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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 25th OF MARCH, 2025

WRIT PETITION No. 8990 of 2020

VINOD KUMAR MEENA

Versus

LIFE INSURANCE CORPORATION OF INDIA

Appearance:

Shri Raghvendra Singh Raghuvanshi - Advocate for the petitioner.

Ms. Jyoti Tiwari- Advocate for the respondent.

WITH

WRIT PETITION No. 6148 of 2020

SMT. RACHNA IRWAR

Versus

LIFE INSURANCE CORPORATION OF INDIA

Appearance:

Shri Raghvendra Singh Raghuvanshi - Advocate for the petitioner.

Ms. Jyoti Tiwari- Advocate for the respondent.

ORDER

Heard.

2] This order shall also govern the disposal of W.P. No.6148/2020, as in both the petitions, the identical issue of biometric verification of the petitioners is involved.

3] For the sake of convenience, the facts as narrated in W.P. No.8990/2020 are being taken into consideration.

4] This petition has been filed by the petitioner under Article 226 of the Constitution of India, against the order dated 29.02.2020, passed by the respondent Life Insurance Corporation of India, whereby, the petitioner has been informed that due to failure of his biometric



verification conducted by the authority- Tata Consultancy Services (hereinafter referred to as 'TCS'), as per the report prepared by them and the decision taken by the competent authority, the petitioner cannot be appointed on the post of Assistant.

5] The case of the petitioner is that on 17.09.2019, an advertisement was issued by the LIC, inviting applications for the appointment on the post of Assistant, in which the petitioner also applied, and the results were declared on 14.01.2020. In the advertisement, it was also provided that the biometric verification shall be conducted by the TCS. It is further the case of the petitioner that at the time of examination, on 22.12.2019, his biometric verification was also conducted by the TCS, and although, at the time of entry, his fingerprints matched with the sample earlier provided by the petitioner, however, at the time of exit, it could not be matched. However, the petitioner was subsequently shortlisted, but at the time of document verification on 24.01.2020, again the petitioner's thumb impression could not be verified, on which date, the petitioner was also required to sign a declaration that due to skin issues, the thumb impression could not be verified. In the aforesaid declaration, the petitioner had also stated that at the time of mains examination on 22.12.2019, his thumb impression was verified at the time of entry, but could not be verified while exiting the examination hall.

6] Counsel for the petitioner has submitted that it was merely a technical issue which led the petitioner to file this petition, and the respondents have also not disclosed the report of the TCS, on the basis of which they have rejected the petitioner's candidature for the post of Assistant, although, its reference is also made in the impugned order dated 29.02.2020.



7] A reply to the petition has also been filed, and the respondent's preliminary objection is that the petitioner has not made Tata Consultancy Services (TCS) as a party respondent, who is a necessary party, being the verification agency, as there was a specific stipulation of the biometric verification in the advertisement itself. Counsel has drawn the attention of this Court to Clause 11 of the advertisement, which refers to 'Biometric Data- Capturing and Verification'.

8] Counsel has submitted that the petitioner participated in the examination after being made well aware of the terms and conditions on the basis of which examination was to be held. It is submitted that it is clearly stipulated in Clause 11 Sub-clause (b) that the decision of biometric data verification authority with regard to its status (matched or mismatched) shall be final and binding on the candidates. Thus, it is submitted that once the petitioner's biometric verification was unsuccessful, it was binding on the petitioner, and otherwise also, the petitioner was bound to make TCS as a party respondent, as the report which is referred to in the impugned order is also lying with the said authority only.

9] Counsel has also drawn the attention of this Court to representation (Annexure-P/9) made by the petitioner, in which also it is admitted that the efforts were also made by the TCS to verify the thumb impression. Thus, it is submitted that no case for interference is made out.

10] Heard counsel for the parties and perused the record.

11] From the record it is apparent that it is nobody's case that the present petitioner is not the person who had given the entrance examination, or that he or she has played fraud in any manner with the respondent while giving the examination. It is also a matter of record that, at the time of written test, while entering the examination hall, the



petitioner's biometric verification was successful, however, at the same time, while exiting the examination hall, his biometric verification could not be done, however, he was still declared successful in the written test, and at the time of his document verification on 24.01.2020, when his thumb impression were also obtained, they could not be verified, and on the same date, the petitioner was also required to sign a declaration that due to skin issues, the thumb impression could not be verified. In the said declaration, it is also mentioned by the petitioner that, at the time of his mains examination, at the time of his entry in the examination hall, his biometric verification was successful, but at the time of exiting the hall, his biometric verification could not be done.

12] It is also found that in the impugned order, the respondent has also referred to some report issued by the TCS, however, its copy has not been made available to the petitioner, and even along with the reply, the respondent has not cared to file the same. Thus, it is not known as to what prompted the TCS to reject the petitioner's candidature, especially when at one point of time his biometric verification was successful, *i.e.*, at the time of entering the examination hall.

13] It is true that as per Clause 11 of the advertisement, which refers to 'Biometric Data- Capturing and Verification', it is provided that the decision of TCS shall be final and binding on the candidate, but in the considered opinion of this Court, the said condition itself cannot be said to be the deciding factor in this petition, as there are certain various important aspects of the matter which needs consideration of this Court.

14] In the considered opinion of this Court, the following questions following issues fall for the consideration of this Court:-



- (i) Whether TCS was a necessary party?
- (ii) The effect of non-furnishing of the report prepared by the TCS to the petitioner, and
- (iii) Whether such condition that the biometric verification of a candidate by TCS would be binding on the candidate, is a valid condition?

(i) Whether TCS was a necessary party?

15] So far as the issue of TCS being the necessary party is concerned, this Court is of the considered opinion that TCS was merely an executing party, and was assigned to carry out the biometric verification of the candidates appearing in the examination at the instance of LIC. Thus, LIC was the master, whereas TCS was the servant, and if any order is communicated by TCS to its master *i.e.*, LIC, it was the duty of the LIC to communicate the same to the petitioner, hence, TCS is certainly not a necessary party to the *lis*, because even if it had been made a party, its presence could not have made any difference, as at the most, it would have contended that the biometric verification of the petitioner was unsuccessful at the time of document verification.

(ii) The effect of non-furnishing of the report prepared by the TCS to the petitioner.

16] So far as the issue regarding effect of non-furnishing of the report prepared by TCS and communicated to LIC, to the petitioner is concerned, in this regard, it is found that the contention of the respondent LIC is that the aforesaid report is lying with TCS only, and surprisingly, it has not even been filed along with the reply, which was the best opportunity to the LIC to show its *bona fide*. However, for the reasons best known only to the LIC Officers, no efforts have been made to obtain the aforesaid order from TCS. It is also surprising to



note that the LIC did not keep a copy of the report, on the basis of which the impugned order has been passed. Thus, non-furnishing of the copy of the report to the petitioner which was provided to LIC by the TCS, has led to violation of principles of natural justice and has prejudicially affected the petitioner's interest.

(iii) Whether such condition that the biometric verification of a candidate by TCS would be binding on the candidate, is a valid condition?

17] So far as the question whether such condition that biometric verification shall be binding on a candidate is concerned, this Court is of the considered opinion that it is necessary to answer this question also, which falls for consideration every now and then, although its answer lies in an old saying that the "procedure is the handmaid of justice, not its mistress".

18] In this regard, this Court is of the considered opinion that although it is true that the biometric verification process is necessary nowadays to eliminate any discrepancy in the record, and to ensure free and fair process of selection, however, it is also true that biometric verification is not always successful in eliminating the discrepancies, like in the present case, and there are occasions when biometric verification of a candidate cannot be done due to myriads of reasons, beyond the control of the parties.

19] In the circumstances, can it be said that only on account of failure on the part of a machine, a person's rightful claim can be rejected, and the answer is an emphatic 'no', as this Court is of the considered opinion that a person's legal and fundamental right cannot be curtailed or side-lined only on account of failure of a machine to recognize him, for whatever be the reasons.



20] This Court is also of the considered opinion that a person's identity is not lost when he is not recognized by a machine, and in such circumstances, his claim has to be verified on the basis of the documents which he possesses regarding his identification, like Aadhaar Card, Samagra ID, Pan Card, Driving License, Passport, etc.

21] In view of the aforesaid discussion, this Court has no hesitation to hold that such condition that biometric verification by the TCS would be binding on the petitioner, does not stand the test judicial scrutiny and of reasonableness, and is liable to be quashed.

22] In such circumstances, since the petitioner's biometric verification was found to be successful at the time of entering the examination hall, and taking note of the fact that it is nobody's case that any fraud is played by the petitioner, this Court finds it expedient to direct the respondent to verify the petitioner's identity on the basis of the documents in his possession, and issue the appointment letter to the petitioner within further four weeks' time.

23] Resultantly, the petition stands *allowed*. The impugned order dated 29.02.2020 is hereby quashed and the respondent is directed to issue appointment letter to the petitioner within further four weeks along with all the consequential benefits except monetary benefits.

24] With the aforesaid, the petitions stand *allowed* and *disposed of*.

25] Let a copy of this order be also placed in connected W.P. No.6148/2020.

(SUBODH ABHYANKAR)
JUDGE