

O.A.250/2017

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 08.05.2017.

Heard Shri S.K. Varma, Id. counsel
for the applicants and Shri A.M. Ghogre,
Id. P.O. for the respondents.

Closed for orders.

Vice Chairman (J)

dnk.

O.A.277/2017 (D.B.)

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 08.05.2017.

Heard Shri G.N. Khanzode, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. The applicant has challenged the Clause in the advertisement no.18/2017, dated 20/4/2017 and particularly Clause no. 2 (1) which reads as under :-

*^ ¼1½ 'kkI u fu.kz] mPp o ræ f'k{k.k foHkkx
dz , Mhvkj@2011@¼14@11½@rk' k&6] fnukad
14 tkuokjh]2011 uq kj fodykæ mesokj
iLrq inkl kbh vtZ dj.; kl ik= Bjfoysys
ukghr- ***

3. The learned counsel for the applicant submits that the applicant wants to apply for the post of Director of Arts (dyk l pkyuky;) on merit and not for the reserved category under handicapped and because of the conditions mentioned above, he is unable to apply. It is stated that the applicant has filed representation on 26/4/2017 to the Secretary but he was orally told that the application from the handicapped persons will not be

accepted. According to the learned counsel for the applicant, this clause itself is ultra virus and illegal as the rights of the handicapped persons cannot be violated. In the alternative, he submits that since the last date of application is dated 11/5/2017, the applicant be allowed to apply for the post from the Open category.

4. It seems that there is a reference to G.R. dated 14/1/2011 in disputed Clause no. 2 (1) of the advertisement. Perusal of the said G.R., however, shows that it is disputed fact as to whether the said G.R. will be applicable or not . The said G.R. has been issued to protect the rights of the handicapped persons and not to deny right to them. Prima facie, I do not find any reason as to why if the handicapped is otherwise eligible for the post cannot apply on merit merely because he is handicapped person. The merits of the advertisement will be considered after reply is filed by the respondents.

5. In the meantime, the respondent MPSC is directed to allow the applicant to file application for the post Online from the Open category and his application if it is otherwise found proper, shall be accepted.

6. Issue notice to R-2 returnable **After Summer Vacation.** Learned C.P.O. waives notice for R-1.

7. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.

8. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

9. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules,1988, and the questions such as limitation and alternate remedy are kept open.

10. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one

week. Applicant is directed to file Affidavit of compliance and notice.

S.O. After Summer Vacation.

Steno copy be supplied the learned counsel for the parties.

Vice Chairman (J)

dnk.

O.A.278/2017

**Coram : Hon. Shri J.D.Kulkarni,
Vice-Chairman (J).**

Dated : 08.05.2017.

Heard Shri A.P. Chorghade, Id. counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. The applicant is directed to remove the office objections immediately. The applicant has challenged the order dated 4/3/2017 (A-I,P-12) which is nothing but a three months' notice to the applicant whereby it has been directed that his services will come to an end after the end of three months' period. The applicant has filed representation against the said notice on 22/3/2017. However nothing has been done on his representation. The notice has been issued as per rules and three months time has been given to the applicant. It is necessary the reason as to why the services of the applicant are required to be terminated for which the reply of the respondents is necessary. and therefore Issue notice to R-2 to 4 returnable on **15/5/2017**. Learned C.P.O. waives notice for R-1.

3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.

4. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules,1988, and the questions such as limitation and alternate remedy are kept open.

6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

S.O. 15/5/2017 for reply/ return of notice.

Vice Chairman (J)

dnk.

