



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 225 OF 2009

Harshad Govind Jadhav & Ors.

....*Petitioners*

: *Versus* :

State of Maharashtra & Ors.

....*Respondents*

WITH

PUBLIC INTEREST LITIGATION NO. 75 OF 2006

Satyashodh and Ors.

....*Petitioners*

: *Versus* :

State of Maharashtra & Ors.

....*Respondents*

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Mr. Chetan Agarwal, *for the Petitioner in PIL/225/2009.*

Dr. Uday Warunjikar, *for the Petitioner in PIL/75/2006.*

Mr. O.A. Chandurkar, *Additional Government Pleader with Ms. V.R. Raje, AGP for Respondent-State.*

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CORAM : ALOK ARADHE, CJ. &  
SANDEEP V. MARNE, J.

DATED : 22 AUGUST 2025.

**JUDGMENT** (*Per Sandeep V. Marne, J.*) :

1) These two petitions filed in public interest essentially seek to highlight the plight suffered by totally blind persons due to denial of any employment opportunities to them on account of consumption of all reserved posts by the low vision candidates. The Petitions raise the issue of non-implementation of reservations provided for totally blind candidates under the provisions of Persons with Disability (Equal Opportunities, Protection and Participation) Act, 1995 (**Act of 1995**). The main grievance raised in both the petitions is that all the posts reserved for totally blind and low vision categories are consumed by low vision candidates. Petitioners complain that the State Government has not made any provision to ensure that totally blind candidates also secure jobs in pursuance of reservation extended to them. In PIL No. 225 of 2009, certain other grievances with regard to methodology adopted for identification of jobs/posts for blind/low vision category is also questioned.

2) Before proceeding further, it must be noted that the provisions of the Act of 1995 are now replaced by the provisions of the Rights of Persons with Disabilities Act, 2016 (**Act of 2016**). Section 34 of the Act of 2016 provides for reservation to persons with disabilities. Under Section 34 of the Act of 2016, 1% reservation is provided for persons with benchmark disabilities of blindness and low vision. Similar was the provision existed under the Act of 1995 as well. The grievance of the Petitioners is that since 1% reservation is provided for combined category of persons with benchmark disabilities of blindness and low vision, the entire reserved posts in that 1% unit are consumed only by low vision candidates and that the

employers are reluctant to employ totally blind candidates, even though totally blind candidates also fall in category (a) of Section 34 of the Act of 2016. It is with this main grievance that the two PILs are filed to ensure that posts are separately identified within one percent reservation quota for totally blind candidates so that low vision candidates do not compete in that sub-class and totally blind candidates actually get to enjoy their pie of reservation.

3) We have heard Dr. Warunjikar, the learned counsel appearing for the Petitioner in PIL No. 75 of 2006. He would submit that the State Government has totally failed to implement provisions of both the enactments dealing with persons with disabilities i.e. Act of 1995 and 2016 especially with regard to the totally blind persons. That the data made available through various Affidavits would indicate that hardly any candidate, who is totally blind is appointed against the reservation post. That all the employers prefer low vision candidates. That totally blind candidates cannot compete with low vision candidates. That there is substantial backlog of unfilled posts in blind category throughout the departments of the State. He would submit that this Court has passed orders from time to time which led to formation of a committee, which recommended grant of priority to persons with higher degree of blindness. He would rely upon GR dated 18 June 2007 issued by Social Justice and Special Assistance Department of Government of Maharashtra providing for such priority. That though the GR is issued, the same is not effectively implemented resulting in gross injustice to totally blind candidates. He would therefore submit that 50% of the posts reserved for blindness and low vision category under Section 34(1)(a) are required to be further reserved only for totally blind candidates without

permitting low vision candidates to compete for such post. That unless such special reservation is made, totally blind candidates would continue to suffer injustice.

4) Mr. Agarwal, the learned counsel appearing for the Petitioners in PIL No. 225 of 2009, while adopting the submissions of Dr. Warunjikar, has further submitted that there is no uniformity in identification of posts resulting for blind/low vision category. That inclusion of candidates with 40% disability in low vision category is erroneous and the same need to be increased to minimum of 60% disability. That written test should not be prescribed for filling up Class-IV posts in blind/low vision category. That at initial stage, reservation must be provided only for totally blind candidates and necessary service training needs to be given to them. That provisions of GR dated 18 June 2007 are required to be strictly implemented. He would also highlight the practice of totally blind category candidates being disqualified in medical tests resulting in unfilled vacancies in reserved categories. That the process of identification of posts for blind/low vision category is also faulty and posts such as Jr. Engineer, Nurse, Agricultural Sevak, Port Inspectors, Foreign Rangers, etc. have been identified in the advertisements in the past for totally blind/low vision candidates ignoring the position that such candidates cannot discharge the duties of the said posts.

5) Mr. Chandurkar, the learned Additional Government Pleader appearing for Respondent-State, submits that the State is bound to implement the provisions of the Act of 2016. He would submit that the Central Government has identified the posts, which can be reserved for persons with various benchmark disabilities. That

Section 34 does not provide for further calculation of disabilities for reservation. That blindness and low vision is a disability falling in one class and one percent reservation is provided for the entire class. That further sub-dividing the said category into total blind and low vision would cause violence to the provisions of Section 34 of the Act.

6) We have considered the submissions canvassed by the learned counsel appearing for the parties. It must be observed, at the outset, that the nature of grievance sought to be highlighted in the present petitions are such that the same cannot be treated as adversarial litigation.

7) With a view to give effect to the proclamation on full participation and equality of people with disabilities in the Asian and Pacific Region, the Parliament enacted the Act of 1995 defining persons with disabilities as those having not less than 40% disabilities and identified 7 categories of disabilities viz. blindness, low vision, hearing impairment, locomotor disability, mental retardation, mental illness and Cerebral Palsy. The Act of 1995 provided for measures for upliftment of persons with disabilities and for giving them equal opportunities. Over the period of time, the conceptual understanding of rights with persons with disabilities have become clearer and that there was worldwide change in approach to the issue concerning persons with disabilities. The United Nations adopted its Convention on Rights of Persons with Disabilities on 13 December 2006, laying down principles to be followed for empowerment of persons with disabilities. India signed the said Convention and subsequently ratified the same on 1 October 2007. For the purpose of giving effect

to the Convention, the Parliament enacted Rights of Persons with Disabilities Act, 2016.

8) When the present petitions were filed the regime of Act of 1995 was in vogue. Section 32 of the Act of 1995 provided for identification of posts, which could be reserved for persons with disabilities. Section 32 of the Act of 1995 provided for reservation of posts. For facility of reference, provisions of Section 32 of the Act of 1995 are extracted below :-

**“32. Identification of posts which can be reserved for persons with disabilities .-**

Appropriate Governments shall-

(a) identify posts, in the establishments, which can be reserved for the persons with disability;

(b) at periodical intervals not exceeding three years, review the list of posts identified and up-date the list taking into consideration the developments in technology.”

9) Thus 1% posts were reserved for persons suffering from “blindness or low vision” under the Act of 1995. Similar provision is continued in the Act of 2016. Section 34 of the Act of 2016 provides thus :-

**“34. Reservation.—**(1) Every appropriate Government shall appoint in every Government establishment, not less than four per cent. of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities of which, one per cent. each shall be reserved for persons with benchmark disabilities under clauses (a), (b) and (c) and one per cent. for persons with benchmark disabilities under clauses (d) and (e), namely:—

(a) blindness and low vision;

(b) deaf and hard of hearing;

- (c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;
- (d) autism, intellectual disability, specific learning disability and mental illness;
- (e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness in the posts identified for each disabilities:

Provided that the reservation in promotion shall be in accordance with such instructions as are issued by the appropriate Government from time to time:

Provided further that the appropriate Government, in consultation with the Chief Commissioner or the State Commissioner, as the case may be, may, having regard to the type of work carried out in any Government establishment, by notification and subject to such conditions, if any, as may be specified in such notifications exempt any Government establishment from the provisions of this section.

(2) Where in any recruitment year any vacancy cannot be filled up due to non-availability of a suitable person with benchmark disability or for any other sufficient reasons, such vacancy shall be carried forward in the succeeding recruitment year and if in the succeeding recruitment year also suitable person with benchmark disability is not available, it may first be filled by interchange among the five categories and only when there is no person with disability available for the post in that year, the employer shall fill up the vacancy by appointment of a person, other than a person with disability:

Provided that if the nature of vacancies in an establishment is such that a given category of person cannot be employed, the vacancies may be interchanged among the five categories with the prior approval of the appropriate Government.

(3) The appropriate Government may, by notification, provide for such relaxation of upper age limit for employment of persons with benchmark disability, as it thinks fit.”

10) Thus, both under the Act of 1995 as well as the Act of 2016, 1% posts are to be reserved for persons having disability of “blindness and low vision”. On account of combining persons having disability of blindness and low vision into one category, it is complained that the entire reserved posts falling in 1% reservation quota is filled up by low vision candidates on account of their better abilities to compete with totally blind candidates. It is therefore contended that a sub-classification between totally blindness



candidates and low vision candidates needs to be provided for, so as to ensure that at least 50% of the posts falling in 1% reservation category under Section 34(1)(a) are filled up through totally blind candidates.

11) We are of the view that Section 34(1)(a) does not contemplate further classification within the benchmark disability of “blindness and low vision”. Similar is the position with regard to other benchmark disabilities of “deaf and hard of hearing,” “locomotor disabilities,” intellectual disabilities”. Thus, various sub-species of particular type of disability have been clubbed together for providing combined 1% reservation to all similar disabilities. For disabilities relating to vision, 1% reservation is made. For disability relating to hearing, 1% reservation is made. For Locomotor disability, 1% reservation is made, and for disabilities relating to mind, 1% reservation is made. For persons suffering from multiple disabilities, falling under clauses (a) to (d), additional 1% reservation is made. Section 34, therefore, does not permit sub-classification amongst “blindness and low vision” disabilities. Therefore, the prayer of the Petitioners for further sub-classifying the disability relating to vision into 0.5% reservation for totally blind candidates and 0.5% reservation for low vision candidates would be causing violence to Section 34 of the Act of 2016. More importantly, neither the provisions of Section 33 of the Act of 1995 nor the provisions of Section 34 of the Act of 2016 are under challenge in the present petitions. Therefore, the prayer of the Petitioner for further sub-classification into vision relating disabilities by providing 0.5% reservation for totally blind candidates cannot be accepted.



12) It, however, appears that considering the ground realities where most portion of the reservation relating to vision disability is consumed by candidates having low vision and no appointments of totally blind candidates were happening, the State Government issued GR dated 18 June 2007 which provided thus :-

"महाराष्ट्र शासन

सामाजिक न्याय व विशेष सहाय्य विभाग

शासन निर्णय क्रमांक: अपंग-२००६/प्र.क्र.१०५/सुधार-३

मंत्रालय विस्तार भवन, मुंबई-४०० ०३२.

दिनांक: १८ जून, २००६

वाचा:- सामाजिक न्याय व विशेष सहाय्य विभाग, परिपत्रक क्रमांक: अपंग-२००६/प्र.का. १०५/सुधार-३, दिनांक ३ नोव्हेंबर, २००६.

शासन निर्णय:- अपंगासाठी सुयोग्य ठरविण्यात आलेल्या अंधांच्या सर्व प्रवर्गासाठी विहित केलेल्या पदांवर पूर्ण अंध व्यक्ती नियुक्त करण्याबाबत विभागाच्या दिनांक ३ नोव्हेंबर, २००६ चे परिपत्रक अविक्रमीत करण्यात येत आहे.

२. अपंग व्यक्ती अधिनियम १९९५ मधील तरतूदीनुसार व मा. उच्च न्यायालयात दाखल करण्यात आलेल्या जनहित याचिका क्र. ७०/२००२ व १२९/२००३ च्या संदर्भात मा. उच्च न्यायालयाने दिलेल्या आदेशानुसार सर्व मंत्रालयीन प्रशासकीय विभागांना त्यांचे अधिपत्याखाली असलेल्या अपंगांचा अनुशेष तातडीने भरण्याच्या सूचना यापूर्वी वेळोवेळी देण्यात आलेल्या आहेत. या संदर्भात अंधांच्या सर्व प्रवर्गासाठी टोटल ब्लाइंड / लो-व्हीजन / पार्शली साईटेड) विहित करण्यात आलेल्या अनुशेषाच्या जागांवर पूर्णतः अंध व्यक्ती डावलून केवळ लो-व्हीजन किंवा पार्शली साईटेड या प्रकारच्या अंध व्यक्तीची नियुक्ती केली जात असल्याचे शासनाच्या निदर्शनास आले आहे. तसेच दिनांक १७.५.२००७ रोजी अपंगांच्या सुयोग्य पदनिश्चिती करण्यासाठी पुनर्रचित तज्ञ समितीच्या बैठकीमध्ये घेण्यात आलेल्या निर्णयानुसार पूर्णतः अंध व्यक्तींवर होणारा अन्याय टाळण्याच्या दृष्टीने सर्व नियुक्ती प्राधिका-यांना अशा सूचना देण्यात येत आहेत की, जी पदे अंधांच्या वर नमूद केलेल्या सर्व प्रवर्गासाठी सुयोग्य ठरविण्यात आली अस्तील अशा पदावर नियुक्ती देतांना अंध अज्यांमध्ये गुणवत्ता प्रथम व अपंगत्वाची अधिक टक्केवारी याला प्रथम प्राधान्य देण्यात यावे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नांवाने,

13) Thus, the GR dated 18 June 2007 envisaged grant of priority to persons having higher degree of disability. Therefore, if provisions of GR dated 18 June 2007 are followed, persons having

total blindness are likely to secure priority in the matter of appointment as compared to low vision candidates. The GR dated 18 June 2007 was issued during the regime of the Act of 1995. It is not clear whether similar provision is made by the State Government after coming into effect of the Act of 2016.

14) Thus, while we are unable to accede to the demand made by the Petitioners for reserving 50% of posts falling to the share of “blindness and low vision” category for totally blind candidates, we do take note of the grievance raised by the Petitioners about totally blind candidates not securing fair deal as compared to low vision candidates in the matter of public employment. From Affidavits filed in the petitions, it appears that the participation of totally blind candidates in State services appears to be grim. Most of the reserved posts under Section 34(1)(a) appear to be filled up through low vision candidates. Considering the above ground reality, the State Government had issued GR dated 18 June 2007 for grant of priority to persons possessing higher degree of disabilities. After coming into effect of the Act of 2016, it appears that no further affidavit has been filed on behalf of the State Government pointing out the steps taken for ensuring adequate participation by totally blind candidates in State services. Mr. Chandurkar has drawn our attention to the GRs dated 20 April 2023 and 31 July 2025. However, it is seen that GR dated 20 April 2023 deal with grant of reservation in the matter of promotion up to lowest rank of Group-A service to persons with disabilities. Similarly, GR dated 31 July 2025 stipulates the procedure for implementation of reservation under the Act of 2016 in the matter of direct recruitment. However, GR dated 31 July 2025 does not make any specific provision for increasing participation by totally

blind candidates in State services. In our view, therefore, it would be appropriate to direct the State Government to consider the issue and to take appropriate steps to ensure better participation by totally blind candidates in the State services. We propose to issue directions in that regard.

15) So far as that grievance relating to methodology adopted for identification of posts sought to be raised in PIL No. 225 of 2009 is concerned, we are not inclined to go into that issue as the entire grievance was raised on the basis of the provisions of the Act of 1995. After coming into effect of the Act of 2016, the picture has changed and it would not be appropriate to issue any directives to the State Government relating to identification of posts in absence of any averments as well as material in the context of the provisions of the Act of 2016. We accordingly leave the issue of identification of posts to be decided in an appropriate proceedings in the context of provisions of the Act of 2016.

16) We proceed to pass the following order :-

### **ORDER**

- a) State Government shall take necessary steps to ensure better participation of totally blind candidates in State services. For that purpose, it shall undertake necessary measures to ensure that totally blind candidates are not kept away from the process of appointments on account of their inability to compete with low vision candidates.

- b) The State Government shall also consider identification of certain category of posts only for blind candidates.
- c) Necessary action shall be taken by the State Government within a period of four months.

17) With the above directions, both the PIL petitions are disposed of.

[SANDEEP V. MARNE, J.]

[CHIEF JUSTICE]

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