

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE MS JUSTICE J.UMA DEVI

WRIT PETITION (PIL) NOs.178 OF 2017, 180 OF 2016

AND WRIT PETITION NO.38468 OF 2016

COMMON ORDER: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

In these three Writ Petitions, the action of the Collector and District Magistrate, Ranga Reddy District in submitting a panel of Public Prosecutors in different Courts in Ranga Reddy District, by his order dated 27.08.2016, is subjected to challenge on the ground that it falls foul of the guidelines issued by the Government in G.O.Ms.No.187 dated 06.12.2000.

While appointment of Public Prosecutors/Additional Public Prosecutors is governed by Section 24 of the Code of Criminal Procedure, the parameters for selection of law officers (including Public Prosecutors/Additional Public Prosecutors) is prescribed by way of executive instructions under G.O.Ms.No.187 Law (L) Department dated 06.12.2000. The State Government is bound to adhere to the guidelines, prescribed by it under G.O.Ms. No.187 dated 06.12.2000, while making appointment to the post of law officers including Public Prosecutors/Additional Public Prosecutors **(B.S.Minhas v. Indian Statistical Institute and Others** (AIR 1984 Supreme Court 363)).

Paragraph No.5 (1) and (2) and Notes I and II of G.O.Ms.No.187 dated 06.12.2000 read as under.

Para 5: Appointment of Law Officers in the District Courts and City Courts subordinate to the High Court:- (1) Appointment of Law Officers in all the courts and Tribunals subordinate to the High court shall be made on the basis of the recommendations of the District Collector concerned who shall

ascertain the views of the concerned District and Sessions Judge before making the recommendations.

(2) The District Collector shall prepare a panel of Advocates well in advance before expiry of the term of incumbents and send the same to the Government for consideration.

Note I – While recommending panels, the District Judge may obtain the Bio-data from such of the Advocates whom he considers to be fit for appointment and send a panel of eligible candidates on that basis without calling for Bio-data from all the Advocates having a particular standing.

Note II – The Collectors shall, while making a recommendation to the Government, furnish the following particulars, in respect of advocates included in the panel, which shall pertain to a period of three years immediately preceding the year in which the recommendation is made and which shall be in a full and complete form and adequate for the purpose of the selection i.e., qualification, age, social status, standing at the Bar as an advocate, nature of practice, the number of sessions cases conducted (in case of posts of Public Prosecutor and Additional Public Prosecutor), the number of suits, appeals and the like conducted (in case of posts of Government Pleaders and Additional and Assistant Government Pleaders), the amount of Income Tax, if any paid, general antecedents, efficiency, reliability, an appraisal by the sessions Judge or the District Judge about the nature and quality of advocacy, general repute and personality.

Note II obligates the District Collector, while making recommendations to the Government, to furnish certain particulars, in respect of the advocates included in the panel, relating to a period of three years immediately preceding the year in which the recommendation is made. Among the information required to be furnished include the qualifications of the advocate, his age, his social status, his standing at the Bar as an advocate, the nature of his practice, the number of Sessions cases conducted by him, the amount of income tax, if any, paid, his general antecedents, efficiency, reliability, and an appraisal by the Sessions Judge or the District Judge of the nature and quality of advocacy, general repute and personality. The records placed before us do not disclose the Principal District Judge, Ranga Reddy District having made an appraisal of the nature

and quality of advocacy, the general reputation and personality of those advocates empanelled for appointment as Public Prosecutors/Additional Public Prosecutors in Ranga Reddy District.

While placing the records for our perusal, Learned Government Pleader for Home would fairly state that the then Principal District Judge, Ranga Reddy did not ensure compliance with the requirements of Note II below paragraph No.5 (2) of G.O.Ms.No.187 dated 06.12.2000, while recommending Advocates for appointment as Public Prosecutors and Additional Public Prosecutors. The Code of Criminal Procedure confers wide powers on the Public Prosecutors/Additional Public Prosecutors, and the candidates, selected for being empanelled to such posts, must possess the qualifications stipulated, and fulfil the criteria prescribed, in Note II to paragraph No.5(2) of G.O.Ms.No.187 dated 06.12.2000. The Principal District Judge should have, while forwarding the panel to the District Collector, also made an appraisal himself/or obtained the appraisal of the Sessions Judge/District Judge concerned regarding the nature and quality of advocacy, and the reputation and personality of each of the advocates empanelled for being considered for appointment as Public Prosecutors/Additional Public Prosecutors. No such exercise was undertaken by the then Principal District Judge, Ranga Reddy District while empanelling certain advocates for appointment as Public Prosecutors/Additional Public Prosecutors in Ranga Reddy District.

We consider it appropriate, therefore, to set aside the entire process of selection of these Public Prosecutors/Additional Public Prosecutors, and direct the Principal District Judge, Ranga Reddy to send a fresh panel of advocates, ensuring that they fulfill the qualifications stipulated in paragraph No.5 (1) and (2) and Notes I and II as extracted hereinabove. The District Collector shall send such a

panel at the earliest and, in any event, within six weeks from today. The District Collector, in turn, shall cause an antecedent verification of each of these empanelled candidates within four weeks from the date of receipt of the panel from the Principal District Judge, and send the same to the State Government. The Principal Secretary, Home, Government of Telangana shall, within four weeks from the date of receipt of the panel from the District Collector, select Public Prosecutors/Additional Public Prosecutors from among the empanelled candidates, and issue appointment orders to them in accordance with Section 24 of the Code of Criminal Procedure, and the instructions issued in G.O.Ms.No.187 dated 06.12.2000.

It is open to the Principal District Judge, Ranga Reddy, in consultation with the District Collector, to make interim arrangements till fresh appointments are made, to avoid dislocation of work in the Criminal Courts in Ranga Reddy District. She shall, however, make it clear that such arrangement shall continue only till Public Prosecutors/Additional Public Prosecutors are appointed in accordance with the directions hereinabove mentioned. All the three Writ Petitions are, accordingly, disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, ACJ)

(J.UMA DEVI, J)

29th August 2017
RRB