

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION Nos.24274 and 40808 of 2015

COMMON ORDER:

The petitioner in these two cases is the same. In W.P.No.24274 of 2015, his prayer was as under:

“For the reasons stated in the accompanying affidavit, it is prayed that this Honourable court may be pleased to issue a writ, order or direction more particularly one in the nature of a writ of mandamus declaring the impugned action of the 3rd respondent in sending the panel of Advocates for appointment to the post of Assistant Government Pleader, Tenali, Guntur District is illegal, arbitrary, highhanded, unjust, unsustainable, violative of the fundamental rights guaranteed to me under Articles 14, 25 of the Constitution of India apart from being in violation of the principles of natural justice and fair play and also violative of the mandatory provisions and the procedure contemplated under Andhra Pradesh Law Officer (Appointment, conditions of Service) Rules, 2000 and consequently direct the respondents not to proceed with the appointment to the Post of Assistant Government Pleader for the Courts at Tenali, Guntur District on the panel sent and further appoint the petitioner herein to the said post and pass such other order or orders as may be deemed fit and proper in the circumstances of the case.”

Thereupon, as one M. Mallikarjuna Rao was appointed as the Assistant Government Pleader for the Courts of the Junior and Senior Civil Judges at Tenali, Guntur District, under G.O.Rt.No.328, Law (G) Department, dated 27.11.2015, the petitioner filed W.P.No.40808 of 2015 with the following prayer:

“For the reasons stated in the accompanying affidavit, it is prayed that this Honourable court may be pleased to issue a writ, order or direction more particularly one in the nature of a writ of mandamus declaring the impugned action of the 1st respondent issuing G.O. Rt. No.328 of Government of Andhra

Pradesh Law (G) Department dated 27.11.2015 pursuant to the action the 3rd respondent in sending the panel of Advocates for appointment to the post of Assistant Government Pleader, Tenali, Guntur District is illegal, arbitrary, high handed, unjust, unsustainable, violative of the fundamental rights guaranteed to me under Articles 14, 25 of the Constitution of India guaranteed to me under Articles 14, 25 of the Constitution of India apart from being in violation of the principles of natural justice and fair play and also violative of the mandatory provisions and the procedure contemplated under Andhra Pradesh Law Officer (Appointment, conditions of service) Rules, 2000 and consequently direct the respondents to appoint the petitioner herein to the Post of Assistant Government Pleader for the Senior and Junior Civil Judges Courts at Tenali, Guntur District and pass such other order or orders as may be deemed fit and proper in the circumstances of the case.”

The District Judge, Guntur, filed counter-affidavits in both the matters.

The main ground on the basis of which the petitioner seeks to maintain these writ petitions is that the A.P. Law Officers (Appointment and Conditions of Service) Rules, 2000, contained in G.O.Ms.No.187, Law (L) Department, dated 06.12.2000, requires that the District Collector should prepare a panel of advocates by ascertaining the views of the concerned District and Sessions Judge before making the recommendations (Rule 5), but in the present case, according to the learned counsel for the petitioner, the recommendations were made by the Principal Senior Civil Judge, Tenali, under his letter dated 17.01.2015 and therefore, the entire process stands vitiated being in violation of the Rules.

However, the District Judge, Guntur, placed before this Court the letter dated 17.01.2015 addressed to him by the learned Principal Senior Civil Judge (FAC), Tenali, submitting his recommendations and, in turn, having considered the same, the District Judge stated that

he addressed letter dated 23.04.2015 to the Collector and District Magistrate making his recommendations.

As the relevant rules do not prohibit the District Judge concerned from consulting the Judicial Officer of the Court to which appointments are sought to be made, the mere inclusion of the Senior Civil Judge, Tenali, in the consultation process does not have the effect of violating the procedure prescribed under the Rules. As to whether these Rules are binding in nature is a different aspect of the matter but even if it is accepted to be so, this Court finds no violation made out on facts warranting interference.

Both the writ petitions lack merit and are accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

17th February, 2016
IBL