in the number of Government Officers, who are not available before passing routine order of drafting of LIC employees. Though the Petitioner has sought to highlight the data relating to its employees in Pune, Thane, Mumbai City and Mumbai Suburban Districts to demonstrate the case deployment of large percentage LIC employees for election duties, when the larger picture is taken into consideration, it cannot be held at this stage that large numbers of employees of LIC are selectively deputed for election related duties. To illustrate, as per the data provided in WP/15385/2024, 688 LIC employees are drafted for election related duties, for Pune and Thane Districts. However, when this number of 688 LIC employees is compared with 60,768 employees drafted for election duties, only in Pune District, the number of deputation of LIC employees appears to be miniscule.

Considering this position, we are not inclined to

pass any ad-interim order as of today in the present Petitions.

10. Petitioner/LIC has complained that its employees are selectively being drafted for election duties by not requisitioning the employees other banks and PSUs. This aspect can be considered by the Regular Court.

11. As of today, it appears that the concerned staff of LIC have already been imparted one session of training for election related duties. The duties to be performed by them for conducting the elections would be two days training and two day polling. It may be that for those officers, who are drafted to function as Zonal Officers, the number of days of drafting is slightly longer. However, from the order dated 13.09.2024 passed by the Returning Officer, Thane, it appears that out of 53 Zonal Officers nominated by the Returning Officer from various Government Departments, Schools and PSU's, only one officer from LIC has been nominated as Zonal Officer. Also relevance is the fact that for Loksabhha Election 2024 also, similar number of employees of LIC were drafted for election related duties, which is a fact admitted by the Petitioner in its representation dated 18.10.2024.

12. Considering the above position, we are not inclined to grant any ad-interim relief, in favour of the Petitioner.

13. List the Petitions before the Regular Court on 13.11.2024.

(MANJUSHA DESHPANDE, J.) (SANDEEP V. MARNE, J.)