



Gaikwad RD

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 583 OF 2020**

Rajendra Petrus Lalzare ...Petitioner
Versus
The State of Maharashtra & Ors ...Respondents

Mr SB Talekar, i/b Talekar & Associates, for the Petitioner.
Mr SB Gore, AGP, for the Respondents-State.
Mr PG Lad, with Sayli Apte, for the Respondents-MHADA.

**CORAM G.S. Patel &
Neela Gokhale, JJ.**
DATED: 31st July 2023

PC:-

1. This is the most shameful state of affairs. We are not even on the merits of the Petition, but only on the failure of the Government to furnish a meaningful response.
2. The Petition was filed in 2020. Since March of that year, it has been listed periodically. The first order was of 15th July 2021. The Government was represented.
3. There was another order dated 27th July 2021. Then a Division Bench passed a more detailed order on 28th March 2022. One of us GS Patel, J was a member of that Bench. We noted in

brief the controversy regarding the Rights of Persons with Disabilities Act, 2016 (“the Disabilities Act”), certain Government Resolutions and how the schemes and development programmes contemplated under Section 37 of the Disabilities Act were to be implemented. We called for an Affidavit in Reply from the Government setting out in precise terms the nature of the scheme and we adjourned the matter to 8th June 2022.

4. On 29th June 2022, a Division Bench of SV Gangapurwala, J (as he then was) and SM Modak, J, was told that the Government in Urban Development and Rural Development Departments has come out with a policy of reserving 5% of land to persons with disability, though the mention is of the 1995 Act. The Bench was told that the Government was contemplating issuing general directions to all Departments to reserve 5% of land to persons with disability. The matter was adjourned to 3rd August as the Government was to place on record the notifications issued until then.

5. On 3rd August 2022, the Bench was told that the Government had prepared an Affidavit and that was pending approval but would be filed within two weeks. The matter was adjourned again.

6. On 21st September 2022, the Division Bench noted that the Affidavit was in hand but that the query posed by the Court on 29th June 2022 had not been answered. The Bench noted the statement previously noted regarding the Government contemplating issuing

general directions for a 5% reservation. The Bench noted that the statutory provision had not been implemented in letter and spirit. Despite the fact that the Bench had granted time, the State had not placed on record any scheme implementing the provisions of Section 37(c) of the Disabilities Act. The Bench said that the Government had to be serious and then said that a responsible officer, preferably of the rank of the Secretary, would place on record the steps taken by the State in implementing Section 37(c) of the Disabilities Act. That Affidavit was to be filed positively by the next date. The Petition was adjourned to 17th November 2022.

7. On the next date, the learned AGP sought time to reply. The Bench noted that previously two months had been granted. Yet the application was for another adjournment of two more months. The Court granted time but said that if the Affidavit as directed earlier was not filed, the State would deposit costs of Rs.10,000/- in Court.

8. We are told that the Affidavit has been filed. The Affidavit refers to the Maharashtra Land Disposal Rules. But that was not the query of the Court.

9. Today, we are told that another adjournment is required this time because the learned AGP to whom this matter is assigned is in some personal difficulties.

10. Now we are making it clear that while we are accommodating the learned AGP on personal grounds, we will not grant further time on the next date under any circumstances. If the Affidavit that is

said to be filed in purported or ostensible compliance with orders of this Court does not answer the question of steps taken under Section 37(c) of the Disabilities Act, we are putting all concerned in the Government to notice that we will have no choice but to proceed against those officers, if necessary, in *suo moto* contempt for disobedience of orders of this Court. If the matter is being stood over by two weeks to accommodate the learned AGP, that time should be better utilised to make amends and to clarify the stand of the Government in accordance with the orders of this Court.

11. List the matter first on board on 21st August 2023.

(Neela Gokhale, J)

(G. S. Patel, J)

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GAIKWAD

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