

(2025) 08 TEL CK 0503
In the Telangana High Court
Case No : Writ Petition No.13872 Of 2024

Masanipally Arjun

APPELLANT

Vs

State of Telangana

RESPONDENT

Date of Decision : 26-08-2025

Acts Referred:

Constitution of India, 1950 — Article 227

Civil Procedure Code, 1908 — Section 96, Order 41 Rule 1, Order 12 Rule 6

Citation : (2025) 08 TEL CK 0503

Hon'ble Judges : Sujoy Paul, J

Bench : Division Bench

Advocate : Bankatlal Mandhani, K.K. Waghray

Final Decision : Disposed Of

Judgement

Suddala Chalapathi Rao, J

1. Initially, the above writ petition is filed by petitioners seeking direction to the respondents herein to follow the principles of horizontal reservation for special reservations i.e., persons with disabilities without embarking any roster points for them and consider the petitioners for appointment for the notification No.2/2024 dated 19.02.2024. The learned single Judge of this Court, after hearing the arguments of the petitioners and the respondents, was pleased to grant interim order vide order dated 12.06.2024 directing the respondents to follow the principle of horizontal reservation for special reservation i.e., persons with disabilities without embarking any roster points for them and consider the petitioners for appointment. It is further submitted that subsequent to the said interim order, the respondents have announced the result on 07.07.2025 and the respondent No.3 filed a vacate petition vide I.A.No.3 of 2024 on 22.07.2024 and the respondent Nos.1 and 2 filed vacate petition on 22.09.2024. The petitioners subsequently have filed an application for amendment of prayer vide I.A.No.5 of 2024 on 18.12.2024 challenging the Rules, more particularly, Rule 22 Sub-rule (2) (b) and (e) of the Telangana State and Subordinate Service Rules, 1996 (for

short, Rules, 1996), which was brought into existence vide G.O.Ms.No.96 General Administration (SER.D) Department, dated 22.07.2019 and the petitioners sought to declare the same as unconstitutional and also violative of the judgments of the Hon'ble Apex Court and also the judgments of this Hon'ble Court. In view of the same the said writ petition is listed before us.

2. It is further submitted by the writ petitioners that in the case of Rajesh Kumar Daria v. Rajasthan Public Service Commission and others (2007) 8 SCC 785 and Public Service Commission, Uttaranchal v. Mamta Bisht 2010 (12) SCC 204, wherein the special reservations that of the women and other persons with disabilities i.e. special category persons, the rule of reservation shall be followed horizontally and not vertically and in the instant case, the Rule 22(2)(b) & (e) of the Rules, 1996 are violative of the above judgments and the respondents in deviation to the above two judgments, have followed the procedure under the said Rules, which are contrary to the orders passed by the Hon'ble Supreme Court stated supra, as such prayed to declare the said rules as unconstitutional. Besides this, the petitioners relied upon the orders of the Division Bench of this Court in W.A.Nos.1165 and 1172 of 2024, wherein it is stated that the Division Bench has held, in case of women reservation, the horizontal reservation has to be followed and petitioners contended that the respondents cannot deviate from the orders of the Division Bench of this Court and implement Rule 22(2)(b)&(e) of the Rules, 1996.

3. Per Contra, The respondent Nos.1 and 2 have filed counter-affidavit along with vacate stay application stating that petitioners herein have challenged the present Rules in G.O.Ms.No.96 dated 22.07.2019 on 18.12.2024 vide I.A.No.5 of 2024, by which date, both the preliminary and main examinations were concluded and the present writ petition is squarely covered by the orders passed by the Hon'ble Division Bench of this Court in W.P.No.26038 of 2024 and batch dated 26.12.2024, which was also confirmed by the Hon'ble Supreme Court in Special Leave to Appeal (C) No.2410 of 2025 passed on 03.02.2025 and contended that the Present Petitioners also stand in same footing that of the petitioners in the above case, where in the Hon'ble the Division Bench has categorically held that petitioners after lapse of several months cannot challenge the said rules and held that in the cases of this nature, day-to-day delay is very important and that the said writ petition is devoid of merits and liable to be dismissed on that ground alone. It is further submitted by the respondent Nos.1 and 2 that similarly situated persons with that of the petitioners in notification No.2/2024 dated 19.02.2024, also challenged the said notification in a batch of writ petitions i.e., W.P.Nos.21239 and 22320 of 2024, filed on 02.08.2024 and 13.08.2024, respectively, and the challenge to the selection process in the previous round failed on the ground of delay and the said orders were confirmed by the Hon'ble Division bench of this court and also confirmed by the Hon'ble Apex Court.

4. It is also submitted by the respondents that the impugned notification was

also subject matter in second round before the Division Bench of this Court in W.P.No.26038 of 2024 and batch, wherein the said rules as amended vide G.O.Ms.No.96, dated 22.07.2019, were questioned and the said cases were dismissed on account of inordinate delay and the respondent Nos.1 and 2, would submit that present writ petition is squarely covered by the orders passed by the Division Bench of this Court in the above cases and as such, the petitioners have not made out new grounds or differentiated their case with that of the petitioners in W.P.Nos.21239 & 22320 of 2024 or W.P.No.26038 of 2024 and batch, which calls for interference of this Court.

5. The respondent No.3 also filed counter-affidavit, inter alia, stating in same lines with that of the respondents Nos.1 and 2 also contended that petitioner No.1 despite being qualified for mains examination, has not attended in the main examination and hence, he is ineligible to participate in further process of recruitment as per the norms stipulated in the notification No.2/2024, dated 19.02.2024 and further, petitioner No.2 was not successful in the examination as he could not place the pickup list so far for the Group-I services vide notification No.2/2024 and as such the Petitioners having participated in the above notification cannot turn around and challenge the said Rule 22 (2)(b) & (e) of the Rules, 1996, as amended by G.O.Ms.No.96 dated 22.07.2019, which were in force even as on the date of issuance of the impugned notification and has prayed to dismiss the present writ petition on the ground of delay and also in pursuance of the orders passed in W.P.No.21239 of 2024 and batch and also the orders passed by the Division Bench of this Hon'ble Court in W.P.No.26038 of 2024 and batch, dated 26.12.2024.

6. We have perused the material placed on record and the contentions of the petitioners in the affidavit and the counter- affidavits filed by the respondents herein and heard the arguments of the learned counsel for petitioners Mrs. Samhitha Devara and Mr. S.Rahul Reddy, learned Special Government Pleader representing the respondent Nos.1 and 2 (Office of Additional Advocate General) and Sri P.S.Rajasekhar, appearing for respondent No.3.

7. Before going into the rival submissions, we deem it appropriate to refer certain orders passed by this Court, wherein similar challenge was made by the petitioners therein to the notification No.2/2024 dated 19.02.2024 and other notifications, for filling of the vacancies in the respondent No.3-Public Service Commission i.e., in W.P.Nos.21239 and 22320 of 2024 and batch, the petitioners therein prayed for setting aside the 2nd notification No.2/2024 dated 19.02.2024 and prayed for restoration of notification No.4/2022 dated 26.04.2022 and it was contended that that issuance of notification No.2/2024 dated 19.02.2024 is contrary to the directions of this Court in W.P.No.15811 of 2023 dated 23.09.2023 and further direction was prayed to conduct fresh preliminary examination in pursuance of the notification No.4/2022 dated 26.04.2022. The writ Court, by order dated 15.10.2024 dismissed the W.P.No.21239 of 2024 and batch by recording the following findings:

"10.Thus, after a lapse of six months from the date of cancellation of old notification, the petitioners approached this Court without assigning any reasons for delay, much less, day- to-day delay. If the petitioners in W.P.No.21239 of 2024 are really aggrieved by the cancellation of notification No.4/2022, dated 26.04.2022, through web note dated 19.02.2024, they ought to have approached this Court and challenged the same at the earliest point of time itself. Though the delay on the part of the petitioners appears to be only six months, but, in a matter of this nature, the day-to-day delay matters and further the petitioners failed to explain even a single reason for the delay in approaching this Court. Therefore, on this ground alone, this Court is not inclined to entertain Writ Petition No.21239 of 2024, without advertng to the other grounds raised therein."

8. Admittedly, the order of learned single Judge was unsuccessfully challenged in W.A.Nos.1188 and 1190 of 2024 and the Division Bench of this Court confirmed the order of writ Court by placing reliance upon the judgment of the Hon'ble Apex Court in the case of Ashok Kumar v. State of Bihar (2017) 4 SCC 357. Subsequently orders in WA No.1190/2024 were challenged before the Hon'ble Apex Court in SLP.(C).No.27790/2024, which was dismissed vide order dated 06.12.2024. Further it is to be noted in W.P.No.26038 of 2024 and batch, the vires of Rule 22 (2)(a)&(b) of the Rules, 1996 was called in question, the Hon'ble Division Bench of this Court after due consideration of earlier round of litigation in W.P.Nos.21239 of 2024 and 22320 of 2024 batch, declined to entertain the writ petition on the ground of inordinate delay in approaching the Court. It was also held that though the delay on the part of the petitioners was only six months, but in matter of this nature, day-to-day delay matters and the petitioners have failed to explain the delay even with a single reason. The Division Bench of this Court in W.P.No.26038 of 2024 and batch, further held that as the selection questioned in said writ petitions is same selection which became subject matter of challenge in the previous round i.e., in W.P.No.21239 of 2024 and batch, which was dismissed on the ground of delay of six months in approaching this Court and noted that if lesser delay in filing previous round of litigation was held to be fatal, it was not possible to hold that a much larger delay in filing the said batch of petitions will fade into insignificance. The Division Bench by placing reliance upon the Judgment of Hon'ble Apex Court in D.C. Wadhwa v. State of Bihar (1987) 1 SCC 378 and Shailesh Manubhai Parmar v. Election Commission of India (2018) 9 SCC 100 held that the reliefs claimed directly which were not granted in W.P.No.15811 of 2023 cannot be permitted to be done in directly and observing the said findings, the Hon'ble Division Bench of this Court in was pleased to dismiss the W.P.No.26038 of 2024 and batch, vide order dated 26.12.2024.

9. Coming to the facts in the instant case, the writ petitioners challenged Rule 22(2)((b)&(e) of the Rules, 1996 as amended by G.O.Ms.No.96, dated 22.07.2019 and the said rules were in force as on the date of notification No.2 of 2024 dated 19.02.2024 and that though the writ petition was filed on

12.06.2024, the actual challenge to the said rules was made only on 18.12.2024 vide amendment application, as such the actual challenge is made almost around 10 months from the date of notification. As such, there is an inordinate delay of challenge to the said rules and more so the relief claimed in the present writ petition is also squarely covered by the orders passed by this Court in W.P.No.21239 and 22320 of 2024, dated 15.10.2024, which were confirmed in W.A.Nos.1188 and 1190 of 2024, dated 18.10.2024 and also confirmed by the orders passed by the Hon'ble Supreme Court dated in SLP(C).No.27790 of 2024 on 6.12.2024 and also the orders passed in W.P.No.26038 of 2024 Dt.26.12.2024 as confirmed by the Hon'ble Apex Court in SLP(C) No.2410 of 2025.

10. It is further observed that another important aspect, which is to be dealt with is, petitioner No.1 has participated in the main examination conducted in pursuance of notification No.2/2024 dated 19.02.2024 and the challenge is made after he was unsuccessful and that the petitioner No.2 was also unsuccessful in the examination, as he could also not find place in the pickup list for the Group-I services, in view of the conditions stipulated in the Notification and that the Hon'ble Supreme Court in Ashok Kumar (supra), has held that person who consciously takes part in selection process cannot thereafter turn around and challenge the method of selection and its outcome, following the same, as the petitioners have participated in the selection process and having been unsuccessful, cannot challenge the rules and selections through the notification No.2/2024, dated 19.02.2024 and on this ground also, writ petition is liable to be rejected.

11. In view of the above findings, We, therefore hold that writ petition is devoid of merits and the petitioners are not entitled to the reliefs claimed in the instant Writ Petition. The petitioners have neither substantiated their case for the reliefs sought in nor have differentiated their cases with that of the petitioners in the previous batch of cases.

12. In view of the afore stated findings the Writ Petition stands accordingly dismissed. There shall be no order as to costs. Miscellaneous applications, pending if any, shall stand closed.