



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4454 OF 2019

Pradeep Gajanan Dhobley

....Petitioner

V/S

All India Engineering Services Ltd.

Through its Chairman & Managing

Director

....Respondent

Mr.U.P. Warunjikar for petitioner.

Mr.Abhay Kulkarni for respondent.

CORAM : RANJIT MORE &
N.J. JAMADAR, JJ.

DATE : 1ST OCTOBER 2019

P.C.

1. Not on board. Mentioned, in view of urgency. Taken on production board.

2. Heard Shri Warunjikar, the learned counsel for the petitioner and Shri Abhay Kulkarni, the learned counsel for the respondent.

3. The petitioner, by filing this petition, is challenging the communication dated 3rd April 2019 issued by the respondent. The petitioner is also challenging the constitutional validity of Regulation 82 of Air India Employees' Service Regulation ('Service Regulation').

4. Regulation 82 of the Service Regulation deals with the political activities etc. In clause (i) of the said Regulation, it is stated that no employee shall take part in or associate himself with or subscribe in aid of or assist in any way political or communal organization and in clause (ii) thereof, it is stated that no employee shall take part in an election of the Parliament or to any legislature or local authority.

5. The petitioner has applied to the respondent seeking permission to contest the elections, initially of the Parliament and later on of Legislative Assembly. The respondent, by the impugned order dated 3rd April 2019, refused to grant the permission on the ground of Regulation 82 of the Service Regulation which is also challenged in the instant petition.

6. Shri Warunjikar, the learned counsel for the petitioner relied upon the judgment of the Supreme Court in the case of *Javed & Ors. Vs. State of Haryana & Ors.*¹ and submitted that the right to contest is not only the statutory right but also the constitutional right.

1 (2008) 8 SCC 369



The counsel further placed reliance upon the judgment in the case of *Central Inland Water Transport Corporation Limited & Anr. Vs. Brojo Nath Ganguly & Anr.*² and submitted that restriction put on the petitioner about contesting the election is unreasonable and, therefore, void.

7. The petition is opposed by the learned counsel for the respondent by filing affidavit-in-reply. It is submitted that the respondent has no objection to the petitioner's contesting the parliament or of Legislative Assembly, subject to the condition that he should leave his services. It was also asserted that during the subsistence of the services of the petitioner, he cannot contest the election for the reason as prescribed in the Regulation 82 of the Service Regulations.

8. Having heard the learned counsel for the respective parties, we find that the issue raised in the instant petition is subjudice before the Apex Court in the case of *Indian Oil Officers Association & Ors. Vs. Union of India & Ors.* in Writ Petition (Civil) No.000129-000129 of 2014. This fact coupled with the argument

² (1986) 3 SCC 156



advanced by Shri Warunjikar, the learned counsel for the petitioner, we are of the opinion that the debatable questions are raised in the matter, therefore, we grant rule. Hearing expedited.

9. The learned counsel for the respondent waives notice.

10. So far as the interim relief is concerned, we are not inclined to grant the same in view of the settled position of law that stay cannot be granted to any Act or Regulation. The prayer for grant of ad-interim relief, as claimed by the petitioner in the instant petition, will amount to stay to Regulation 82 of the Service Regulation. Therefore, we refuse to grant interim relief, as sought, by the petitioner.

[N.J. JAMADAR, J.]

[RANJIT MORE, J.]