



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**  
**DATED THIS THE 11<sup>TH</sup> DAY OF NOVEMBER, 2024**

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**PRESENT**

**THE HON'BLE MR JUSTICE KRISHNA S DIXIT**

**AND**

**THE HON'BLE MR JUSTICE C M JOSHI**

**WRIT PETITION NO. 19994 OF 2024 (S-KSAT)**

**BETWEEN:**

1. THE STATE OF KARNATAKA BY  
BY REPTD. ITS PRL. SECRETARY TO GOVT.,  
DEPARTMENT OF SCHOOL EDUCATION & LITERACY,  
M.S.BUILDING, BENGALURU-560 001.
2. THE CENTRALIZED ADMINISTRATIVE CELL,  
OPPOSITE TO CAUVERY BHAVAN,  
BENGALURU-560 001,  
REPTD. BY ITS COMMISSIONER,
3. THE PRINCIPAL SECRETARY,  
DEPARTMENT OF D.P.A.R., (SERVICE RULES)  
VIDHANA SOUDHA, AMBEDKAR VEEDHI,  
BENGALURU-560 001.
4. THE PRINCIPAL SECRETARY  
DEPARTMENT OF EMPOWERMENT & DIFFERENTLY  
ABLED AND SENIOR CITIZENS,  
KARNATAKA GOVERNMENT SECRETARIAT,  
M.S.BUILDING, BENGALURU - 560 001.
5. THE DEPUTY DIRECTOR OF PUBLIC INSTRUCTION,  
(ADMINISTRATION) BENGALURU NORTH,  
K.G.ROAD, NEAR MYSURU BANK CIRCLE,  
BENGALURU-560 009.

...PETITIONERS

(BY SMT.SARITHA KULKARNI., HCGP)





**AND:**

MS. LATHA H N  
D/O NAGARAJU, W/O VENKATESH T.S.  
AGED ABOUT 29 YEARS,  
R/AT HANDITAVALLI VILLAGE, KELLUR POST,  
RAVANDURU HOBLI, PERIYAPATNA TALUK,  
MYSURU DISTRICT-571 108.

...RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR RECORDS IN A.No-3400/2023 PASSED BY THE KSAT DATED 21.12.2023 AND B) ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT ORDER OR DIRECTION TO QUASH THE ORDER DATED 21.12.2023 IN A.No-3400/2023 (ANNEXURE-A) PASSED BY THE KSAT BENGALURU AND C) CONSEQUENTLY DISMISS THE A.No-3400/2024 ON THE FILE OF THE KSAT BENGALURU.

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE KRISHNA S DIXIT  
and  
HON'BLE MR JUSTICE C M JOSHI

**ORAL ORDER**

(PER: HON'BLE MR JUSTICE KRISHNA S DIXIT)

The State and its Officers are knocking at the doors of Writ Court for assailing the State Administration Tribunal's order dated 21.12.2023 whereby Application No. 3400/2023 filed by the Respondent (a member of



Scheduled caste and absolutely blind) having been favoured, relief has been accorded to her as under:

*"17. In view of the discussions above, the Application succeeds and accordingly, we direct as follows.*

- 1. The endorsement dated 4-07-2023 as at Annexure A5 rejecting the candidature of the Applicant is quashed.*
- 2. The selection of the Applicant in the final select list of 8-03-2023 as at Annexure A4 is correct, proper and lawful.*
- 3. The appointment authority in the first respondent department shall consider the applicant for appointment with regard to the selection in the select list of 8-03-2023. if she is otherwise eligible for appointment. Time for compliance is three months from the date of this order .*
- 4. The fifth respondent institution shall pay costs of this Application to the applicant of Rs.10,000/- (rupees Ten Thousand) only within one month from the date of this order."*

2. The short question very effectively argued by the learned HCGP relates to a favourable reservation for the class of disabled candidates (low vision). She submits



that reservation for 'low vision candidates' constitutes one class and reservation for the 'blind candidates' constitutes another. This subtle difference between the two having been lost sight off, the Tribunal's order has an error apparent on its face warranting interference of this Court. In support of her submission, she draws our attention to the Recruitment Notification dated 21.03.2022 and the Principal Notification dated 26.07.2011. She banks upon Apex Court decision in ***UNION OF INDIA v. NATIONAL FEDERATION OF THE BLIND***<sup>1</sup>.

3. Having heard the learned HCGP for the Petitioners and having perused the Petition papers, we decline indulgence in the matter for the following reasons:

3.1 It is not the case of Petitioners that a blind person cannot perform duties of the post to which Respondent had staked claim. In fact, the Government Notification dated 26.07.2011 classifies persons of various disabilities and positions wherein they can be

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<sup>1</sup> (2013) 10 SCC 772



accommodated in the public employment. The very first category belongs to candidates with blindness and the second is earmarked for the candidates with low vision. Blinds are permitted to stake their claim for the kind of work which the candidates with low vision can do. Admittedly in the subject Recruitment Notification of 2022, no reservation is accorded for the candidates with blindness. It speaks only of Low Vision candidates. Therefore, the Tribunal is more than justified in banking upon the Central piece of delegated legislation namely, the statutory Notification dated 05.03.2007 which should override the comparatively lesser status delegated legislation namely 2011 Notification of the State.

3.2 The submission of learned HCGP that the kind of work which a 'Graduate Primary Teacher' (Social Studies, teaching Kannada) does in ordinary course cannot be discharged by persons with absolute blindness, though their educational qualifications do satisfy the Rule requirement, is bit difficult to agree with. As already



mentioned above, the 2011 Notification in so many words states "Secondary School Assistant Grade – II, Assistant Master (Arts and Languages)" can be blind candidates. How blindness would come in the way of discharging duties of a teacher of the kind is difficult to appreciate. History is replete with instances of blind people who have achieved great things in life: Homer (900 B.C.) of great epics (Iliad and Odyssey), John Milton (1608-1674) [Paradise Lost], Louis Braille (1809-1852) [Braille Script], Helen Keller (1880-1968) [women suffrage] & Srikanth Bolla (CEO of Bollant Industries worth £48 million) are only a few to name.

3.3 Apex Court has held that even a nearly blind person [50% visual imparity] can be appointed as a judge/magistrate vide **V. SURENDRA MOHAN v. STATE OF TAMILNADU AND OTHERS**<sup>2</sup>. There are several UN Conventions which provide for special and preferential treatment *inter alia* for the blind and visually impaired:

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<sup>2</sup> (2019) 4 SCC 237



(1) Convention on the Rights of Persons with Disabilities (CPRD, 2006).

(2) Resolution on Accessibility (A/RES/65/186, 2010).

(3) Resolution on Inclusive Education (A/RES/69/151, 2014).

It hardly needs to be stated that the policy content of these Resolutions need to be read into our statutory instruments like the 2016 Act and the Rules promulgated thereunder, there being nothing repugnant vide **SAFAI KARAMCHARI ANDOLAN v. UNION OF INDIA**<sup>3</sup>. It does not need to be mentioned that the persons with blindness in particular have several positive qualities: exceptional ability to adapt; resilience i.e., strong coping mechanism to overcome daily challenges, resourcefulness i.e., skill at finding creative solutions to obstacles; strong listening skills, excellent memory and recall abilities, unwavering commitment to achieving goals, heightened senses of hearing, touch & smell, etc.

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<sup>3</sup> (2014) 11 SCC 224



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.

3.5 All the above having animated the impugned order of the Tribunal although a bit inarticulately, it does not call for interference on the basis of 'hair splitting arguments'. The authority that be ought to have earmarked some posts for the blind, or in the alternative should have permitted the blind candidates too to be in the fray along with persons of 'low vision' for the post in question. An argument to the contrary would offend the laudable policy of the State as enacted in the erstwhile Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and the present statute namely, the People with Disabilities Act, 2016. The actions of the State and its instrumentalities falling within the umbrella of Article 12 have to be consistent with such policies statutorily promulgated. There is nothing in **National Federation of the Blind** *supra* that runs counter to this view. Apparently, this decision is



considered by the Apex Court in *V.SURENDRA MOHAN supra* wherein appointment of a low vision (50%) candidate as judicial officer is upheld. It hardly needs to be stated that a decision is an authority for the proposition that it lays down in a given fact matrix and not for all that, that logically follows from what has been so laid down vide Lord Halsbury in ***QUINN v. LEATHEM***<sup>4</sup>.

3.6 The last contention of learned HCGP that in the absence of a challenge to the 2022 Recruitment Notification, the Tribunal could not have ignored the prescription of reservation only for the candidates belonging to low vision category, is bit difficult to countenance. In every case of recruitment, a challenge to prescription of the kind need not be formally mounted. The Tribunal has not excluded the candidates of low vision from the fray; it has only widened the fray by permitting blind candidates in it. Courts & Tribunals have to mould the relief to suit to the requirement of law, reason &

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<sup>4</sup> 1901 AC 495



justice, and the impugned order has achieved that objective. Justice Oliver Wendell Holmes in **DAVIS vs. MILLS**<sup>5</sup> has observed as under:

*"Constitutions are intended to preserve practical and substantial rights, not to maintain theories..."*

In the above circumstances, this Petition being devoid of merits is liable to be and accordingly rejected in *limine*.

Registry shall send a copy of this judgment to the sole Respondent by Speed Post, immediately.

This Court places on record its appreciation for the able research & assistance rendered by its Law Clerk cum Research Assistant, Mr.Raghunandan K S.

**Sd/-  
(KRISHNA S DIXIT)  
JUDGE**

**Sd/-  
(C M JOSHI)  
JUDGE**

Bsv/List No.: 1 Sl No.: 13

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<sup>5</sup> 194 US 451 (1904)