

FR. No. 7333/2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

PRESENTATION FORM

No. \_\_\_\_\_

Serial No. \_\_\_\_\_

Advocate Sri

\_\_\_\_\_ District

Between

National Federation  
of the Blind

And

State of Karnataka  
and Ors.

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**IN THE HIGH COURT OF KARNATAKA AT BANGALORE  
(ORIGINAL JURISDICTION)**

W.P. No. 8048 / 2021 (PIL) (SIRS)

**BETWEEN**

National Federation of the Blind

**...PETITIONER**

**AND**

State of Karnataka & Ors.

**...RESPONDENTS**

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**PLACE: BANGALORE**

**DATE:**

**CONSEL FOR PETITIONER**

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE  
(ORIGINAL JURISDICTION)**

**W.P. No. \_\_\_\_\_/ 2021 (PIL)**

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**PLACE: BANGALORE**

**DATE:**

**CONSEL FOR PETITIONER**

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**IN THE HIGH COURT OF KARNATAKA AT BANGALORE  
(ORIGINAL JURISDICTION)**

**W.P. No. \_\_\_\_\_/ 2021 (PIL)**

**BETWEEN**

National Federation of the Blind

**...PETITIONER**

**AND**

State of Karnataka & Ors.

**...RESPONDENTS**

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**SYNOPSIS**

The present Public Interest Litigation has been brought by the Petitioner in the interests of persons with blindness and low vision, under the Rights of Persons with Disabilities Act, 2016 ("RPD Act"). The Petitioner is challenging Government Order No. DPAR 149 SRR 2000 dated 26.09.2020 ("Impugned Order") issued by the Respondent No. 1 by which the reservation quota for persons with blindness and low vision in group C and D categories of the Karnataka State Civil Services has been decreased from 2% to 1% within the allotted 5% posts reserved. This reduction is made by the Respondent No.1 under the impugned Notification on the ground that the population of persons with locomotor disability has increased. Such arguments

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based on population census are not only completely false as the numbers of persons with blindness and low vision are almost similar to the numbers of persons with locomotor disability, reservation percentage was never calculated based on the population. This drastically reduces the equal opportunity for persons with blindness and low vision to public employment and is arbitrary and unreasonable and in violation of Articles 14 and 16 of the Constitution. Hence this Petition.

#### LIST OF DATES

DATE	EVENT
03.09.2005	Section 9 (1-A) of the Karnataka Civil services (General Recruitment) Rules 1977 which was brought about by an amendment in the rules vide Notification bearing No. DPAR 50 SRR 2000, Bangalore, being the Karnataka Civil Services (General Recruitment (66 <sup>th</sup> Amendment) Rules 2005.
01.08.2009	Respondent No. 1 through its Government Order No. DPAR 128 SRR 2006, ordered that within the aforementioned horizontal reservation of 5% for persons

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	with disability in the Karnataka State Civil Services, the roster points of <u>4 and 24</u> will be earmarked for persons with blindness or low-vision.
2016	Rights of the Persons with Disabilities Act 2016 was enacted and was brought into force
<u>25.09.2020</u>	Respondent No. 1 issued the Impugned Government Order bearing No. DPAR 149 SRR 2020 and abruptly changed the reservation for persons with blindness and low vision.
<u>14.10.2020</u>	Aggrieved by the impugned Government order dated 25.09.2020, the Petitioner made a representation to Respondent No. 1.
HENCE THIS PETITION	

**PLACE: BANGALORE**

**DATE:**

**CONSEL FOR PETITIONER**

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE  
(ORIGINAL JURISDICTION)**

**W.P. No. \_\_\_\_\_/ 2021 (PIL)**

**BETWEEN**

National Federation of the Blind  
Having its registered office at:  
#S-372, Bharat Nagar,  
2<sup>nd</sup> Phase, near Karnataka Bank,  
Magadi Main Road,  
Bangalore – 560091  
Represented through its  
General Secretary Gautam Agarwal

**...PETITIONER**

**AND**

1. State of Karnataka  
Department for Personnel  
& Administrative Reforms  
Vidhan Soudha,  
Bangalore – 560001  
Represented by its Principal Secretary
2. State of Karnataka  
Department of Women and Child Development,  
Empowerment of Differently Abled and Senior Citizens  
Podium Block, Vishveswariah Tower,



Dr. Ambedkar Road,  
Bangalore – 560001  
Represented by its Principal Secretary

3. The Commissioner for Disabilities,  
No. 55 Abhaya Sankeerna, 2<sup>nd</sup> Floor,  
Karnataka Slum Development Board Building,  
Risaldar Street (Plat Form Road),  
Sheshadripuram,  
Bangalore – 560020

**...RESPONDENTS**

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**MEMORANDUM OF PETITION UNDER ARTICLES 226 OF 227**  
**OF THE CONSTITUTION OF INDIA 1950**

The Petitioner submits as follows:

1. The present Public Interest Litigation has been brought by the Petitioner in the interests of persons with blindness and low vision, under the Rights of Persons with Disabilities Act, 2016 ("RPD Act"). The Petitioner is challenging Government Order No. DPAR 149 SRR 2000 dated 26.09.2020 ("Impugned Order") issued by the Respondent No. 1 by which the reservation quota for persons with blindness and low vision in group C and D categories of the Karnataka State Civil Services has been decreased from 2% to 1% within the allotted 5% posts reserved. This reduction is made by the Respondent No.1

under the impugned Notification on the ground that the population of persons with locomotor disability has increased. Such arguments based on population census are not only completely false as the numbers of persons with blindness and low vision are almost similar to the numbers of persons with locomotor disability, reservation percentage was never calculated based on the population. This drastically reduces the equal opportunity for persons with blindness and low vision to public employment and is arbitrary and unreasonable and in violation of Articles 14 and 16 of the constitution.

### **Array of Parties**

2. The Petitioner, is the state branch of the National Federation of the Blind, which is a self-help organization founded in 1970 with the philosophy of "Let the Blind Lead the Blind" and operates all over the country. The petitioner strives for equality of opportunity for the blind in the fields of education, training and employment and strives to facilitate effective and meaningful inclusion, empowerment, holistic development and protection of rights of persons with blindness and visual impairment and conducts various welfare programmes in the State. The Petitioner is represented by its General Secretary.

3. The Respondent No. 1 is the Department of Personnel and Administrative Reforms which has issued the impugned order dated. 25.09.2020. The Department is responsible for the facilitation and improvement of governance in the State. Further, it also formulates and implements policy for sustainable administrative reforms that are inclusive and people-centric, providing human resource capabilities, etc.
4. The Respondent No. 2 is the Department of Women and Child Development, and the Empowerment of Differently Abled and Senior Citizens which is responsible for the welfare and development of women, children, elderly and differently abled in the State. It implements developmental programmes for persons with disability, formulates necessary policies, programmes and schemes for persons with disability. Further, it also provides recommendations to other departments with regards to their reservation and employment policies (amongst other things) for persons that fall under its ambit including persons with disability.
5. The Respondent No. 3 is the authority appointed by the State Government under the Rights of Persons with Disability Act, 2016. The Respondent No. 3 has among other duties, the duty

to safeguard the rights of persons with disabilities and to co-ordinate with the State Government in implementation of laws, rules, bye-laws, regulations, orders, etc issued by the State Government with respect to the welfare and protection of rights of persons with disabilities by identifying provisions of law or policy that are inconsistent with the RPD Act and recommend necessary corrective steps.

### **Brief Facts**

6. It is submitted that in Karnataka reservations have been provided for persons with disabilities in all categories of posts in the government. Under Group C and Group D categories, reservations for persons with disabilities in public employment in Karnataka were always provided even prior to the enactment of the earlier legislation covering the rights of persons with disabilities. When the Persons with Disabilities (Protection of Rights Equal Opportunities and Full Participation) Act 1995 ("PWD Act") was enacted, Section 33 it provided that not less than 3% posts to be reserved in all categories of posts. Section 33 of the PWD Act states as follows:

*33. Reservation of posts.—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.*

7. It is submitted that the Respondent State Government had reserved in Group C and D categories of posts 5% of posts for persons with disabilities, which was the norm even prior to the enactment of the PWD Act. After the passing of the PWD Act, it reserved 3% of posts in Group A and B posts for persons with disabilities and continued with 5% reservation in Group C and D posts. This was provided under Section 9 (1-A) of the Karnataka Civil services (General Recruitment) Rules 1977 which was brought about by an amendment in the rules vide Notification dated 3.9.2005 being the Karnataka Civil Services (General Recruitment (66<sup>th</sup> Amendment) Rules 2005. Under these amendments, Section 9 (1-A) states as follows:

*"9(1-A) Notwithstanding anything contained in the rules of recruitment specially made in respect of any service or post, if in such rules of recruitment direct recruitment is prescribed as one of the methods of recruitment, the following percentage of vacancies set apart for that method in each of the categories of general merit, Scheduled Castes and Scheduled Tribes and in each of the categories among other backward classes shall be reserved for and shall be filled by direct recruitment from among candidates who are physically handicapped namely:*



- (i) Three percent of the vacancies in Group A or Group B posts as may be identified and notified by the Government
- (ii) Five percent of the vacancies identified and notified by the Government"

(A copy of the Notification bearing No. DPAR 50 SRR 2000, Bangalore, dated 3.9.2005 is annexed herein and is marked as

**ANNEXURE – A)**

8. Thereafter in the year 2009, the Respondent No. 1 – DPAR through its Government Order No. DPAR 128 SRR 2006 dated 01.08.2009, ordered that within the aforementioned horizontal reservation of 5% for persons with disability in the Karnataka State Civil Services, the roster points of 4 and 24 will be earmarked for persons with blindness or low-vision thus providing for 2% reservation for them out of the 5% over reservation, roster point 44 will be earmarked for persons with hearing impairment and roster point 64 will be earmarked for persons with locomotor disability or cerebral palsy and roster point 84 will be earmarked for persons suffering from a disability after recovering from leprosy or persons with mental retardation/mental illness. Thus, out of the overall 5% of posts

reserved for persons with disabilities, 2% were reserved for persons with blindness and low vision.

(A copy of the Government Order bearing No. DPAR 128 SRR 2006 dated 01.08.2009 is produced hereto and marked as **ANNEXURE – B)**

9. It is submitted that for over a decade, this was the subsisting pattern for reservation for persons with disabilities out of the horizontal reservation of 5% in the all Group-C and Group-D jobs in the Karnataka State Civil Services and 2% within the aforementioned 5% horizontal reservation were earmarked for persons with blindness and low vision.
10. Thereafter in 2016, the Rights of the Persons with Disabilities Act 2016 was enacted and was brought into force. Under the RPD Act, Section 34 provides that instead of 3% of posts, there would be 4% of posts reserved for persons with benchmark disabilities. Section 34 of the RPD Act states as follows:

*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.*

11. Even after the enactment of the RPD Act, the reservation of 5% of posts in group C and D posts continued in Karnataka along with the reservation of 2% posts for persons with blindness and low vision.
12. In this background, suddenly in September 2020, the Respondent No. 1 issued a Government Order bearing No. DPAR 149 SRR 2020 dated 25.09.2020 and abruptly changed this reservation for persons with blindness and low vision. As per this order, within the horizontal reservation of 5% for persons with disabilities, the 2% of posts that were reserved for persons with blindness and low vision has been reduced to

1% and instead 2% is reserved for persons with locomotor disability and cerebral palsy. The new demarcation within the 5% and a comparison with the previous reservation is as follows:

<b>DPAR 128 SRR 2006 dt. 01.08.2009</b>		<b>DPAR 149 SRR 2020 dt. 25.09.2020</b>	
<b>DISABILITY</b>	<b>5%</b>	<b>DISABILITY</b>	<b>5%</b>
Blindness and Low-Vision	2%	Blindness and Low-Vision	1%
Hearing Impaired	1%	Deaf and hard of hearing	1%
Locomotor Disability	1%	Locomotor Disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy	2%
Leprosy Cured/ Mental retardation/ Mental Illness	1%	Autism, intellectual disability, specific learning disability and mental illness	1%
		Multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness	



(A copy of the Government Order dated 25.09.2020 bearing No. DPAR 149 SRR 2020 is produced hereto as **ANNEXURE – C)**

13. The impugned Notification states that this change and reduction of the reservation provided for persons with blindness and low vision is due to census data from 2011. The census data of 2011 has been available since 2011 and for 9 years since then it was deemed necessary to have 2% reservations earmarked for persons with blindness. The impugned Order states that according to the census of 2001, persons suffering from blindness and low vision in the State accounted for 4,40,875 people, and that in the 2011 census this number has come down to 2,64,170 persons. Further, it goes on to state that those with locomotor disabilities in the state accounted for 2,66,559 persons in 2001 and that in 2011, the number has increased to 2,71,982. The order goes on to state that in addition to this, persons with locomotor disabilities have been counted under categories of 'Other Disabilities' and 'Multiple Disabilities' and therefore, the total number of persons with locomotor disabilities may be counted as 4,45,348. Lastly, the reasoning states that the population of persons with blindness



is approximately 0.43% of the rest of the State population, while persons with locomotor disabilities account for 0.73%.

14. It is submitted that these outdated numbers have been presented in the most misleading fashion. In the Census of 2001, the overall numbers on persons with disabilities showed the following data:

- No. of persons with disability in seeing: 10,834,881
- No. of persons with disability in movement: 6,105,477

Thus, this shows that the population which has visual impairment was much higher than the population with locomotor disability.

(A copy of the extract of the data on Disabled persons as per census 2001 is annexed herein and is marked as **ANNEXURE - D)**

15. Thereafter the Census of 2011 for the first time enumerated different disabilities state-wise. The Government of India through the Ministry of Statistics and Programme Implementation released a report in 2016, titled 'Disabled Persons in India, A Statistical Profile 2016' which gave

important analysis based on the 2011 census, too. As per this report and the Census 2011 data, the following is stated:

- Total disabled population in India: 2,68,14,994
- Total population with visual disability: 50,33,431 – 19%
- Total population with locomotor disability: 54,36,826 – 20%

#### Karnataka

- Population of persons with visual disability – 2,64,170
- Population of persons with locomotor disability: 2,71,982

Hence, from the above figures it can be seen the numbers of persons with blindness / have low vision are very similar to the numbers of persons with locomotor disability being 19% and 20% respectively. Even the total number of persons in Karnataka that are blind/ have low-vision is 2,64,170 and very close to the numbers of persons with locomotor disabilities being 2,71,982.

This does not justify the drastic decrease of the posts reserved for persons with blindness and low vision from 2% to 1%.

(A copy of relevant extracts of the Report by the Ministry of Statistics and Programme Implementation titled 'Disabled Persons in India, A Statistical Profile 2016' is produced hereto as **ANNEXURE – E**)

16. Further, it is submitted that preference has always been given for persons with blindness and low vision and persons with hearing impairment in government employment, over persons with locomotor disability because of their further marginalization and exclusion and not due to their population. Due to the prejudice and stereotypes associated with persons with blindness and low vision, it is assumed that they will not be able to do many jobs and hence very few posts even within group-C and group-D posts have even been identified for the visually impaired category and hence this further reduces their employment opportunities.
17. Aggrieved by this abrupt change in the reservation by the impugned Order for persons with blindness and low vision, the Petitioner addressed a representation dated 14.10.2020 to the Respondent No. 1. In the said letter, the Petitioner brought to the Respondent No. 1's attention that the only ground that has been cited in the impugned Government Order dated 26.09.2020 for this sudden change is that the population of the persons with locomotor disabilities has increased. While this may admittedly be the case, the Petitioner has pointed out in the said letter dated 14.10.2020 that such reasoning cannot be

accepted as the only basis of decrease of reservation for another deprived section of society as it creates a rift between two classes of persons within a community and that the 2% reservation already provided for persons with blindness and low vision should not be reduced.

(A copy of the representation dated 14.10.2020 sent by the Petitioner to the Respondent No. 1 is produced hereto and marked as **ANNEXURE – F**)

18. It is submitted that the aforementioned communication dated 14.10.2020 has remained unanswered. Aggrieved by this, and having no other alternative and equally efficacious remedy, the Petitioner has filed the present Public Interest Litigation before this Hon'ble Court. The Petitioner has not filed any other petition either before this Hon'ble Court or any other forum in respect of this cause of action. The present petition is filed on the following, among other grounds.

**GROUND:**

19. **THAT** the Rights of Persons with Disabilities Act, 2016 ("RPWD ACT" hereinafter) under Section 3 (3) and (5) provide that no person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission



is a proportionate means of achieving a legitimate aim and that the appropriate Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities, respectively. In the present case, the abrupt decrease in reservation for persons with blindness and low-vision while increasing the reservation for persons with locomotor disabilities amounts to the Respondent No. 1 DPAR violating the provisions of the RPWD Act and discriminating against persons with blindness and low vision and hence, deserves the intervention of this Hon'ble Court.

20. **THAT** the percentage of reservation is not based on population
21. THAT even assuming that the reservation provided for persons with disabilities is based on their population percentage, the data of the 2011 census shows that there is hardly any difference in the numbers of persons with blindness and low vision and persons with locomotor disability and hence this cannot be a ground for reducing the percentage of posts reserved for persons with visual disability.
22. THAT even assuming that the population of persons with locomotor disabilities has increased, then the appropriate measure would have been to increase the percentage of



reserved posts in group-C and group-D categories of the state civil services with respect to persons with locomotor disability without reducing the existing sub-reservation for persons with blindness and low-vision of 2%.

23. THAT the basis of the impugned Order is completely arbitrary and unreasonable. The impugned order has no legal basis to state that the total number of persons with locomotor disability must be counted as 4,45,348 persons in Karnataka. As per the census of 2011, the total number of persons with blindness and low-vision in the State of Karnataka accounted for 2,64,170 persons, persons with hearing impairment accounted for 2,35,691 persons, persons with speech impairment accounted for 90,741 persons, persons with locomotor disabilities/ movement related disabilities accounted for 2,71,982 persons and persons with mental retardation accounted for 93,974 persons. By no stretch of the imagination, can the number of persons with locomotor disabilities double that of 4,45,348 persons even if persons coming under 'other disabilities and 'multiple disabilities' is counted for and hence such a reasoning to reduce the reservation from 2% to 1% of posts for persons with blindness and low vision is arbitrary and unreasonable

and in violation of Article 14 of the constitution and deserves to be set aside.

24. **THAT** by reducing the percentage of reservations of persons with blindness and low-vision in order to increase the reservations for persons with locomotor disabilities, the 1<sup>st</sup> Respondent has failed to consider that the former category of persons will abruptly and unduly be disadvantaged although their population in numbers remain stagnant. Further, the impugned order unwittingly causes a rift between two categories of persons within the same class by appropriating the posts reserved for one category of disadvantaged persons to another. The same amounts to discrimination against persons with blindness and low vision and a violation of their rights under Article 14 and 16 of the constitution and such reduction of reservation deserves to be set aside.

25. **THAT** the sub-reservation of 2% for persons with blindness and low-vision under the broader reservation of 5% for persons with disabilities in group-C and group-D categories of state civil services cannot be reduced to 1% to accommodate an increase in reservation for persons with locomotor disabilities without providing any reason or rationale as to how such decrease in

reservation for the former category of persons is justified/ will not aggrieve them. Such arbitrary reduction amounts to denial of equal opportunity in public employment for persons with blindness and low vision and deserves to be set aside.

26. **THAT** the 1<sup>st</sup> Respondent by decreasing the percentage of sub-reservation ear-marked for persons with blindness and low-vision without any data to support a marked decrease in the population of such persons in the state, or without providing any justifiable reasoning or opportunity of hearing to affected parties before issuing the impugned order is also violative of Article 16(1) of the Constitution.
27. **THAT** the Respondent No. 1 has not taken into consideration alternative remedies available that would promote the interests of all concerned parties and not disadvantage any one category. For instance, the State Government of Chhattisgarh has instead of re-allocating sub-reservations has instead increased the total reservation for persons with disabilities to 6%. The Respondent State Government can increase the total reservation for persons with disabilities, but ought not to have reduced the reservation provided to persons with blindness and low vision.

28. **THAT** the Respondent No. 1 and Respondent No. 2 have both failed to consider that census data is not the criteria for creating reservations under the RPD Act. If this was, in fact, the reasoning behind reservation as per the RPD Act, then it would also mandate the review of reservations provided under it every decade or so and hence census data cannot be the basis for now reducing reservation for persons with blindness and low vision from 2% to 1% and hence the impugned Order deserves to be set aside.
29. **THAT** the Respondent No. 1 and Respondent No. 2 have failed to consider that the census data that has been used as the basis to decrease the reservation for persons with blindness and low-vision is nearly a decade old. If, such data is to be the basis of reservations, it cannot be implemented at such a belated stage given that the said data has been available for nearly a decade but it was not considered necessary to change the reservation policy earlier.
30. **THAT** in *Union of India vs. National Federation of the Blind and Others* (2013) 10 SCC 772; the Supreme Court has noted:
- "50. Employment is a key factor in the empowerment and inclusion of people with**



**disabilities. It is an alarming reality that the disabled people are out of job not because their disability comes in the way of their functioning rather it is social and practical barriers that prevent them from joining the workforce. As a result, many disabled people live in poverty and in deplorable conditions. They are denied the right to make a useful contribution to their own lives and to the lives of their families and community."**

The above judgment was passed in the context of upholding the judgment passed by the Delhi High Court in *National Federation of the Blind vs. Union of India & Ors.* 2008 SCC OnLine Del 1362 wherein the Court had recognized that blind and low-vision persons are at a higher risk of discrimination than other disabled people, to be virtually excluded from the process of recruitment to Government posts.

31. **THAT**, given this context, and given that the number of persons identified as having blindness and low vision as against the number of persons having locomotor disabilities is virtually negligible, and that only a limited number of posts have been identified for persons with blindness and low-vision there was no reason to decrease the earmarked reservation for persons with blindness and low-vision. A decrease in reservation only increases the already prevalent discrimination and increases

the barriers limiting persons with blindness and low-vision from entering the workforce.

32. **THAT** the basis of Section 34 (1) of the RPD Act and the legislative intent of placing persons with blindness and low vision as the first category of persons with benchmark disabilities was to provide emphasis because amongst the persons with disabilities, persons with blindness and low-vision require the most number of benefits as they are the most disadvantaged and able to perform in the workforce only up to a certain extent.
33. **THAT** the Respondent No. 1's sole basis for creating the new reservation vide impugned order wherein the percentage of reservations for persons with blindness and low-vision is decreased to 1% is based on outdated data from the Census of 2011. For nine years since, the Respondent No. 1 has continued to earmark 2% reservation for persons with blindness and low vision within the horizontal reservation of 5% for persons with disabilities. Such an action has created a legitimate expectation amongst persons with blindness and low-vision and cannot abruptly be revoked in such an arbitrary and unilateral manner.

34. **THAT** the Respondent No. 1 had created a legitimate expectation of the benefit of a sub-reservation of 2% for persons with blindness and low-vision in all group-C and group-D categories of state civil service employment for over a decade. The sudden reduction in the same greatly disadvantages persons with vision impairment as it reduces their employment opportunities and reasonable methods of earning a livelihood. The Supreme Court in *Punjab Communications Ltd. vs. Union of India and Ors* (1999) 4 SCC 727 has made the following observations with regards to what constitutes a 'legitimate expectation':

***"27. The basic principles in this branch relating to "legitimate expectation" were enunciated by Lord Diplock in Council of Civil Service Unions v. Minister for the Civil Service [1985 AC 374 : (1984) 3 All ER 935] at pp. 408-409. It was observed in that case that for a legitimate expectation to arise, the decisions of the administrative authority must affect the person by depriving him of some benefit or advantage which either***  
***(i) he had in the past been permitted by the decision-maker to enjoy and which he can legitimately expect to be permitted to continue to do until there has been communicated to him some rational grounds for withdrawing it on which he has been given an opportunity to comment; or***



***(ii) he has received assurance from the decision-maker that they will not be withdrawn without giving him first an opportunity of advancing reasons for contending that they should not be withdrawn."***

35. **THAT** in ***Navjyothi Co-operative Housing Society v. Union of India & Ors.***, (1992) 4 SCC 477, the Apex Court has also held that an aggrieved person is entitled to judicial review if he could show that a decision of the public authority affected him of some benefit or advantage which in the past he has been permitted to enjoy and which he legitimately expected to be permitted to continue to enjoy either until he was given reasons for withdrawal and the opportunity to comment on such reasons. In the present case, not only are the reasons provided by Respondent No. 1 not satisfactory, but the Petitioner/ others situated in a similar position have not been given an opportunity to comment on such reasons.
36. **THAT** the reasoning in the impugned order that the percentage of reservation for locomotor disability has been increased from 1% to 2% because it takes into account persons who are leprosy cured dwarfism, cerebral palsy acid attack survivors and others is false and baseless as the same categories were included earlier within this category of locomotor disability



in any event, the Petitioner is not opposing the increase of reservation for locomotor disability and if the same deserves increase, then the overall percentage for reservation should be increased to 6% and the reservation of 2% provided to persons with blindness and low vision cannot be arbitrarily decreased.

37. **THAT** RPWD Act was enacted with a view to facilitate the full and effective participation of persons with disabilities in society and accordingly mandates that the Government must take the necessary steps required to ensure reasonable accommodation for persons with disabilities, which has been expressly recognized in Section 3 of the RPWD Act. However, the action of Respondent No. 1 DPAR in reducing the sub-reservation of persons with blindness and low-vision from 2% to 1% without any reasoning only detracts from the stated aim, object and purpose of the RPWD Act and the policy pursued by the Respondents No. 1 – 4.

**Grounds for Interim Prayer**

38. THAT the Respondent No. 1 has failed to provide sound reasoning for the sudden decrease in reservation for persons with blindness and low vision in group-C and group-D categories in state civil services. If the impugned notification is

not stayed, it will lead to a severe loss of employment opportunities for persons with blindness and low vision, unfairly and hence deserves to be stayed, in the interest of justice and equity.

### **PRAYER**

WHEREFORE, in light of the above facts and circumstances, the Petitioner most respectfully prays that this Hon'ble Court may be pleased to:

- A. Issue a writ in the nature of certiorari or any other writ or order, setting aside the Impugned Government Order No. DPAR 149 SRR 2020 dated 25.09.2020 produced as **ANNEXURE – C** to the extent that it decreases the reservation for persons with blindness or low vision from 2% to 1%;
- B. Grant any other relief, which this Hon'ble Court may deem as fit and necessary in the circumstances of the case and in the interests of justice and equity.

### **INTERIM PRAYER**

Pending the final disposal of the above writ petition, it is most respectfully prayed that this Hon'ble Court may be pleased to direct the Respondent No. 1 to stay the impugned Government

Order No. DPAR 149 SRR 2020 dated 25.09.2020 produced as **ANNEXURE – C**, and grant any other such and further reliefs as this Hon'ble Court deems just and fit.

Place: Bangalore

Dated:

Counsel for the Petitioner

Address for Service:

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