

Bombay High Court

The National Federation Of Blind vs State Of Maharashtra And Ors. on 22 July, 2004

Equivalent citations: 2005 (1) BomCR 740

Author: S Kamdar

Bench: A Shah, S Kamdar

JUDGMENT S.U. Kamdar, J.

1. The facts of this petition indicate total inaction on the part of the respondent Government when it comes to the physically handicapped. This is so inspite of land mark legislations being enacted by the Parliament known as the Disabled Persons (Equal Opportunity, Protection of Rights And Full Involvement Act), 1995.

2. Prior to two decades or so, a section of people who physically handicapped, i.e. either visually impaired or polio stricken or handicap suffered by virtue of various accidents have always been looked at as an insignificant and nonuseful segment of the population. In the last 20 year or so, a great stride has been achieved the world over by virtue of principles of upliftment implemented either through employment or self-sufficient vocations. This is an important development and new vistas in providing moral booster to this class of the society which has been mentally disturbed by virtue of the fact that they are suffering from certain handicaps, the mental state of such people is quite depressed which deliberately requires able bodied people to boost their morale for the purpose of making them achieve something in the life.

3. We have seen that this approach has been adopted initially in England when an Act known as Disabled Persons (Management) Act, 1944 was enacted. Even an advanced country like England found a lot of difficulties in implementation of the provisions of the said Act. Consequently, a new Act was enacted known as disability Discrimination Act, 1995 with various features giving emphasis to the upliftment of these handicapped people. It is not mercy which they need. It is an opportunity which they need. We do show mercy but do not offer the opportunities. That mindset is the greatest set back for upliftment of this segment of the people. It thus needs an attitude change.

4. In the past in England it was found that by and large employers were reluctant to provide employment to the disabled on the ground that they would be less productive than the normal able bodied person would be. A survey conducted in respect of the same has indicated a complete prejudicial mind set of the employer.

5. A need arose for a change in mindset of these employers. A calculated programme was then put in operation to indicate that in fact the persons suffering from common disability and impairment are able to give equal productivity for the jobs on which they are employed. On occasions it has been found that these very people are even surpassing the productivity of normal able bodied people. It is because of the morale booster administered on such people had great motivation factor that the productivity increased multifold. This change in the mind set of the employers also needs to be brought to this country and attitude towards people with disabilities is required to be drastically changed.

6. In the present petition, we are finding that inspite of a legislation enacted by the Parliament in respect of providing equal opportunities to the persons with disability, there is a total inaction on the part of the government itself to implement the provisions thereof. In light of the aforesaid facts, we are constrained to take up the present matter and pass necessary orders and directions to enforce effective implementation of the said Act. Before we pass actual operative orders, it is necessary to set out certain facts which are briefly stated as under:-

7. The petitioner who is a trust and running a federation for welfare, rehabilitation and over all development of the visually impaired persons has filed the present petition. By this petition, the petitioner has knocked on the doors of this Court and has requested us to invoke a Public Interest Jurisdiction to help this class of citizens.

8. One of the contentions raised in the present petition is that section 33 of the Act specifically provides for reservation for the visually impaired or disabled persons in the government and / or semi government organisation and has imposed a duty on the government to reserve a percentage of posts for them. Section 37 of the Act casts a duty on every employer to maintain such records in relation to the persons with disability, employed in various establishments. The government has not been able to implement the aforesaid provisions effectively even after a considerable period is lapsed to the enactment of the said legislation.

9. On 28.4.2002, a public advertisement was issued by the Nashik Municipal Corporation for filling up vacancies. In the said advertisement certain vacancies were reserved for visually impaired. On 19.1.2003, the petitioner received a reply from the Census authorities giving data regarding such visually impaired persons. On 4.3.2003, Government issued a fresh resolution providing for 3% reservation for the persons with physical disabilities. It has been inter alia provided in the said resolution that the said 3% reservation should be enforceable and should be enforced. The said resolution dated 4.3.2003, inter alia, reads as under :-

"As per Sections 32 and 33 of the Handicapped Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, a procedure has been prescribed under the Government Resolution dated 2nd May 1998 of this Department for maintaining total 3% reservation - (1) blindness or low vision 1% (2) hearing impairment 1% and (3) locomotor disability or mental retardation 1% in direct recruitment for appointment to the identified posts in Groups A to D for handicapped persons."

10. On 23.5.2003 respondent No. 8 who is the Commissioner for Disabilities, Maharashtra State, addressed a letter to various authorities pointing out that there is a reservation to the extent of 3% for handicaps in all services of the Government of Maharashtra and further directed all authorities that they should supply necessary information for the purpose of reserving posts under every category. On 5.6.2003, respondent No. 8 directed the Vice Chancellor of Amaravati University to implement the Act of 1995. Accordingly, the Commissioner directed the University to take review and report whether 3% reservation is provided for and whether the said 3% reservation is filled in by 31st August of the said year. On 1.7.2003, the Government of Maharashtra introduced a special drive for recruitment of physically disable persons for filling up back log of vacancies. According to

this government resolution it was, inter alia, provided in 100 Points Roster that point 1, 3 and 67 have been reserved for persons with physical disabilities. This special drive was introduced so as to see that in fact the reservation for physically disabled in services is implemented. On 11.7.2003, the petitioner wrote to the Commissioner of Nashik Municipal Corporation, pointing out about backlog of 31 posts reserved for disabled persons and requesting to take necessary steps immediately. On 2.8.2003, the take petitioner through its General Secretary made representation to the Collector, Nagpur, requesting for filling up of back log of vacancies meant for the visually impaired. On 18.8.2003, the petitioner made a representation to the Chief Minister requesting him to take necessary action against the concerned persons who have not been filling up the inaction in fulfilling the most important welfare measure in the country which has been now statutorily recognized by enacting legislation in that behalf. On 29.8.2003, Employment Exchange at Satara informed the petitioner that there are very negligible number of vacancies available for visually impaired persons and the petitioner should in place of seeking employment start some self-employment scheme for them. On 12.9.2003, the Amaravati Zilla Parishad issued an advertisement for filing of posts of certain categories reserved for visually impaired. on 30.9.2003, a Government Resolution was issued by the State of Maharashtra for implementation of the said Disable Persons (Equal Opportunity, Protection of Rights And Full Involvement Act), 1995 (hereinafter referred to as the said Act. of 1995). On 30.9.2003 the Deputy Secretary of the Social Welfare and Cultural Department directed all District Collectors to submit the report regarding seats reserved / filled for handicapped till May 2003. On 28.10.2003, a representation was made to the Labour and Employment Ministry of State of Maharashtra requesting them to furnish details of jobs reserved for visually impaired persons and action taken by them under the said Act of 1995. On 28.10.2003, the petitioner made further representation to the Director of Special Employment Exchange, Mumbai requesting them to provide information about visually impaired persons employed through the said Employment Exchange and other relevant information. On 6.11.2003, the Directorate of Census Operation, Maharashtra, have a reply to the petitioner informing that Census for the population of visually impaired and physically handicapped persons is not yet carried out and therefore exact figures are not available. In the aforesaid facts and circumstances of the case, the present writ petition has been filed inter alia seeking various directions for implementation of the said Act of 1995 particularly in reference to the reservations of 3% provided thereunder.

11. Though the present petition is based essentially for the visually impaired persons, we are inclined to enlarge the scope thereof by including disabled and otherwise physically handicapped persons. It is because the reservation provided for 3% is combined in respect of various handicapped categories.

12. Before we look into the said aspect of the matter, it is necessary that some of the provisions of the said Act of 1995 should be looked at. The said Act of 1995 was brought into effect in February, 1996. The preamble of the said Act inter alia stipulates that the said Act has been introduced in light of the meeting of the Launch the Asian and Pacific Decade of Disabled Persons 1993-2000 convened by the Economic and Social Commission for Asia and Pacific held at Beijing on 1st to 5th December, 1992, and in fact the said Conference adopted the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region and whereas India is a signatory to the said Proclamation; and whereas it is considered necessary to implement the Proclamation aforesaid and in consequence thereof Object and Reasons of the said Act inter alia provides that it

has been meant to achieve and attain the following objects :-

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7. Under the provisions of the Act it is contemplated that a coordination committee and executive committee at the Central and the State level will be constituted to carry out the various functions assigned to them. It was further, inter alia, indicated that within the limits of the economic capacity of the appropriate State Government and/or authorities, various measures will be taken for early detection of disabilities and creation of a barrier free environment as well as provision for rehabilitation, services, etc. It was inter alia desired that reservation should be provided for in identified posts, research and manpower development. Provisions of section 3 provides for constitution of the Central coordination Committee. However, Section 13 also indentially provides for a State Coordination Committee. The provisions of the said Section 13 are set out hereunder :-

"13, (1) Every State Government shall, by notification, constitute a body to be known as the State Coordination Committee to exercise the powers conferred on, and to perform the function assigned to it, under this Act.

(2) the State Coordination Committee shall consist of -

(a) The Minister in-charge of the Department of Social Welfare in the State Government, Chairperson, ex officio;

(b) the Minister of State in-charge of the Department of Social Welfare, if any, Vice-Chairperson, ex officio;

(c) Secretaries to the State Government in-charge of the Departments of Welfare, Education, Woman and Child Development, Expenditure, Personnel Training and Public Grievances, Health, Rural Development, Industrial Development, Urban Affairs and Employment, Science and Technology, Public Enterprises, by whatever name called, Member, ex officio;

(d) Secretary of any other Department which the State Government considers necessary, Member, ex officio;

(e) Chairman Bureau of Public Enterprises (by whatever name called) Member, ex officio;

(f) five persons, as far as practicable, being persons with disabilities, to represent non-governmental organizations or association which are concerned with disabilities, to be nominated by the State Government, one from each area of disability, Members:

Provided that while nominating persons under this clause, the State Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes;

(g) three Members of State Legislature, of whom two shall elected by the Legislative Assembly and one by the Legislative Council, if any;

(h) three persons to be nominated by that Sate Government to represent agriculture, industry or trade or any other interest, which in the opinion of State Government bught to be represented, Members, ex officio;

(i) the Commissioner, Member, ex officio;

(j) Secretary to the State Government dealing with the welfare of the handicapped, Member-Secretary, ex officio;

(3) Notwithstanding anything contained in this section, no State Coordination Committee shall be constituted for a Union territory and in relation to a Union territory, the Central Coordination Committee shall exercise the functions and perform the functions of a State Coordination Committee for the Union territory;

Provided that in relation to a Union territory, the Central Coordination Committee may delegate all or any of its powers and functions under this sub-section to such person or body of persons as the Central Government may specify.

Section 32 of the Act provides for identification of posts, which can be reserved for the persons with disability. Section 33 provides for a reservation of posts. Section 34 provides for a Special Employment Exchange. Sections 32, 33 and 34 are reproduced hereunder.:-

"32. 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 update the list taking into consideration the development in technology;

33. Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent, for persons or class of persons with disability of which one per cent, each shall be reserved for persons suffering from --

(i) blindness or low vision;

(ii) hearing impairment;

(iii) locomotor disability or cerebral palsy.

in the posts identified for each disability.

Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.

"34.(1) The appropriate Government may, by notification, require that from such date as may be specified, by notification, the employer in every establishment shall furnish such information or return as may be prescribed in relation to vacancies appointed for persons with disability that have occurred or are about to occur in that establishment to such Special Employment Exchange as may be prescribed and the establishment shall thereupon comply with such requisition.

(2) The form in which and the intervals of time for which information or returns shall be furnished and the particulars, they shall contain shall be such as may be prescribed."

Under the provisions of Section 36 if the vacancies are not filled in in any particular year, the same stand carried forward. The said Section 36 reads as under :-

"36. Where in any recruitment year any vacancy under Section 32, cannot be filled up due to non-availability of a suitable person with disability or, for any other sufficient reason, such vacancy shall be carried forward in the succeeding recruitment year and if in the succeeding recruitment year also suitable person with disability is not available, it may first be filled by interchange among the three 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 in such that a given category of person can not be employed, the vacancies may be interchanged among the three categories with the prior approval of the appropriate Government."

Section 38 provides for schemes for ensuring employment of persons with disabilities. Said Section 38 reads as under :-

38.(1) The appropriate Government and local authorities shall by notification formulate schemes for ensuring employment of persons with disabilities, and such schemes may provide for--

(a) the training and welfare of persons with disabilities;

(b) the relaxation of upper age limit;

(c) regulating the employment;

(d) health and safety measures and creation of a non-handicapping environment in places where persons with disabilities are employed;

(e) the manner in which and the persons by whom the post of operating the schemes is to be defrayed; and

(f) constituting the authority responsible for the administration of the scheme."

13. In so far as the law is concerned, the provisions of the said Disabilities Act, 1995, came up for consideration before the Supreme Court though not identical provisions with which we are dealing with. In case of A.I. Confederation of the Blind and Anr. v. Union of India and Anr., reported in 2002 (3) SCALE 397, the issue of reservation for identified teaching posts in the Faculties and colleges of various Universities in terms of Section 33 of the Act came up for consideration and the Court has after considering all aspects of the matter passed the directions in terms of the affidavit filed by the Chief Commissioner for Persons with Disabilities. Paragraphs 2 and 3 of the said judgment read as under :-

"2. The counter affidavit filed on behalf of the Chief Commissioner for Persons with Disabilities is set out in the following terms:-

"3. It is humbly submitted that in pursuance of Section 32 of the Persons with Disabilities Act (Equal Opportunities Protection of Rights and Full Participation) Act, 1995, the appropriate government (Government of India) has updated the list of identified posts. This list has been issued vide Extraordinary Gazette Notification No. 178 dated 30.6.2001. In this list, the post of University/College/School Teacher for the blind and low-vision have been listed at Sl. No. 24-27 on page No. 592.

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6. The Chief Commissioner for Person with Disabilities has taken cognizance of the arrangements provided by the University Grants Commission for persons with disabilities by way of extending 5% relaxation in cut off marks, appearing in the NET for Junior Research Fellowship and Lectureship. Thus, the arrangement extended by UGC is in consonance with the policy stand taken by Govt. of India in so far as relaxation in minimum standard is concerned. Relaxation in standards has been favoured only when the candidates belonging to reserved categories are not available on the basis of the general standard to fill all the vacancies reserved for them.

7. The relaxation extended to SC & ST candidates as per Maintenance of Standard 1998 of the Universities, provides for a 5% relaxation from 55% to 50% in the marks obtained at Master's Degree. Since reservation for the disabled is called horizontal reservation which cuts across all vertical categories such as SC, ST, OBC & General. Therefore, all such blind/low-vision persons who belonged to SC, ST vertical category would automatically enjoy the benefit of 5% relaxation at the minimum qualifying marks obtained at Master's Degree level. Thus, only the blind and low vision belonging to OBC & General categories are deprived of the relaxation of 5% marks at masters' level.

8. The blind/low-vision and other visually disabled persons belonging to SC & ST category are in any case enjoying the benefit of 5% relaxation in marks obtained at the master's level for appearing in the NET examination conducted by the UGC. By extending the same relaxation to particularly blind/low-vision and in general all disabled at par with SC & ST disabled would bring parity amongst all persons with disabilities irrespective of their vertical categories."

3. In view of the stand taken by the Government, nothing survives for consideration insofar as U.G.C. is concerned. The matter shall stand disposed of so far as University Grants Commission is concerned."

14. Though not a direct but connected issue also arose pertaining to providing of facilities for disabled persons traveling by air in the case of Javed Abidi v. Union of India and Ors.. The Supreme Court while dealing with this aspect of the matter had inter alia an occasion to consider the provisions of the Act and the statement of objects and reasons including the various grievances of the disabled persons pertaining to the constitution of the Committees. Once again, the Indian Airlines being one of the public sector undertaking took a correct and true approach by undertaking to provide for a large number of measures including granting concession for travel by air for those suffering from disabilities and blindness. However, the Supreme Court while considering the aforesaid aspect of the matter has held as under :-

"To create a barrier free environment for persons with disabilities and to make special provision for the integration of persons with disabilities into the social mainstream apart from the protection of rights, provision of medical care, education, training, employment and rehabilitation are some of the prime objectives of the Act."

In our view the present petition must be looked into in the light of social background of the issue, purpose and intention of legislature to enact a beneficial legislation for physically handicapped and then strive to give effect to the same.

15. A perusal of the provisions of the Act requires a constitution of a Commission who shall identify the posts in various government and semi-government departments. We have been informed by the Government that the constitution of the Commission has been made by the Government and it undertook the exercise of identification. We have been also informed that in case of large number of departments of the government, the exercise of identification has also been concluded. Firstly, on enquiries from the learned Government Pleader appearing for the State Government we have been informed that the constitution of a commission is fully selected from the bureaucrats, who are normally highly insensitive to the need and demand of the handicapped persons. We are of the opinion that such a commission ought to have some persons on the Board who are sensitive to the need and demand of these unprivileged class of citizens of this country who are required to be lifted up in their social level. Providing of employment is not merely conferring financial strength to this underprivileged class of citizens but also simultaneously with financial strength you are giving them a reason to live life meaningfully and happily. In that view of the matter, we are of the opinion that the Commission though constituted, firstly is not in accordance with the spirit of the statute and secondly, though the Act has come into operation in 1995, except in some of the departments of the

government even identification work is not concluded by the said Commission. Down the line nine years have expired. Further wore, the Commission has not bothered to follow up whether such identified posts are in fact filled up in the government departments. We find that the identification work has been done by the government only in the lowest segment of employment. We fail to see any reason why such a reservation ought not to be extended to higher level of services which is at the level of officers cadre. The Commission has identified the posts only in the lower division and upper division clerks cadre. It is not that every handicapped person is unqualified or mentally unsound or technically novice so as to make them available only to the post which is available in lower cadres of the employment. In our view these persons should be provided with employment in consonance with their educational qualification and technical expertise they possess. We find that the approach of the Government towards these unprivileged class of citizens is pathetic. We further find that there has been substantial inaction not only on the part of the Government but even on the part of other respondents. A survey of the affidavits which are filed in the present petition would justify our aforesaid conclusion. The affidavit filed by the State Government indicates as under :-

(1) That after 1995 Act was passed providing for 3% reservation, only on 2.5.1996 a G.R. was issued making provision for identification of posts of physically handicapped. A supposed to be Expert Committee has been established as per the affidavit but no details or deliberation thereof are furnished by the Government in spite of repeated opportunities granted in that behalf. The Government has stated that in almost 14 departments the reservation is made applicable by issuing various GRs, which are of the years 2003 and 2004 as stated in paragraph 2 of the said affidavit. For the purpose of ready reference, the said paragraph 2 verbatim reads as under :-

"2. With reference to Para 6 of the Petition, I state and submit that as per the provision in the Act, 3% reservation is made applicable in every Government & Semi Government Establishment as per G.A.D. G.R. No. SRSV 1097/CR/16-17 dated the 2nd May, 1998, and also, as per the provision made in the Act to identify the post of Physically Handicapped. This Government has established an Expert Committee in which medical expert of each category of disability are nominated as member. After discussion with Expert Committee following departments have issued Government Resolution regarding identification of posts:-

- (i) Public Works Department G.R. dated 18.12.2003.
- (ii) Women & Child Welfare Department G.R. dated 15.1.2004.
- (iii) Tribal Development Department G.R. dated 12.01.2004.
- (iv) Higher & Technical Education Department G.R. dated 11.09.2003.
- (v) Irrigation Department G.R. dated 30.09.2003.
- (vi) Planning Department G.R. dated 10.03.2003.
- (vii) Social Justice Department G.R. dated 6.6.2003 (Class I & II).

- (viii) Law and Judiciary Department G.R. dated 8.4.2003.
- (ix) Medical Education Department G.R. dated 20.2.2004.
- (x) Rural Development Departments G.R. dated 29.03.2004 and 06.01.2004.
- (xi) Employment and Self Employment Department G.R. dated 12.04.2004.
- (xii) General Administration Department (Peon and Driven) G.R. dated 4.3.2004.
- (xiii) School Education Department G.R. dated 3.1.2004.
- (xiv) Food & Civil Supplies Department, G.R. dated 29.4.2004.

16. After a long period of time, identification of the reservation could be started only in 2003-2004. Furthermore, it has been stated that by and large the said identified posts are in the lower ranks of employment and are not available for the posts which are at the officer cadre and higher.

17. MSEB has filed an affidavit in response to this petition. The MSEB seems to think that handicapped persons of these various categories are not fit for carrying out duties in their organization. The MSEB has in their affidavit stated as under :-

"I say that in vie of this activity being carried out by the Respondent No. 5 the majority of the post available with M.S.E.B. are of technical nature, the disabled persons may not be able to discharge the said duties of such posts effectively."

Furthermore, the MSEB states that they have sought exemption from providing for reservation in their organization from the State Government and the application for exemption is pending.

18. The Thane Municipal Corporation has filed an affidavit and has stated that Thane Municipal Corporation has also sought relaxation in respect of appointments of blind and physically handicapped persons. Furthermore, they provided for reservation to various posts in service but same are only in lower categories. However, the overall picture indicates that out of 1995 posts identified 20 are reserved for this category and of which only 7 are filled in. There are 13 posts which are lying vacant i.e. in the category of visually impaired. In the category of dumb and deaf 5592 posts are identified, 56 are reserved, 45 are filled in and 11 are vacant. In other cases of handicapped persons, 5540 posts are identified, 56 posts are reserved, 68 posts are filled in and 8 are vacant.

19. The affidavit filed by CIDCO reveals that they have identified the pots and they have provided only 1% reservation for visually impaired persons, subject to suitability. Paragraph 4 of the said affidavit reads as under :-

"4. I say and submit that, in future, while filling up the vacant posts in the Class-III and Class-IV category, the Corporation will maintain 1% reservation for the visually impaired persons, subject to

suitability."

In paragraph 5 of the affidavit, they have sought to state that the said deficiency has been sought to be compensated by providing PCO booths to the handicapped persons. The said paragraph 5 reads as under :-

5. I say and submit that the Corporation is allotting PCO Booths, in Navi Mumbai area. The Corporation has allotted 129 PCO booths to the handicapped persons, including blind persons as rehabilitation measures."

In the case of MSEB and various other departments of the Government, we find that there is large backlog even after the posts are identified only at lower categories. The situation in the University and other authorities who are respondents in the present petition, is also not satisfactory in respect of identifying the posts and/or filling up thereof. In the light of the aforesaid discussion, we find that the matter requires serious consideration from this Court and we further find that mere giving a direction in the present case would not serve the purpose and/or justice in the case. We find that the attitude adopted by the authorities towards these handicapped citizens is not commensurate with the requirement and mandate of the law.

20. We are constrained to give a wide range directive to the Government for the purpose of effective implementation of the said Act.

21. In light of the aforesaid facts, we issue rule. We make the rule returnable in the first week of December, 2004. As and by way of interim order, we give the following directions :-

(1) That the Commission / Committee constituted by the State Government for the purposes of identification of posts in various government and semi-government organizations shall be reconstituted. It will be headed by a person who is closely connected to one of the leading organization of handicapped institutions or the person himself is suffering from such handicap provided such a person is qualified and eligible to head the said Commission. We further direct that on the said Commission, there shall be an officer from the Law and Judiciary Department of the State Government whose responsibility will be to see the effective implementation of the provisions of the Act are carried out by the Commission. There shall be also a representative from the Social Welfare Department and representatives of three of the public sector enterprises or semi-government organizations who shall with immediate effect undertake the job of identification of the posts for these categories of handicapped persons which includes blind, deaf and dumb and other handicaps. There shall be 3 members from NGO which carrying on work in the field of physically handicapped. While doing so, the Commission shall not restrict the identification of the post only to the lower categories such as lower division clerk and upper division clerks but they have reservation at roster point 1, 34 and 67 at every stage where there is recruitment to be effect.

(ii) Respondents Nos. 2 to 7 are directed to identify the posts in their organization at the roaster point 1, 34 and 67 at every layer of employment and in various categories including in the category of officers and take immediate steps and action to fill in the said identified posts. Such posts are to

be identified by respondents Nos. 2 to 7 on or before 30.10.2004 and the same shall be immediately thereafter filed by respondents in this Court before the next date of hearing of the present petition.

(iii) Petition stands adjourned for further direction if necessary in the first week of December 2004.

Parties to act on an ordinary copy of this order duly authenticated by the Private Secretary of this Court.