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W.P.Nos.41374/2024,574 of 2025 ,577 of 2025 ,6233 of 2025 & 6235 of 2025

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 24th OF FEBRUARY, 2025

WRIT PETITION No. 41374 of 2024

SIDDHI PAAL

Versus

KAUSHAL VIKAS KSHETRIYA KAARYALAYA AND OTHERS

WITH

WRIT PETITION No. 574 of 2025

GURDEEP KAUR VASU

Versus

SANYUKTA SANCHALAK AND OTHERS

WRIT PETITION No. 577 of 2025

ANIL PATEL

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 6233 of 2025

SHEHZAD KHAN

Versus

MUKHYA NAGAR PALIKA ADHIKARI AND OTHERS

WRIT PETITION No. 6235 of 2025

SUFIA BEGUM

Versus

MUKHYA NAGAR PALIKA ADHIKARI AND OTHERS

Appearance:

Ms. Shanno Shagufta Khan - advocate for the petitioners.

Shri Kushal Goyal, Dy.AG appearing on behalf of Advocate General.

ORDER

1] This order shall also govern the disposal of W.P.No.41374/2024,
W.P.NO.574/2025,W.P.NO.577/2025, W.P.NO.6233/2025 and



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W.P.NO.6235/2025 as all these petitions have arisen out of the advertisement dated 26.7.2024 in W.P.No.41374/2024, W.P.NO.574/2025, W.P.NO.577/2025, advertisement dated 6.8.2024 in W.P.No.6233/2025 and advertisement dated 21.8.2024 in **W.P.No.6235/2025.**

2] For the sake of convenience, the facts as narrated in W.P. No.41374/2024 are being taken into consideration.

3] This petition has been filed by the petitioner seeking the following reliefs:-

"याचिकाकर्ता द्वारा चाही गई सहायता.

यह कि याचिकाकर्ता इस याचिका के माध्यम से प्रार्थना करता है कि.

1 यह कि प्रत्यर्थी क्र.1 को निर्देशित/ आदेशित किया जावे कि आठवी की अंकसूची के मेरिट के स्थान पर विद्यार्थियों का चयन न करके बहू विकलांगता के आधार पर चयन एनेक्चर पी/2 परिपत्र के अनुसार दिव्यांगजनों की निःशक्ता जिनकी अधिक है उसके आधार पर किया जावे ।

2. यह कि, आरक्षित पदों की नियुक्ति/भर्ती/ प्रक्रिया पर तब तक रोक लगाई जावे जब तक कि सदर याचिका का निराकरण नहीं हो जाता है। माननीय न्यायालय जो उचित समझे याचिकाकर्ता के पक्ष में आदेश देने की कृपा करे।

3. यह कि, यदि प्रत्यर्थी क.1 द्वारा भर्ती की प्रक्रिया संपूर्ण कर ली जाती है उसके पश्चात यदि याचिकाकर्ता को पद के योग्य माना जाता है तो उसे इन्टरव्यू के लिये बुलाये जाने बाबद आदेश पारित किया जावे।

4. यह कि, अन्य कोई सहायता जो याचिकाकर्ता के पक्ष में हो उसे प्रदान करने की कृपा करे।"

4] The petitioner is a girl aged 19 years and is suffering from 92.5% disability as also from multiple disabilities. The petitioner is aggrieved by the selection process whereby the private respondents



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no.4, 5 and 6, who are also claiming themselves to be disabled, have been selected for class IV posts pursuant to the advertisement dated 26.7.2024 (annexure P-1).

5] The contention of Ms.Shanno Shagufta Khan, learned counsel for the petitioner is that while appointing the private respondents no.4, 5 and 6 (who have been arrayed subsequently), who are also disabled to some degrees, the respondents have totally ignored the circular dated 3.7.2018 (Annexure P-2) which provides that those disabled persons suffering from higher disability shall be given the preference in public employment.

6] Counsel for the petitioner has submitted that the respondents.*no.4, Aayush Sharma, respondent no.5/Rajkumar and respondent no.6/Mohit Gupta in W.P.No.41374/2024, 574/2025 & 577/2025*, are suffering 75%,70% and 45% disability respectively. whereas the petitioner is suffering 92.5%. In the connected writ petitions (W.P.Nos.6233 of 2025 & 6235 of 2025) the other two petitioners are suffering 100% disability whereas respondent no.4/Shiromani is suffering 40% disability in W.P.No.6233/2025 and respondent no.4/Pushpendra Kharadi is suffering 45% disability in W.P.No.6235/2025. It is also submitted that the noncompliance of the aforesaid circular dated 3.7.2018 has defeated the very purpose of the provisions of the Section 34 Rights of Persons With Disabilities Act, 2016 and Rule 12 of Rights of Persons With Disabilities Rules, 2017 .

7] In support of her submissions, learned counsel for the petitioner has relied upon a decision passed by the **Division Bench of the**



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Karnataka High Court at Bengaluru in the case of *State of Karnataka and others Vs. Ms. Latha H N* passed in W.P.No.19994/2024 (S-KSAT) dated 11.11.2024 wherein the Division Bench of the Karnataka High Court has taken note of the fact that the respondents had not given preference to the persons, who were suffering from higher percentage of disability. Thus, it is submitted that the petition be allowed, and the State be directed to issue fresh advertisement for appointment of disabled persons.

8] On the other hand, learned counsel for the respondent/State has opposed the prayer. A reply has also been filed, and it is averred that the respondents had complied with all the circulars issued by the Government from time to time which is also reflected in advertisement dated 26/7/2024 itself, filed as Annexure R-3 wherein it is clearly provided that the circulars dated 20.1.2024, 22.2.2014, 30.6.2014, 17.7.2014, 17.9.2014, 13.10.2015 and 3.7.2018 are being complied with. However, in para 6 of the reply, the respondents have stated that the percentage obtained in educational qualification column 9 of merit list filed as additional documents on 23.12.2024 must be given priority.

9] The respondents *no.4, Aayush Sharma, respondent no.5/Rajkumar and respondent no.6/Mohit Gupta in W.P.No.41374/2024, 574/2025 & 577/2025, respondent no.4/Pushpendra Kharadi in W.P.No.6235/2025 and respondent no.4/Shiromani Gaur in W.P.No.6233/2025* have not filed their reply and are also not represented, and on the last date of hearing, i.e, on 11.2.2025, this Court had specifically observed that the private



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respondents may also file their response, if necessary, otherwise they may be proceeded ex parte.

10] Heard. Having considered the rival submissions, and on perusal of the documents filed on record, this Court finds that so far as the circular dated 3.7.2018 is concerned, the relevant excerpts of the same reads as under:

मध्यप्रदेश शासन
सामान्य प्रशासन विभाग
(आरक्षण प्रकोष्ठ)
मंत्रालय

क्रमांक एफ 8/4/2001/आप्र/एक (पार्ट) भोपाल, दिनांक 03/07/2018

प्रति,

शासन के समस्त विभाग,
अध्यक्ष, राजस्व मंडल, मध्यप्रदेश ग्वालियर,
समस्त विभागाध्यक्ष,
समस्त संभागीय आयुक्त,
समस्त जिलाध्यक्ष,

समस्त मुख्य कार्यपालन अधिकारी, जिला पंचायत मध्यप्रदेश

विषय:- दिव्यांगजन अधिकार अधिनियम, 2016 एवं नियम 2017 के तहत शारीरिक रूप से दिव्यांगों के लिए द्वितीय, तृतीय एवं चतुर्थ श्रेणी के पदों में आरक्षण।

संदर्भ:- इस विभाग का समसंख्यक पत्र दिनांक 30 जून, 2001

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“ 3. अतः दिव्यांगजन को दिव्यांगजन अधिकार अधिनियम, 2016 की धारा 34 तथा मध्यप्रदेश दिव्यांगजन अधिकार नियम, 2017 के नियम 12 के तहत प्रत्येक सरकारी स्थापन में सीधी भर्ती के प्रक्रम में भरे जाने वाले द्वितीय श्रेणी, तृतीय श्रेणी एवं चतुर्थ श्रेणी की लोक सेवाओं एवं पदों में दिव्यांगों के लिये 6 प्रतिशत आरक्षण निम्नानुसार किया जाता है:-

- | | |
|----------------------------|-------------|
| 1. दृष्टिबाधित और कमदृष्टि | 1.5 प्रतिशत |
| 2. बहरे और कम सुनने वाले | 1.5 प्रतिशत |



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3. लोकोमोटर डिसेबिलिटी जिसमें सम्मिलित है,
 सेरेब्रल पाल्सी, कुष्ठ रोग मुक्त, बौनापन,
 एसिड अटेक पीडित, मस्कुलर डिस्ट्राफी 1.5 प्रतिशत
4. ऑटिज्म, बौद्धिक दिव्यांगता, 1.5 प्रतिशत
 स्पेसिफिक लर्निंग
 डिसेबिलिटी और मानसिक बीमारी
 और बहुविकलांगता

4. प्रायः देखने में आया है कि जिन दिव्यांगजनों की निःशक्तता का प्रतिशत कम है उन्हें शासकीय सेवा में आरक्षण (निरीक्षण) दिया जा रहा है। जिन दिव्यांगजनों की निःशक्तता का प्रतिशत अधिक है उन्हें शासकीय सेवा में नियुक्ति नहीं दी जा रही है। यह कार्यवाही दिव्यांगजन अधिकार नियम 2017 में उल्लेखित प्रावधान की मंशा के विपरीत है। अतः जिन दिव्यांगजनों की निःशक्तता अधिक है, उन्हें प्राथमिकता दी जाए।”

11] So far as advertisement dated 26.7.2024 (Annexure P-1) is concerned, on perusal of the same it is found that it has neither any reference to the aforesaid Circular dated 3.7.2018 nor any intention regarding preference being given to the persons suffering from higher percentage of disability, provided the disability does not come in the way of the duties attached to the post. Although, in some petitions viz., W.P.41374/2024, the reference of the said circular is there, but there is no intention to comply with the same. One such advertisement dated 06-08-2024 in WP No. 6233/25, issued by Municipal Council, Jawra, District Ratlam is reproduced as hereunder :-

कार्यालय नगरपालिका परिषद जावरा, जिला रतलाम (म.प्र.)

विज्ञापन

क्रमांक/नप/स्थापना/ 2024/2288

जावरा, दिनांक 06.08.2024

विशेष भर्ती अभियान के तहत दिव्यांगजनों के लिए आरक्षित निम्न पदों की पूर्ति के लिए पात्र अभ्यर्थियों से संलग्न प्रारूप पर आवेदन आमंत्रित



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किए जाते हैं। आवेदन दिनांक 22/8/24 को सायं 5.00 बजे तक डाक से
अथवा व्यक्तिशः नगर परिषद सैलाना जिला रतलाम के कार्यालय में प्रस्तुत
किए जा सकते हैं।

क्र.	पद का नाम	पद की श्रेणी	वेतन मान	आरक्षित वर्गवार रिक्तियां				निर्धारित योग्यता
				दृष्टि और कम दृष्टि	बाधित बहरे और कम सुनने वाले	लोकोमीटर डिसेबिलिटी जिसमें सम्मिलित है सेरेबेल पाल्सी, कुष्ठ रोग मुक्त, बौनापन, एसिड अटेक पीड़ित, मस्कुलर डिस्ट्रोफी	ऑटिज्म बौद्धिक दिव यांगता, स् पेसिफि क लर्निंग डिसेबिलिटी और मानसिक बीमारी और बहुविकलांग	
1	2	3	4	5	6	7	8	9
1	सफाई संरक्षक (नियमि	चतुर्थ	15500 /- लेवल-	1	1	1	0	5वीं कक्षा उत्तीर्ण



	त)		1					
2	सफाई संरक्षक (संविदा)	चतुर्थ	8000/ - या वर्तमा न कलेक् टर दर जो भी अधिक हो	2	1	1	2	5वीं कक्षा उत् तीर्ण
	योग			3	2	2	2	

मुख्य शर्तें - 1. आवेदक को मध्यप्रदेश का मूल निवासी होना चाहिए। 2. इस विज्ञापन के जारी होने के दिनांक को आवेदक की न्यूनतम आयु 18 वर्ष एवं अधिकतम आयु 45 वर्ष होना चाहिए। 3. आवेदक का म.प्र. राज्य के रोजगार कार्यालय में जीवित पंजीयन होना अनिवार्य है। 4. आवेदक का विवाह निर्धारित न्यूनतम आयु (पुरुष वर्ग के लिए 21 वर्ष एवं महिला वर्ग के लिए 18 वर्ष) के पूर्व हो गया हो उक्त पद के लिए उसे अयोग्य माना जायेगा। 5. प्राप्त आवेदनों की जांच के लिए मेरिट के आधार पर चुनिंदा अभ्यर्थियों को वॉक-इन-इंटरव्यू साक्षरता के लिए आमंत्रित किया जावेगा। उक्त की सूचना आवेदक की मेल आईडी पर दी जावेगी। 6. वॉक-इन-इंटरव्यू के लिए आने वाले आवेदकों को किसी प्रकार का यात्रा अथवा अन्य भत्ता देय नहीं होगा। 7. आवेदन के साथ संलग्न किए जाने वाले अभिलेख स्वयं अथवा राजपत्रित अधिकारी से प्रमाणित होने चाहिए। 8. भर्ती से संबंधित अन्य जानकारी निकाय की वेबसाइट www.mpurban.gov.in/npihora.in/ कलेक्टर कार्यालय/ जिला पंचायत कार्यालय/ निकाय के सूचना पटल पर देखी जा सकती है। 9. नियुक्ति से संबंधित सभी अधिकार नियुक्ति प्राधिकारी के पास सुरक्षित होंगे। 10. आवेदन भेजने का पता- मुख्य नगर पालिका अधिकारी नगर परिषद जावरा 457226 जिला रतलाम (म.प्र.)।

मुख्य नगर पालिका अधिकारी

नगर पालिका परिषद जावरा

12] This court also finds that the reply filed by the State is also absolutely silent about the compliance of the circular dated 03.07.2018, and although the respondents have relied upon the advertisement dated 26/7/2024 in W.P.No.41374/2024, W.P.NO.574/2025,W.P.NO.577/2025), filed as Annexure R-3, wherein



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there is a reference of the circulars dated 20.1.2024, 22.2.2014, 30.6.2014, 17.7.2014, 17.9.2014, 13.10.2015 and 3.7.2018, but it appears that the respondents have lost sight of the fact that it is one thing to refer a circular in the advertisement and another to actually comply with it.

13] The respondents have also relied upon the advertisement dated 23.07.2024 (Annexure-R/3), the relevant para 4 of the same regarding the preference of higher percentage obtained in the educational qualification read as under:-

"पद की संख्या से अधिक उम्मीदवार उपलब्ध होने पर चयन का आधार उम्मीदवारों की निर्धारित शैक्षणिक योग्यता के अंको के प्रतिशत को माना जाये। योग्यता में समान अंक होने की स्थिति में अधिक आयु वाले उम्मीदवार को वरीयता दी जाये। "

14] At this juncture, it would also be apt to refer to the decision in the case of **M/S. Latha HN (supra)** passed by the Division Bench of the Karnataka High Court at BENGALURU , the relevant para of the same reads as under:-

“3.4 There is yet another aspect: The 2022 Recruitment Notification does not provide for reservation for the blind candidates. Had such reservation been provided, arguably we could have countenanced the contention of learned HCGP that post in question having been earmarked for candidates of ‘low vision’ only, blind candidate could not have staked his claim for the same. For the purpose of preferential treatment, as between the candidates of ‘low vision’ and the candidates of ‘absolute blindness’, the priority avails to the later since they are more disadvantageously placed qua the former subject to the condition that the blindness does not come in the way of discharging duties attached to the post. Learned HCGP’s reliance on National Federation of the Blind supra does not come to the aid of petitioners since that question had not arisen in the said case. Thus, the impugned order of the Tribunal has brought about social justice to the class of persons whom the Nature has placed at a disadvantageous position; to that predicament, Article 12 Entity should not add by taking an unconscionable stand in adjudication of the cause.”

(emphasis supplied)



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15] Thus, taking a clue from the aforesaid decision which has succinctly dealt with the prevalent practice relating to the appointments of disabled, it is found that in the case at hand, it is not the case of the respondents that the persons with higher disability would not be able to perform the job as is required for the post advertised.

16] So far as the preference to be given to persons having higher percentage in the exam, this court is of the considered opinion that there is a high probability that when a person suffers from higher percentage of disability, his chances to excel in academics also reduce substantially, hence the condition no.4 of the advertisement dated 23.07.2024 (Annexure-R/3) as reproduced above is also runs counter to the spirit of the Rights of Persons With Disabilities Act, 2016.

17] Thus, on the aforementioned discussion, this Court is of the considered opinion that the respondents have failed to comply with the condition no.4 of the circular dated 3.7.2018 as reproduced above, and noncompliance of the same has clearly vitiated the entire process of recruitment/selection process, and accordingly, the advertisement advertisement *dated 26.7.2024 in W.P.No.41374/2024, W.P.NO.574/2025, W.P.NO.577/2025, advertisemnt dated 6.8.2024 in W.P.No.6233/2025 and advertisement dated 21.8.2024 in W.P.No.6235/2025* as also the appointments made thereunder are also hereby *quashed*.

18] In other words, the appointments of respondents *no.4, Aayush Sharma, respondent no.5/Rajkumar and respondent no.6/Mohit Gupta in W.P.No.41374/2024, 574/2025 & 577/2025, respondent*



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no.4/Pushpendra Kharadi in W.P.No.6235/2025 and respondent no.4/Shiromani Gaur in W.P.No.6233/2025 are also hereby quashed.

19] The respondents are also directed to issue fresh advertisements for appointments of the disabled persons, strictly complying with the intent, letter and spirit of the circular dated 3.7.2018, as also the observations made hereinabove, as expeditiously as possible, also ensuring that the disability does not come in the way of the duties attached to the post.

20] Let the aforesaid exercise be completed within a further period of four months.

21] Accordingly, all the writ petitions stand *allowed* and *disposed of* in terms of this order.

(SUBODH ABHYANKAR)
JUDGE

das