

Daily Order

| Judge Name | Case No/Year | Date of Order | Daily Order |
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| CHIEF JUSTICE AND ASHOK S.KINAGI | WP 9260/2020 | 20/08/2020 | <p>(Through Video Conferencing)</p> <p>Heard Smt.Jayna Kothari, learned Senior counsel for the petitioner.</p> <p>2. Issue notice to the respondents returnable by 7th September, 2020.</p> <p>3. Sri.Ruben Jacob, the learned counsel for the first respondent, waives notice. The learned Additional Government Advocate waives service for second and third respondents. Sri.M.N.Kumar, Central Government Counsel, waives notice for the fifth respondent.</p> <p>4. The preliminary examination conducted by the first respondent is scheduled to be held on 24th August, 2020. The main submission of the learned Senior Counsel appearing for the petitioner is that the first respondent is not holding the examination as per the office memorandum dated 21st August 2018 of the Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment, Government of India. The submission is that the provisions of clauses (v) (vi) and (xii) are not being complied with.</p> <p>5. Our attention is invited to the State Government order dated 30th October, 2007. It is submitted that the guidelines of the State Government are not consistent with the specific guidelines issued by the Central Government on 29th August 2018 pursuant to the provisions of the Right of Persons with Disabilities Act, 2016.</p> <p>6. Sri Ruben Jacob, the learned counsel appearing for the first respondent, states that in February/March2020, 682 candidates belonging to the category of 'Visually Impaired' applied for the examination and only 305 candidates out of 682 candidates have opted for the help of a scribe and they have agreed to bring their own scribe.</p> |

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| | | | <p data-bbox="625 197 1476 271">He states that the remaining 377 candidates have not exercised the said option.</p> <p data-bbox="625 409 1476 689">7. The examination is scheduled to be held on 24th August 2020. The first respondent will have to explain why the guidelines issued by the Government of India are not being implemented. As the examinations are scheduled to be held on 24th August 2020, we are not issuing any interim order which will virtually result in postponement of the examination.</p> <p data-bbox="625 824 1476 1149">8. We, however, make it clear that the issue of legality of the examination as regards the visually impaired candidates will have to be kept open. Secondly, the choice has been exercised by the candidates way back in February or March 2020. It is possible that some among the 305 candidates may not be able to procure the presence of scribes due to the situation created by COVID-19.</p> <p data-bbox="625 1283 1476 1570">9. The first respondent as well as the State Government will have to take a stand on this aspect. Though we cannot issue an interim direction, as still time of three days is available to the first respondent, it will be appropriate for the first respondent to consider of granting time of extra 20 minutes as provided in clause (xii) of the guidelines dated 29th August 2018.</p> <p data-bbox="625 1704 1476 1989">10. Though, at this stage, we are not passing any interim order, the issue whether the rights of the visually impaired persons under the provisions of the Right of Persons with Disabilities Act, 2016 have been infringed considering the manner in which the examination is proposed to be conducted by the first respondent, will have to be kept open.</p> <p data-bbox="625 2033 1476 2152">11. Needless to add, it is the duty and the obligation of the first respondent to ensure that due to the situation created by the pandemic, COVID-2019, no person who is visually</p> |

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| | | | <p data-bbox="627 197 1473 271">impaired is denied an opportunity to properly appear in the examination.</p> <p data-bbox="627 409 1473 528">12. We direct the first respondent to file a statement of objections before the next date when the Court will examine the issue of legality.</p> <p data-bbox="627 573 1182 607">List the matter on 7th September 2020.</p> |

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