

13. HIV-Positive files suit : HC Allows trial by pseudonyms, Hindustan Times, dated 15.8.1995

Admitting a writ petition filed by an HIV positive individual challenging the discontinuance of his employment by a public sector corporation, Mr. Justice G.D.Kamat and Mr. Justice N.D.Vyas at the Bombay High Court acted in an unprecedented manner by keeping the identity of both the petitioner and the respondent under wraps. Both the petitioner and the respondent corporation could sue and be sued by pseudonyms, the judges feel.

The petitioner, referred to as Mr. Mx had challenged the decision of the respondent corporation referred to as M/s Zy to discontinue the service of Mr. Mx on the ground that he was reported HIV positive. He had also challenged the policy/circular of the corporation which permitted it to discriminate amongst its employees on this basis.

The petitioner was a casual labourer for a public sector corporation. He had served the corporation for few years and was being considered for appointment to the regular post. The medical examination showed that he was fit, but he was not hired for permanent posting and once again hired as a casual labourer till 1994.

He was again to be made a permanent labourer, subject to medical fitness. On examination, the doctors found that his lungs, vision, heart and blood cell count were normal, and that he was fit to adequately fulfil his duties as a labourer. However, the medical examination also revealed the petitioner to be HIV positive.

Despite the medical assessment of his fitness to perform his duties as a labourer, the corporation discontinued the petitioner's employment solely on the ground that he was HIV positive, and the corporation sought to sustain its decision on their policy contained in a circular which prohibited the corporation to hire HIV positive candidates.