



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 495 OF 2025

Vasant Baburao Chandankhede

... PETITIONER

Versus

M/s Citizen's Education Society, Nagpur
and Another

... RESPONDENTS

Mr. Sanjay Nerkar, Advocate for Petitioner.
Mr. I. G. Meshram, Advocate for Respondent No.1.
Mr. N. S. Rao, AGP for Respondent No.2.

CORAM : NITIN W. SAMBRE AND MRS. VRUSHALI V. JOSHI, JJ.
DATE : APRIL 04, 2025.

ORAL ORDER

. We have heard Mr. Sanjay Nerkar, learned Counsel for the Petitioner, Mr. I. G. Meshram, learned Counsel for the Respondent No.1 and Mr. N. S. Rao, learned AGP for the Respondent No.2.

2. The Government Medical College, Nagpur certified the health condition of the Petitioner as 'Permanently Incapacitated' after his medical examination on 23/3/2023 vide Certificate dated 19/5/2023. Based on the said Certificate, it is the case of the Petitioner that the Respondent No.1 – Employer ought to have absorbed him on a supernumerary post, in view of the mandate under the second proviso to Sub-section (4) of Section 20 of the Rights of Persons With Disabilities Act, 2016. The said provision reads as under :

“20. Non-discrimination in employment. –

(4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:

Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits :

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.”

3. In this background, the learned Counsel for Respondent No.1 - Management submits that the Respondent No.1 is receiving 100% grant-in-aid from the State Government Exchequer. It is for the Respondent No.1 to sanction supernumerary post in case the provisions referred above are to be implemented. It is claimed that the Respondent No.1 is willing to submit a proposal along with all the necessary documents to the Respondent No.2 within a period of two weeks from today for creation of supernumerary post in view of the above statutory provisions. Since the statement is made on instructions, same is accepted.

4. In case the said proposal is submitted by the Respondent No.1 to the Respondent No.2, the Respondent No.2 if competent to take a decision on its own, shall communicate the same to the Petitioner and the Respondent No.1 within a period of one week thereafter would obtain sanction.

5. In case the decision for creation of supernumerary post as mandated under the second proviso to Sub-section (4) of Section 20 of the Rights of Persons With Disabilities Act, 2016 is required to be referred and

approved from the State Government or the Commissioner of Social Justice and Special Assistance Department, the same shall be referred by the Respondent No.2 to the Department of Higher Education, State of Maharashtra within a period of one week thereafter.

6. The State shall deal with the said proposal at its Secretariat level as expeditiously as possible and in any case within a period of three months from today and communicate the decision to the Petitioner so also the Respondent No.1.

7. Writ Petition stands disposed of accordingly.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)

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