IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 04.02.2020
Pronouncing orders on : 13.02.2020

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.16329 of 2019
and W.M.P.No.16004 of 2019

S.Sattanathan ...Petitioner

vs.

1. State of Tamil Nadu,
Additional Chief Secretary to Government,
Rural Development & Panchayat Raj Department,
Fort St. George, Chennai - 600 009.

2. The Director of Rural Development & Panchayat Raj,
Saidapet, Chennai - 600 015.

3. Union of India,
Represented by its Secretary,
Ministry of Rural Development,
Department of Rural Development,
Krishi Bhavan, Dr.Rajendra Prasad Road,
New Delhi - 100 001.

4. Social Audit Society of Tamil Nadu,
Represented by its Director,
Panagal Maaligai,
West Saidapet,
Chennai - 600 015.

5. The Comptroller and Auditor General of India,
O.o The Comptroller and Auditor General of India,
Pocket-9, Deen Dayal Upadhayaya Marg,
New Delhi - 110 124. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to G.O.(Ms)No.60 Rural Development and Panchayat Raj (CGS.1) Department passed by the 1st respondent, and Notification bearing No.Se.Ma.Tho.E./537/valaikalai/2019 dated NIL passed by the 2nd respondent and quash the same and direct the 4th respondent to frame Rules/norms for the selection and appointment to the post of Director of SASTA in compliance with the provisions of NREG Act, 2005 and MGNREG Audit of Scheme Rules, 2011 particularly Rule 4 and 5 thereof, and the norms prescribed by the 3rd respondent in Letter No.M-13015/2012-MGNEREGA-VII (Pt) dated 11.08.2014, by inter alia providing due weightage for experience in 'social audit' within a stipulated time limit and permit the petitioner to apply for and participate in the selection for the said post, with all consequential benefits.

For Petitioner	:	Ms.R.Vaigai Senior Counsel for M/s.Giridhar and Sai
For Respondents	:	Mr.S.R.Rajagopal Additional Advocate General Assist by Mr.J.Pothiraja Special Government Pleader for R1 & R2
	:	Mr.M.Sundar Additional Central Government Standing Counsel for R3

J U D G M E N T

The present writ petition has been filed challenging the notification issued by the 1st respondent in G.O.Ms.No.60, dated 21.05.2019 and the consequent notification of the 2nd respondent calling for applications to fill up the post of Director, Social Audit Society of Tamil Nadu ("SASTA") and for consequential direction to the respondents to frame Rules/norms for the selection and appointment to the said post in compliance with the provisions of Mahatma Gandhi National Rural Employment Guarantee Act, 2005 ("MGNREG Act, 2005") and MGNREGA Audit of Scheme Rules, 2011 ("Audit of Scheme Rules, 2011").

2.The case of the petitioner is that he retired as an Additional Director of the Department of Rural Development and Panchayat Raj in the year 2016 after putting in 27 years of service. The petitioner was also posted as Director, Social Audit Unit in the year 2012 and the petitioner claims to have helped in the establishment of SASTA.

3.The further case of the petitioner is that the MGNREG Act, 2005 stipulates that 100 days of guaranteed employment will be provided for each rural household in a year for the notified wages. This ensures that the rural poor live a reasonably dignified life and there is no large scale migration to the urban areas in search of jobs. Under this Act, every State Government is required to provide for not less than 100 days of guaranteed employment to every rural household. For this purpose, the State Government must appoint a Programme Officer at the block level. The District Programme Coordinator is responsible for implementation of the scheme in each District. The Gram Panchayat is responsible for identification of projects and for execution and supervision of such works in the Gram Panchayat.

4.The MGNREG Act, 2005 specifically provides for monitoring and execution of all works by the Gram Sabha, which is required to conduct regular social audits of all projects under the scheme, within the Gram Panchayat. By a notification dated 30.06.2011, the Audit of Scheme Rules, 2011 was issued by the Central Government in consultation with the Comptroller and Auditor General of India. As per these rules, the Central Government is required to constitute a Council to establish a Central Evaluation and Monitoring System and monitor the implementation of the MGNREG Act, 2005. The audit of accounts must be compulsorily done by the Comptroller and Auditor General of India.

5.The further case of the petitioner is that the 3rd respondent constituted a Task Force in the year 2015 which gave its recommendations and pursuant to the same, an order dated 19.12.2016 was issued specifying the Auditing Standards for conducting social audits and Action Points for the State Governments concerning social audit. It was directed that a Social Audit Unit ("SAU") must be incorporated as a Society under The Societies Registration Act, 1860 and its governing body will be chaired by a person chosen from a list of eminent persons identified by the Government of India in consultation with the Comptroller and Auditor General of India. The Director of the SAU will serve as the Convener of the General Body. It also provided that the qualification of the Director should be of such a nature that it helps in enhancing the independence of the SAU and that the Director must have sufficient experience in the field of auditing Government Accounts and must be proficient in handling human resources. The tenure of the Director was also fixed. According to the petitioner, a lot of emphasis has been given to social audit and therefore, the Director is expected to have experience and exposure to social activities and implementation of social welfare schemes. This Body was expected to be completely independent ensuring that the Central Government scheme reaches the rural poor and the funds are utilized for this purpose. It is pursuant to the same, SASTA was established in Tamil Nadu in January 2013 and it is a registered Society under The Societies Registration Act, 1860.

6.The petitioner was posted as the Director of SASTA and he was involved in the development of the Society in the initial period. After the retirement of the petitioner, the Additional Director of Rural Development was holding additional charge of the Society. Subsequently, two other persons were appointed as the Directors of Social Audit Unit and incidentally all the persons who were appointed are bureaucrats.

7.Praxis - Institute for Participatory Practices ("PRAXIS") filed a Public Interest Litigation before this Court in W.P.No.5559 of 2019 for directing the Government of Tamil Nadu and SASTA to appoint an independent Director of Social Audit to the SASTA and to eliminate all persons who were either Joint Directors or Assistant Directors who were given additional charge. This Court went into the entire scheme of the MGNREG Act, 2005 and by an order dated 18.03.2019, gave directions to select an independent Director of Social Audit to the SASTA. Thereafter, the Division Bench of this Court was appraised of the fact that G.O.Ms.No.60, dated 21.05.2019 was passed and a notification was also issued in the newspaper, calling for applications to fill up the post of Director of SASTA. This Court, took into consideration the subsequent developments and ultimately disposed of the writ petition on 10.06.2019.

8.This writ petition was filed subsequently challenging the Government Order and the Notification mainly on the ground that the same violates the MGNREG Act, 2005 and the Audit of Scheme Rules, 2011 as it does not even focus on the fundamental principles of social audit and thereby, has directly intruded into the independence and autonomy of SASTA.

9.Before this Court ventures to decide the case on merits, preliminary objections were raised by the learned Additional Advocate General Mr.S.R.Rajagopal questioning the locus standi of the petitioner to challenge the Government Order and the Notification. Therefore, this Court wishes to first deal with this issue before even getting into the other issues.

10.The learned Additional Advocate General submitted that the petitioner himself was deputed to act as the Director of the Social Audit Unit for 4 years till his retirement and that the petitioner has also participated in the present selection processes and therefore, the petitioner cannot be allowed to turn around and challenge the Government Order and Notification. He further submitted that the petitioner is estopped from challenging the terms of selection after having participated in the process of selection. The learned Additional Advocate

General further submitted that the rights of the petitioner are not affected and if he possesses of all the qualifications, he will also be considered in the process of selection, and therefore, the petitioner can never be called as an aggrieved person. Therefore, the very locus standi of the petitioner is questioned. The learned Additional Advocate General further submitted that, if the petitioner is found not to have the locus standi to challenge the Government Order and Notification, there is no requirement to go into the other issues and this Court cannot deal with the present writ petition like a Public Interest Litigation.

11.The learned Additional Advocate General, in order to substantiate his submissions, relied upon the following judgments:

(a) Chandra Prakash Tiwari and others vs. Shakuntala Shukla and others reported in (2002) 6 SCC 127 and
(b) D.Sarojakumari vs. R.Helen Thilakom and others reported in (2017) 9 SCC 478

12.Per contra, Ms.R.Vaigai, learned Senior Counsel appearing on behalf of the petitioner submitted that in a case of this nature, which involves a welfare scheme being implemented by the Central Government through the State Government envisaging a complete independence to the Society, the Director must be a person who fulfills all the requirements to conduct the social audit and therefore, this Court must satisfy itself as to whether the Government Order and Notification satisfy the requirements of the MGNREG Act, 2005 and Audit of Scheme Rules, 2011 and the writ petition cannot be thrown away by applying the test of estoppel and locus standi. The learned Senior Counsel submitted that, social audit is the core of the entire scheme and therefore, it should have been made as the core eligibility criteria in the Notification and the same is completely absent in the Notification and thereby there is an indirect attempt made by the State Government to only have bureaucrats heading the Society. The learned Senior Counsel submitted that thousands of crores of rupees is granted by the Central Government to implement the scheme of 100 days guaranteed employment for remote rural areas which is audited by the Comptroller and Auditor General and therefore, there must be independence for SASTA to implement the scheme and ensure that the money is being properly utilized and that it reaches the right hands without any interference from the Government or the local bodies. The Director to be appointed must also have sufficient experience in social audit and must have involved himself in social work and implementing social welfare schemes. By bringing in only Government officials, the State Government and the local body wants to have control and this defeats the very object of the MGNREG Act, 2005 and Audit of Scheme Rules, 2011. The learned Senior Counsel submitted that the Government Order and the Notification have completely taken away the mandatory requirement of social audit. The learned Senior Counsel even went to the extent of submitting that the petitioner may or may not succeed in the selection and even if he is found unfit, ultimately, this Court must be satisfied that the Government Order and Notification does not water down the MGNREG Act, 2005 and Audit of Scheme Rules, 2011 as public interest looms large in the present writ petition.

13.The learned Senior Counsel, in order to substantiate her submissions, relied upon the following judgments:

(a) Raj Kumar and others vs. Shakti Raj and others reported in (1997) 9 SCC 527

(b) Raju Ramsing Vasave vs. Mahesh Deorao Bivapurkar reported in (2008) 9 SCC 54

(c) Dr Meera Massey and others vs. Dr S.R.Mehrotra and others reported in (1998) 3 SCC 88

(d) Ghulam Qadir vs. Special Tribunal and others reported in (2002) 1 SCC 33 and

(e) Dr.B.Krishna Reddy vs. Sri Venkateswara University, Tirupati and others reported in 2008 (5) ALT 257.

14.This Court will first take note of the judgments that have been cited by the learned Additional Advocate General. The Hon'ble Supreme Court in Chandra Prakash Tiwari and others vs. Shakuntala Shukla and others, referred supra has held as follows:

> 32.In conclusion, this Court recorded that the issue of estoppel by conduct can only be said to be available in the event of there being a precise and unambiguous representation and it is on that score a further question arises as to whether there was any unequivocal assurance prompting the assured to alter his position or status - the situation, however, presently does not warrant such a conclusion and we are thus not in a position to lend concurrence to the contention of Dr. Dhawan pertaining the doctrine of Estoppel by conduct. It is to be noticed at this juncture that while the doctrine of estoppel by conduct may not have any application but that does not bar a contention as regards the right to challenge an appointment upon due participation at the interview/selection. It is a remedy which stands barred and it is in this perspective in Om Parkash

Shukla (Om Prakash Shukla v. Akhilesh Kumar Shukla and Ors., [1986] Supp. SCC 285) a Three Judge Bench of this Court laid down in no uncertain terms that when a candidate appears at the examination without protest and subsequently found to be not successful in the examination, question of entertaining a Petition challenging the said examination would not arise.

33.Subsequently, the decision in Om Prakash stands followed by a later decision of this Court in Madan Lal and Ors. v. State of J & K and Ors., [1995] 3 SCC 486, wherein this Court stated as below:

> "9 Before dealing with this contention, we must keep in view the salient fact that the petitioners as well as the contesting successful candidates being respondents concerned herein, were all found eligible in the light of marks obtained in the written test, to be eligible to be called for oral interview. Up to this stage there is no dispute between the parties. The petitioners also appeared at the oral interview conducted by the Members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned. Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves selected to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted. In the case of Om Prakash Shukla v. Akhilesh Kumar Shukla, [1986] Supp SCC 285 it has been clearly laid down by a Bench of three learned Judges of this Court that when the petitioner appeared at the examination without protest and when he found that he would not succeed in examination he filed a petition challenging the said examination, the High Court should not have granted any relief to such petitioner.

10. Therefore, the result of the interview test on merits cannot be successfully challenged by a candidate who takes a chance to get selected at the said interview and who ultimately finds himself to be unsuccessful. It is also to be kept in view that in this petition we cannot sit as a court of appeal and try to reassess the relative merits of the candidates concerned who had been assessed at the oral interview nor can the petitioners successfully urge before us that they were given less marks though their performance was better. It is for the Interview Committee which amongst others consisted of a sitting High Court Judge to judge the relative merits of the candidates who were orally interviewed, in the light of the guidelines laid down by the relevant rules governing such interviews. Therefore, the assessment on merits as made by such an expert committee cannot be brought in challenge only on the ground that the assessment was not proper or justified as that would be the function of an appellate body and we are certainly not acting as a court of appeal over the assessment made by such an expert committee."

34.There is thus no doubt that while question of any estoppel by conduct would not arise in the contextual facts but the law seem to be well settled that in the event a candidate appears at the interview and participates therein, only because the result of the interview is not 'palatable' to him, he cannot turn round and subsequently contend that the process of interview was unfair or there was some lacuna in the process.

15.The Hon'ble Supreme Court in D.Sarojakumari vs. R.Helen Thilakom and others, referred supra has held as follows:

4. The main ground urged on behalf of the appellant is that Respondent No.1 having taken part in the selection process could not be permitted to challenge the same after she was unsuccessful in getting selected. The law is well settled that once a person takes part in the process of selection and is not found fit for appointment, the said person is estopped from challenging the process of selection.

5. In Dr. G. Sarna vs. University of Lucknow & Ors.,1 the petitioner after appearing in the interview

for the post of Professor and having not been selected pleaded that the experts were biased. This Court did not permit the petitioner to raise this issue and held as follows :-

> 15.We do not, however, consider it necessary in the present case to get into the question of the reasonableness of bias or real likelihood of bias as despite the fact that the appellant knew all the relevant facts, he did not before appearing for the interview or at the time of the interview raise even his little finger against the constitution of the Selection (1976) 3 SCC 585 Committee. He seems to have voluntarily appeared before the committee and taken a chance of having a favourable recommendation from it. Having done so, it is not now open to him to turn round and question the constitution of the committee.

6. In Madan Lal & Ors. vs. State of J&K & Ors. 2 , the petitioner laid challenge to the manner and method of conducting viva-voce test after they had appeared in the same and were unsuccessful. This Court held as follows :-

> 9.Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or Selection Committee was not properly constituted.

7. In Manish Kumar Shahi vs. State of Bihar,3 , this Court held as follows :

> "16…. Surely, if the petitioners name had appeared in the merit list, he would not have

even dreamed of challenging the selection. The petitioner invoked jurisdiction of the High Court under Article 226 of the Constitution of India only after he found that his name (1995) 3 SCC 486 (2010) 12 SCC 576 does not figure in the merit list prepared by the Commission. This conduct of the petitioner clearly disentitles him from questioning the selection and the High Court did not commit any error by refusing to entertain the writ petition.

8. In the case of Ramesh Chandra Shah and others vs. Anil Joshi and others 4 the petitioners took part in the process of selection made under the general Rules. Having appeared in the interview and not being successful they challenged the method of recruitment itself. They were not permitted to raise such an objection. This Court held as follows :-

24. In view of the propositions laid down in the above noted judgments, it must be held that by having taken part in the process of selection with full knowledge that the recruitment was being made under the General Rules, the respondents had waived their right to question the advertisement or methodology adopted by the Board for making selection and the learned Single Judge and the Division Bench of the High Court committed grave error by entertaining the grievance made by the respondents.

9. Same view has been taken in Madras Institute of Development Studies and Another vs. Dr. K. Sivasubramaniyan and others 5. (2013) 11 SCC 309 (2016) 1 SCC 454

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11. As far as the present case is concerned an advertisement was issued by Respondent No.6 inviting applications for the post of Music Teacher in Samuel LMS High School. Respondent No.1 did not raise any objection at that stage that the post could not be filled in by direct recruitment and she should be

considered for promotion. Not only that, she in fact, applied for the post and took part in the selection process. After having taken part in the selection process and being found lower in merit to the appellant, she cannot at this stage be permitted to turn around and claim that the post could not be filled in by direct recruitment. The reasoning of the learned Single Judge in rejecting the objection is not in consonance with the law laid down by this Court. In view of this we need not go into the other issues raised.

16.From the above judgments, it is clear that if a candidate participates in a selection process or an examination without any protest and subsequently, if he is not successful, he/she cannot be allowed to turn around and question the fairness in the process of selection or the terms of selection or claim that there is a lacunae in the process. The law on this issue is well settled. The Hon'ble Supreme Court has employed the principle of estoppel in such cases.

17.It will also be important to take note of the judgments cited by the learned Senior Counsel appearing on behalf of the petitioner.

18.The Hon'ble Supreme Court in Raju Ramsing Vasave vs. Mahesh Deorao Bivapurkar, referred supra, has held as follows:

> 45.We must now deal with the question of locus standi. A special leave petition ordinarily would not have been entertained at the instance of the appellant. Validity of appointment or otherwise on the basis of a caste certificate granted by a committee is ordinarily a matter between the employer and the employee. This Court, however when a question is raised can take cognizance of a matter of such grave importance suo motu. It may not treat the special leave petition as a public interest litigation, but, as a public law litigation. It is, in a proceeding of that nature, permissible for the court to make a detailed enquiry with regard to the broader aspects of the matter although it was initiated at the instance of a person having a private interest. A deeper scrutiny can be made so as to enable the court to find out as to whether a party to a lis is guilty of commission of fraud on the Constitution. If such an enquiry sub serves the greater public interest and has a far-reaching effect on the society, in our opinion, this Court will not shirk its responsibilities from

doing so.

19.The Hon'ble Supreme Court in Raj Kumar and others vs. Shakti Raj and others, referred supra, has held as follows:

> 16.Yet another circumstance is that the Government had not taken out the post from the purview of the Board, but after the examinations were conducted under the 1955 Rule and after the results were announced, it exercised the power under the proviso to para 6 of 1970 notification and the post were taken out from the purview thereof. thereafter the Selection Committee was constituted for selection of the candidates. The entire procedure is also obviously illegal. It is true, as contended by Shri Madhava Reddy, that this Court in Madan Lal vs. State of & K [(1995) 3 SCC 486] and other decisions referred therein had held that a candidate having taken a chance to appear in an interview and having remained unsuccessful, cannot turn round and challenge either the constitution of the selection Board or the method of Selection as being illegal; he is estopped to question the correctness of the selection. But in his case, the Government have committed glaring illegalities in the procedure to get the candidates for examination under 1955 Rules, So also in the method of selection and exercise of the power in taking out from the purview of the and also conduct of the selection in accordance with the Rules. Therefore, the principle of estoppel by conduct or acquiescence has no application to the facts in this case, thus, we consider that the procedure offered under the 1955 Rules adopted by the Government or the Committee as well as the action take by the Government are not correct in law.

20.The Hon'ble Supreme Court in Dr Meera Massey and others vs. Dr S.R.Mehrotra and others, referred supra, has held as follows:

> 6.Mr Sunil Gupta, learned counsel for the appellants in C.A. No. 13709/ 96, challenged the locus standi of Dr, S.R. Mehrotra who filed the writ petition in the High Court, The arguments raised before the High Court were reiterated before us. In addition, reliance was placed in the case of Janata Dal v, H.S. Chowdhary and Ors., [1992] 4 SCC 305
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> > "In Gupta Case Bhagwati, J. emphatically pointed out that the relaxation of the rule of locus standi in the field of PIL does not give

any right to a busybody or meddlesome interloper to approach the court under the guise of a public interest litigant; He has also left the following note of caution: (SCC p: 219, para 24).

> But we must be careful to see that the member of the public, who approaches the court in cases of this kind, is acting bona fide and not for personal gain or private profit or political motivation or other oblique consideration. The court must not allow its process to be abused by politicians and others to relay legitimate administrative action or to gain a political objective," (para 99)

Sarkaria, J. In Jasbhai Motibhal Desai, Roshan Kumar expressed his view that the application of the busybody should be rejected at the threshold in the following terms: (SCC p, 683, para 37)

> It will be seen that in the context of locus standi to apply for a writ of certiorari, an applicant may ordinarily fall in any of these categories (i) 'person aggrieved (ii) 'stranger'; "(iii) busy body or meddlesome interloper. Persons in the last category are easily distinguishable from those coming under the first two categories, Such persons interfere in the things which do not concern them. They masquerade as crusaders for justice. They pretend to act in the name of pro bono publico. though they have no interest of the public or even of their own to protect. They indulge in the pastime of meddling with the judicial process either by force of habit or from improper motives. Often, they are actuated by a desire to win notoriety or cheap popularity; while the ulterior intent of some applicants in this category may be no more than spoking the wheels of administration. The High Court should do well to reject the applications of such busybodies at the threshold.(para 104)

K. N. Singh, J. speaking for the Bench in Subhash Kumar v. State of Bihar, has expressed his opinion in the following words: (SCC pp. 604-05, para 7)

> Public interest litigation cannot be invoked by a person or body of persons to satisfy his or its personal grudge and enmity, if such petitions under Article 32 are entertained it would amount

to abuse of process of the Court, preventing speedy remedy to other genuine petitioners from this Court, Personal interest cannot be enforced through the process of this Court under Article 32 of the Constitution in the garb of a public interest litigation. Public interest litigation contemplates legal proceeding for vindication or enforcement of fundamental rights of a group of persons or community which are not able to enforce their fundamental rights on account of their incapacity, poverty or ignorance of law. A person invoking the jurisdiction of this Court under Article 32 must approach this Court for the vindication of the fundamental rights of affected persons and not for the purpose of vindication of his personal grudge or enmity. It is the duty of this Court to discourage such petitions and to ensure that the course of justice is not obstructed or polluted by unscrupulous litigants by invoking the extraordinary jurisdiction of this Court for personal matters under the garb of the public interest litigation." (para 108)

7.Having considered the submissions, we do not find any of the observations made here in before is applicable in the present case. We find Dr. Mehrotra has filed the writ petition being concerned with the anomalies and illegalities in the procedure adopted by the University in making selection and regularizing the various posts in contradiction to the Acts, Statute and Ordinances, He was aware fully of all what was happening with full grip of all the materials. Facts reveal he was genuinely concerned to rectify the wrongs without any personal animosity against anyone. His feelings were bona fide being professor of History in the same University, He had all the detail fully equipped With facts and the law pertaining to the University. It was not for any personal gain. It was neither politically Motivated nor for publicity. The golden key for public, interest litigation was delivered in the landmark decision of this Court in S.P. Gupta's case (1981 Suppl SCC 87). This was devised for increasing, citizens participation in the judicial process for making access to the judicial delivery system to such who could not otherwise reach court for various reasons, But it is also. true, since then this Court repeatedly has been cautioning its misuse laying down restrictions to scuttle out undesirable persons, or body. It- is-in this context the above observations were made by this court as relied by the appellants. but that very authority accords approval for filing such, public, interest litigation. After having elaborately explained the concept of PIL, the learned Judge held that: (SCC p. 218. para 23)

> ".... any member of the public having sufficient interest can maintain an action for judicial redress for public Injury arising from breach of public duty or from violation of some, provision of the Constitution or the law and seek enforcement of such public duty and observance of such constitutional or legal provision This is absolutely essential for maintaining the rule of law, furthering the cause of justice and accelerating the pace of realisation of the constitutional objectives."

21.The Hon'ble Supreme Court in Ghulam Qadir vs. Special Tribunal and others, referred supra, has held as follows:

> 37.Regarding locus standi of the respondents to file the writ petition against the order of the Tribunal, Shri Rao has launched a two-pronged attack submitting that the respondent-tenants being not the aggrieved parties had no right to challenge the order passed against them as they claimed through the custodian and did not have any independent right in themselves. So far as the authorities under the Act are concerned, it is submitted that they could not have preferred a writ petition being a quasi-judicial authority entrusted with the powers of adjudication of rights of the claimants over the property vesting in such authorities. In support of his submissions he has referred to various provisions of the Act and relied upon some pronouncements of this Court.
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> 38.There is no dispute regarding the legal proposition that the rights under Article 226 of the Constitution of India can be enforced only by an aggrieved person except in the case where the writ prayed is for habeas corpus or quo warranto. Another exception in the general rule is the filing of a writ petition in public interest. The existence of the legal right of the petitioner which is alleged to have been violated is the foundation for invoking the jurisdiction of the High Court under the aforesaid Article. The orthodox rule of interpretation regarding the locus standi of a person to reach the court has

undergone a sea-change with the development of constitutional law in our country and the constitutional courts have been adopting a liberal approach in dealing with the cases or dis-lodging the claim of a litigant merely on hyper-technical grounds. If a person approaching the court can satisfy that the impugned action is likely to adversely affect his right which is shown to be having source in some statutory provision, the petition filed by such a person cannot be rejected on the ground of his having not the locus standi. In other words, if the person is found to be not merely a stranger having no right whatsoever to any post or property, he cannot be non-suited on the ground of his not having the locus standi.

22.The above judgments of the Hon'ble Supreme Court make it clear that, in a regular case involving selection, the participants will not be allowed to turn around and question the process of selection. However, when the attention of the Court is drawn to a matter of grave public importance, a constitutional Court is supposed to take cognizance of the same and in such cases, the nature of litigation does not become a Public Interest Litigation and it takes the shape of Public Law Litigation. If the issue raised before the Court subserves greater public interest and has a far-reaching effect, the constitutional Court should not shirk its responsibilities from doing its duty. The Hon'ble Supreme Court has further held that, where the notice of the Court has been drawn to glaring illegalities in the procedure of selection which goes against the Rules, the principle of estoppel by conduct or acquiescence will have no application.

23.The Hon'ble Supreme Court has made it clear that the rights under Article 226 of the Constitution of India can be enforced only by an aggrieved person except in cases of writ of Habeas corpus or Quo warranto or Public Interest Litigation. However, as a march of law, this concept of locus standi was expanded and the Hon'ble Supreme Court has held that where the affected person approaching the Court satisfies the Court that the impugned action is likely to adversely affect his right which is claimed under a statutory provision, then such petition cannot be rejected on the ground that the petitioner is bereft of locus standi.

24.If this case had involved a scenario where the petitioner had complained about the selection process after participating in the selection and his candidature is turned down, this Court would have straight away dismissed the writ petition on the ground of estoppel by relying upon the judgments cited by the learned Additional Advocate General. Under such circumstances, there would be no necessity for this Court to go into the merits of the case or deal with the other issues. However, this Court finds that the present case involves a larger issue of public interest and this Court is prima facie satisfied that the Government Order and Notification have virtually watered down the MGNREG Act, 2005 and Audit of Scheme Rules, 2011 and the Auditing Standards and Action Points prescribed by the Central Ministry of Rural Development in its Office Memorandum, dated 19.12.2016. The reasons for coming to such a conclusion is discussed below.

25.The important provisions under the MGNREGA Act, 2005 is extracted hereunder:

- Preamble

An Act to provide for the enhancement of livelihood security of the households in rural areas of the country by providing at least one hundred days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled manual work and for matters connected therewith or incidental thereto.

- Implementing Agency defined under Section 2(g):

"implementing agency" includes any department of the Central Government or a State' Government, a Zila Parishad, Panchayat at intermediate level, Gram Panchayat or any local authority or Government undertaking or non-governmental organisation authorised by the Central Government or the State Government-to undertake the implementation of any work taken up under a Scheme.

- Social Audit of work by Gram Sabha under Section 17:

“(1) The Gram Sabha shall monitor the execution of works within the Gram Panchayat.

(2) The Gram Sabha shall conduct regular social audits of all the projects under the Scheme taken up within the Gram Panchayat.

- Responsibilities of State Government in Implementing Scheme under Section 18:

“The State Government shall make available to the District Programme Coordinator and the Programme

Officers necessary staff and technical support as may be necessary for the effective implementation of the Scheme."

- Transparency and Accountability under Section 23:

"(1) The District Programme Coordinator and all implementing agencies in the District shall be responsible for the proper utilization and management of the funds placed at their disposal for the purpose of implementing a Scheme.

(2) The State Government may prescribe the manner of maintaining proper books and accounts of employment of labourers and the expenditure incurred in connection with the implementation of the provisions of this Act and the Schemes made thereunder.

(3) The State Government may, by rules, determine the arrangements to be made for the proper execution of Schemes and programmes under the Schemes and to ensure transparency and accountability at all levels in the implementation of the Schemes.

……….

(5) If any dispute or complaint arises concerning the implementation of a Scheme by the Gram Panchayat, the matter shall be referred to the Programme Officer.

…………"

- Powers of Central Government and State Governments to make rules to carry out the provisions of the Act have been laid down under Sections 31 and 32 respectively.

- Minimum Features of a Rural Employment Guarantee Scheme under Schedule I of the Act.

Clause 13:

Every Scheme shall contain adequate provisions for ensuring transparency and accountability at all level of implementation.

Clause 14:

Provisions for regular inspection and supervision of works taken up under the Scheme shall be made to ensure proper quality of work as well as to ensure that the total wages paid for the completion of the work is commensurate with the quality and quantity of work done.

Clause 15:

The District Programme Coordinator, the Programme Officer and the Gram Panchayat implementing the Scheme shall prepare annually a report containing the facts and figures and achievements relating to the implementation of the Scheme within his or its jurisdiction and a copy of the same shall be made available to the public on demand and on payment of such fee as may be specified in the Scheme.

26.It will also be relevant to extract the important rules under the MGNREGA Audit Scheme Rules, 2011:

Rule 1(2):
For the purposes of these rules, audit of schemes shall include social audit.

Rule 3:

Social Audit to be part of Audit of Schemes

(1) The State Government shall facilitate conduct of social audit of the works taken up under the Act in every Gram Panchayat at least once in 6 months in the manner prescribed under these rules.

(2) A summary of findings of such social audits conducted during a financial year shall be submitted by the State Government to the Comptroller and Auditor General of India.

Rule 4:

Social Audit Facilitation

(1) The State Government shall identify or establish, under the Act, an independent organization (hereinafter referred to as Social Audit Unit) to facilitate conduct of social

audit by Gram Sabhas.

(2) The Social Audit Unit shall be responsible for the following, namely:-

(a) build capacities of Gram Sabhas for conducting social audit; and towards this purpose, identify, train and deploy suitable resource persons at village block, district and state level, drawing from primary stakeholders and other civil society organizations having knowledge and experience of working for the rights of the people.

(b) prepare social audit reporting formats, resource material, guidelines and manuals for the social audit process;

(c) create awareness amongst the labourers about their rights and entitlement under the Act;

(d) facilitate verification of records with primary stakeholders and work sites;

(e) facilitate smooth conduct of social audit Gram Sabhas for reading out an finalising decisions after due discussions;

(f) host the social audit reports including action taken reports in the public domain.

Rule 5:

Social audit pre-requisites

(1) The Social Audit shall be a process Independent of any process undertaken by the implementing agency of the scheme.

(2) The implementing agency shall at no time interfere with the conduct of social audit.

(3) Notwithstanding anything contained in sub-rule (2), the implementing agency of the Scheme shall provide requisite information to the Programme Officer for making it available to Social Audit Unit at least fifteen days prior to the date of commencement of the social audit.

(4) The resource persons deployed for facilitating social audit in a Panchayat shall not be residents of the same Panchayat.

Rule 6:

Process for conducting social audit

(1) The Social Audit Unit shall, at the beginning of the year, frame an annual calendar to conduct at least one social audit in each Gram Panchayat every six months and a copy of the calendar shall be sent to all the District Programme Coordinators for making necessary arrangements.

(2) For facilitating conduct of social audit by Gram Sabha, the resource persons deployed by Social Audit Unit, along with primary stakeholders shall verify-

i. the muster rolls, entry and payments made in the specified time period, by contacting the wage seekers whose names are entered in such muster rolls;

ii. the work site and assess the quantity with reference to records and also quality of work done;

iii. the cash book, bank statements and other financial records to verify the correctness and reliability of financial reporting;

iv. the invoices, bills, vouchers or other related records used for procurement of materials to testify such procurement was as per the estimate, as per procedure laid down and was economical;

v. any other payment made by the implementing agency from the funds of the scheme.

(3) The labourers and the village community shall be informed about the Gram Sabha conducting social audit by the resource persons as well as theProgramme Officer to ensure full participation.

(4) To conduct social audit process, a Gram Sabha shall be convened to discuss the findings of the verification exercise and also to review the compliance on transparency and accountability, fulfillment of the rights and entitlements of labourers and proper utilisation of funds.

(5) All elected members of Panchayats and staff involved in implementing the schemes under the Act (including the staff of the Non-Governmental Organisations, the Self-Help Groups, and disbursing agencies) shall be present at the Gram Sabha and respond to queries.

(6) The Gram Sabha shall provide a platform to all villagers to seek and obtain further information and responses from all involved in the implementation. It will also provide a platform to any person who has any contribution to make social and relevant information to present.

(7) The District Programme Coordinator shall attend the Gram Sabha meeting or nominate an official of appropriate level for smooth conduct of the Gram Sabha.

(8) The social audit reports shall be prepared in local language by the Social Audit Unit and displayed on the notice board of the Gram Panchayat.

(9) The action taken report relating to the previous social audit shall be read out at the beginning of the meeting of each social audit.

Rule 7:

Obligation of certain persons in relation to social audit

(1) The Programme Officer shall ensure that all the required information and records of all implementing agencies such as, Job card register, Employment Register, Work Register, Gram Sabha Resolution, Copies of the sanctions (Administrative or Technical or Financial), Work Estimates, Work Commencement Order, muster-roll issue and receipt register, muster Rolls, Wage Payment Acquittance & order, Materials-Bills and vouchers (for each work), Measurement Books (for each work), Asset Register, Action Taken Report on previous social audits, grievance or complaints register, any other documents that the Social Audit Unit requires to conduct the social audit process are properly collated in the requisite formats; and provided, along with photocopies, to the Social Audit Unit for facilitating conduct of social audit at least fifteen days in advance of the scheduled date of meeting of the Gram Sabha conducting social audit.

(2) The information referred to in sub-rule (1) shall be publicly available at the same time and the photocopies shall be available at nominal cost.

(3) Every District Programme Coordinator or any official on his behalf, shall-

(a) ensure that all records for conduct of social audit are furnished tothe Social Audit Unit by implementing agencies through the Programme Officer;

(b) ensure that corrective action is taken on the social audit report;

(c) take steps to recover the amount embezzled or improperly utilised; and issue receipts or acknowledgment for amount so recovered;

(d) pay wages found to be misappropriated, within seven days of the recovery of such amount, to the wage seekers;

(e) maintain a separate account for amounts recovered during the social audit process;

(f) ensure that the appropriate action(including initiating criminal and civil proceedings or termination of services) is initiated against individual or class of individuals or persons who misutilised or embezzled the amount meant for the schemes under the Act.

(4) The State Govt shall be responsible to take follow up action on the findings of the social audit.

(5) The State Employment Guarantee Council shall monitor the action taken by the State Government and incorporate the Action Taken Report in the annual report to be laid before the State Legislature by the State Government.

(6) The costs of establishing the Social Audit Unit and conducting social Audit shall be met by the Central Government as a central assistance in accordance with the instructions issued in this regard.

27. It is clear from the above provisions that the scheme has been brought in with a laudable object of enhancing the livelihood and security of the households in the rural areas of the country by providing at least 100 days of guaranteed employment. The implementation agency has been assigned to the Gram Sabha. The core object of the entire Act and Rules revolves around Social Audit of the works taken up under the MGNREG Act, 2005 in every Gram Panchayat at least once in six months. This is to ensure that there is proper utilization and management of the funds placed at the disposal of the District Programme Coordinator. In order to ensure independence in conducting the social audit, the State Government has been directed to

establish an independent organization.

28.In the present case, SASTA has been established. A close reading of the Rules shows that there is central focus on social audit which seems to be the foundation of this welfare legislation.

29.Pursuant to the above enactment, G.O.Ms.No.64, dated 27.02.2012 was issued and the same is extracted hereunder:

> "In the D.O.letter first read above,the Hon'ble Minister of Rural Development,Movement of India has stated that in the meeting held on 8.11.2011 with State Government officials to review the action taken to establish the Social Audit mechanism,it was agreed among others,to establish an independent organization under the auspices of the State Rural Development Department to facilitate conduct of social audit under Mahatma Gandhi National Rural Employment Guarantee Scheme.
>
> 2.In the letter second reed above,the Commissioner of Rural Development and Panchayat Raj has stated that Mahatma Gandhi National Rural Employment Guarantee Act,2005 envisages regular conduct of Social Audit by Gram Sabha (Para 17.1) by a Social Audit Committee (Para 13(b) of Schedule I)Ministry of Rural Development,Government of India,in consultation with Comptroller and Auditor General of India notified the Mahatma Gandhi National Rural Employment Guarantee Audit of Scheme Rules, 2011on 30.6.2011.
>
> - As per para 4(1) the MGNREG Audit of Scheme Rules 2011,the State Government (shall) identify or establish,under the Act, an independent organization as Social Audit Unit to facilitate conduct of Social Audit by Gram Sabhas.
>
> - In para 4(2) duties for the Social Audit unit has been fixed which includes identification of suitable resource persons. Capacity Building/ Training of resource persons preparing for Social Audit formats, resource materials, guidelines and manuals and facilitating support conduct of Social Audit."

30.After the issuance of the above Government order, SASTA was formed by further issuing G.O.Ms.No.125, dated 21.12.2020 and the relevant portion is extracted hereunder:

> Acknowledges that the MGNREGA, 2005 envisages regular conduct of social audit by Gram Sabha by a Social Audit Committee and that the Commissioner of Rural Development and Panchayat Raj in G.O Ms. No. 64, RD and PR Department, dt. 27.07.2012, has issued orders to establish an independent "Social Audit Unit" in Tamil Nadu under the Societies Registration Act to facilitate conduct of social audit in all districts. Published the draft Memorandum of Association and Bye-Laws with the Governing Body Members, Executive Committee for the Social Audit Unit of Tamil Nadu names as Social Audit Society of Tamil Nadu (SASTA).

31.It will be relevant to extract the important clauses of Memorandum of Association and bye-laws of SASTA.

> Paragraph 6: Establishment of Social Audit Unit
>
> "An independent organization, hereinafter referred to, as Social Audit Society of Tamil Nadu, shall be established under the Act by the State Government to facilitate conduct of social audits by Gram Sabhas. The Society shall be an organization providing for periodical conduct of Social Audit of Mahatma Gandhi National Rural Employment Guarantee Scheme to ensure enhancement of livelihood, security of the households in rural areas of the State of Tamil Nadu……
>
> …..The main objective shall be continuous public vigilance to ensure accountability in the implementation of projects, laws and policies. The works taken up under the scheme shall be referred to the periodic assemblies convened by the Gram Sabha in accordance with the provisions specified in the Act."
>
> Paragraph 6.1: The Social Audit Unit shall be responsible for the following
>
> " a) Identify, train and deploy suitable resource persons at village, block district and state levels, for the conduct of Social Audit from primary stakeholders and civil society organisations, having knowledge and experience of working for the rights of the people."

Paragraph 7: Activities of Social Audit Society of Tamil Nadu (SASTA)

"….. a) create administrative, technical, ministerial and other posts in the Society and make appointments thereto in accordance with the rules and regulations of the Society provided that creation of and appointment to the post of Director shall require the prior concurrence of the Government of Tami Nadu….."

- Extract of Relevant Paragraphs of the Bye-Laws of SASTA.

Paragraph 7: Objects of the Society

…..The main objective shall be continuous public vigilance to ensure accountability in the implementation of projects, laws and policies as specified below. The works taken up under the scheme shall be referred to the periodic assemblies convened by the Gram Sabha in accordance with the provisions specified in the Act.

a) Identify, train and deploy suitable resource persons at village, block district and state levels, for the conduct of Social Audit from primary stakeholders and civil society organizations, having knowledge and experience of working for the rights of the people.

…..

c) create awareness amongst the labourers about their rights and entitlement under the Act.

…..

g) undertake, aid, promote and coordinate research through its own or other agencies including Universities and Training Centers established by or with the aid of the Government of India or the State Government.

……

m) assist the Government of Tamil Nadu in the policy formulation.

Paragraph 9: Constitution of the Governing Body

In effect, the Governing Body of the society shall consist of, among other members, a Secretary who shall hold the post of Director, Social Audit Society, Chennai.

Paragraph 9.1: Powers of the Governing Body

"Governing Body is empowered:

….(f) to approve the policy guidelines regarding nature of training programme.

(g) to plan, prepare and formulate the activities of the Society."

Paragraph 9.2: Executive Committee

In effect, the Director of the Audit Society shall also be the Member Secretary of the Executive Committee.

Paragraph 9.2.1: Powers of the Executive Committee

"The Executive Committee shall meet ………. and decide all matters relating to all financial transactions, applying for grants, purchase of equipment, stationery, Library books including expansion of Society premises and infrastructure.

The executive Committee shall function as the Appointment Committee of the Society for appointment of Staff for the society."

32.The Norms for recruitment of staff of independent Social Audit Units are prescribed by the Ministry of Rural Development, MGNREGA Division, Government of India, in letter dated 11.08.2014, addressed to the Principal Secretary of Department of Rural Development, MGNREGA Division of all States and Union Territories.

33.The qualifications for appointments have been set forth in Annexure 1 and the communication states that "these are the minimum requirements that are being communicated by the MoRD. States are free to innovate and add any additional requirements as long as the minimum requirements are met.

Extract of Relevant Paragraphs from Annexure-I

"I. Social Audit Director

Minimum Qualifications:

It is preferable that the post of the Director SAU should be filled up by a social activist experienced in the conduct of social audits and rights-based activities for not less than 10 years. The post should be open for candidates who have completed a Post Graduate in any field.

However, if a serving government official is appointed for the position of the SAU Director,then he/she should be given a full time deputation for n period of at least 5 years as the Director, SAU.

If a retired government official is appointed by the State for the position of the Director, SAU only officials who have not served in any Government position since the past 5 years shall be eligible.

The following will be the minimum responsibilities of the Director:

- To ensure that all policy level decisions related to the Society are implemented.
- Undertake all activities necessary to fulfill the objective and vision of the Society.
- Recruit staff, award consulting contracts and incur necessary expenditures to manage the day to day affairs in compliance with HR Norms
- Convene Governing Body and Executive Committee meetings at stipulated intervals, maintain all records, minutes and registers of functioning of the SAU.
- Anchor all interactions with and communication with the Department implementing the MGNREGA.
- Ensure transparency in the functioning and expenditure of the SAU.."

34.It will also be relevant to extract the portions of the

Office Memorandum of the Government of India, Ministry of Rural Development, dated 19.12.2016.

"In pursuance of Section 17(1) of the MGNREGA, 2005, Gram Sabha is required to conduct regular social audits of all the projects under the scheme taken up within the Gram Panchayat."

Extract of relevant points from Annexure 1: Auditing Standards for Social Audit

Introduction:

1.1.Social audit is an audit that is conducted by the people,especially by those people who are affected by,or are the intended beneficiaries of the scheme being audited and facilitated by the government. Hence, social audit can be described as verification of the implementation of a programme/scheme and its results by the community with active involvement of the primary stake holder. This is done by comparing official records with actual ground realities,with the participation of the community in the verification exercise and reading out the findings or the verification exercise aloud in a public platform. Oral testimonies and facts ate obtained from the public and/compared with official records.The social audit process also examines whether the money was spent properly and has made a difference to people's lives.

Basis:

1.6. The social audit standards have been framed keeping in view the fundamental principles of Public Sector Auditing and the operational guidelines for coordination and cooperation between SAIs and internal auditors in the public sector issued by International Organisation of Supreme Audit Institutions and the Indian Audit and Accounts Department Auditing Standards. They have been adapted to the extent applicable to Social Audit. The national legal framework has been borne in mind, especially taking into account provisions of MGNREGA, 2005 and MGNREGA Audit Scheme Rules 2011. These standards are accompanied by brief description and operational guidance emanating from the field requirements under the MGNREG Act."

Coverage:

1.7. …. Broad principles to be complied with under the MNREG Audit of Scheme Rules 2011:

i. The State Government shall facilitate conduct of social audit of the works taken up under the Act in every Gram Panchayat at least once in six months in the manner prescribed under these rules.

ii. The Social Audit Unit, an independent organization, would facilitate conduct of Social Audit by Gram Sabhas and identify, train and deploy suitable Resource Persons at Village, block, district and State level, drawing from primary stakeholders and other civil society organization having knowledge and experience of working for the rights of the people.

The environment for social audit differs in atleast three important respects from public sector audits:

i) Social Audit involves a more interactive matrix…

ii) Apart from relying on documentary evidence, social audit requires, in addition, gathering oral evidence during audit execution, verifying it during site visits or with reference to existing records or by means of the preponderant view expressed at the public hearing and meticulously documenting the evidence.

iii) Gram Sabha members have to rely far more on work site verification and on a robust sense of everyday ethics.

2.Auditing Standards

"Attribute Standards

2.1 Ethics and Independence

2120 …… As per MGNREG Audit of Scheme Rules, 2011 an independent SAU is responsible build capacities of Gram Sabhas for conducting social audit; and towardsthis purpose, identify, train and deploy suitable resource persons at village block, district and state level, drawing from primary stakeholders and other civil society organisationshaving knowledge and experience of working for the rights of the people."

Extract of relevant points from Annexure 2: Action Points for Social Audits

1) All States must set up independent Social Audit Units by 31st January 2017.

2) All States must appoint independent full-time Director to head the SAU by 31st January 2017.

35.Pursuant to the above guidelines given under the Act, Rules, Office Memorandum and other notifications, several States have specified the eligibility criteria for appointment of Directors and resource persons of SAU. The same is tabulated and extracted hereunder:

State/ Block/ Division/District	Notification Reference No. and dt.	Post	Extract of Relevant Criteria
Government of Andhra Pradesh, Office of the Commissioner, Panchayat Raj and Rural Development Department, Saifabad, Hyderabad	Advt. No. 329/SSAAT-AP/NREGS/2014, dt. 11.04.2016	Director	"Candidates with a Post Graduate Degree with not less than 10 years of experience in the field of development sector especially experience of working on rights based approach. Previous experience in social audit and administration are also eligible to apply"

Mahatma Gandhi NREGA, Kerala	GO Rt. No 3906/2015/LSGD dt. 30.12.2015 (sanction to set up SAU)	Director	"a) The post of the Director, SAU should be a social activist experienced in the conduct of social audits and rights based activities for not less than 10 years. The post should be open for candidates who have completed a Post Graduation in any field. b) If a retired government official is appointed by the State for the position of the Director, SAU, only officials who have not served in any Government position related to the implementation of MGNREGS for the past 4 years shall be eligible. c) The minimum tenure of Director SAU shall be three years, not exceeding the age of 65 years."
Assam Society for Social Audit (ASSA), P & RD, Government of Assam	No. ASSA/DIR/53/2018/03	Director	"Minimum Qualification: Post Graduate in Social Science or equivalent. Experience: 10 years of working experience on Social Audits and Rights of the poor.

Social Audit Society, Rural Development Department, Patna, Bihar	Online Notification	District Resource Persons	“Atleast 3 years of full time post qualification work experience in Social Audit with Central/State sponsored/led Rural Development or Poverty Alleviation programmes/scheme/ rights based programme. Persons having similar experience with reputed NGOs/ research organisations/ academic institutions may also apply. He/ She should have very good communication skill and thorough understanding of implementation issues of poverty alleviation or rural development programmes at field level.

36.It is clear from the qualifications prescribed by the other States for the post of Director that they have taken into consideration the mandatory requirements and norms fixed by the Ministry of Rural Development, Government of India. They have fixed the eligibility criteria by calling upon social activists, persons having working experience on rights based approach, working experience on social audits and rights of the poor or persons having experience of working in NGO's Research Organization etc., with experience in social audit.

37.In the case of Tamil Nadu, G.O.Ms.No.60, dated 21.05.2019 has been issued by the Government of Tamil Nadu fixing the qualification and norms for selection of Director of SASTA. The relevant portions are extracted hereunder:

“2. …….As per the Guidelines,the Director,Social Audit Unit should have sufficient experience in the field of Audit and Government accounts. He/She should also have proven administrative ability to handle human resources with varying skill levels who can be deployed in different area under his/her jurisdiction.”

(Paragraph 4)

“Norms for the selection of Director, Social Audit Society of Tamil Nadu (SASTA)

I. Qualification

1. He/ She should possess a Bachelor Degree obtained in 10+2+3 pattern. Preference will be given to those possessing Master Degree and Doctorate.
2. He/ She should have not less than 10 years of experience in the field of Audit and Government Accounts.
3. He/ She should have proven unblemished service record and served in various administrative capacities handling human resources with varying skill levels.
4. The age of the applicant should not exceed 62 years on the date of Notification.
5. He/ She should be capable of conducting field inspections and visits to Rural areas.
6. He/ She should not have any criminal cases pending against him/her in any court and should not have been convicted by any Court of Law.
7. He/ She should not have any subsisting interest in any of the Government Departments and local bodies.
8. Serving or Retired Officers of State Government in the pay band of Level-29 or above shall be eligible to apply for the post.

38.The learned Senior Counsel appearing on behalf of the petitioner submitted that the Government of Tamil Nadu wants to continue only with a bureaucrat as a Director of SASTA. The learned Senior Counsel submitted that the Government order is completely silent about the social audit and what has been prescribed is only the experience in the field of audit of Government accounts for not less than 10 years. By pointing out to this Clause, the learned Senior Counsel submitted that the selection is restricted only to persons who have worked in Government Departments or who have affiliation with the Government Department or only retired bureaucrats and that there is absolutely no focus on social audit or the persons who are involved in social service or the social activists working for the welfare of the people. The learned Senior Counsel submitted that, instead of throwing open the process of selection, an attempt is made to confine it to bureaucrats. The learned Senior Counsel submitted that the Government of Tamil Nadu does not want SASTA to function independently and that is the reason why it has always continued to engage the services of Secretaries and Additional Secretaries and it is now sought to be continued by virtue of the present Government Order.

39.Per Contra, learned Additional Advocate General submitted that the Government order and the notification is perfectly in line with the MGNREG Act, 2005, Audit of Scheme Rules, 2011 and Office Memorandum. The learned counsel further submitted that the State Government has been given a leverage for fixing the eligibility criteria and the requirements to fix experience in social audit is only an option that has been given to the State Government and the same is not mandatory. The learned Additional Advocate General also pointed out to the affidavit filed by the 3rd respondent and submitted that the Central Government has taken a very specific stand in this case that the Government Order and the Notification are in line with the MGNREG Act, 2005 and Audit of Scheme Rules, 2011. The learned Additional Advocate General further submitted that the petitioner himself was a bureaucrat who had functioned as a Director of SASTA and it will not lie in his mouth to comment upon the recruitment process and state that only bureaucrats are made to head as Director of SASTA.

40.The 1st, 2nd and 4th respondents filed a common affidavit in the writ petition. It is stated that the SASTA was formed only to facilitate the Gram Sabha to take up social audit through trained Village Panchayat Resource Persons and Block Resource Persons. This Society has to file timely reports to the Government of Tamil Nadu, Government of India and Comptroller and Auditor General of India. Further, the Society must ensure that periodic coordination meetings are held to monitor the social audit activities. It is further stated that the Director must ensure that all Government funds are properly accounted for and it is fully utilized in time. They must also have experience in handling human resource for public at large. They must also have professional knowledge and experience in formulating and operationalizing various schemes. This, according to the respondents, is enough qualification for appointment of the

Director. The further stand that has been taken is that, experience in social audit is not mandatory, while, considering the appointment of a Director of Social Audit. The counter affidavit also mainly focuses on the locus standi of the petitioner to maintain the writ petition.

41.This Court directed the 3rd respondent to file an independent counter affidavit in this case. This Court directed the 3rd respondent to mainly focus on the minimum requirements in order to appoint a Director, by taking into consideration the MGNREG Act, 2005, Audit of Scheme Rules, 2011 and Office Memorandum. The 3rd respondent, in his counter affidavit, has commented more upon the locus standi of the petitioner. Insofar as the minimum qualification is concerned, there are only four paragraphs touching upon the same and they are extracted hereunder:

> 12.It is submitted that in respect of Para 17 of the affidavit, the contention of the Petitioner that the MGNREGA Audit of Scheme Rules 5(1), 5(2) and 5(3) pertaining to Social Audit pre-requisites are correct. It is submitted that in order to bring more transparency and accountability, the Ministry of Rural Development in consultation with the Comptroller and Auditor General of India, Ministry of Rural Development vide their office Memorandum dated 19.12.2016 have issued guidelines which includes Auditing Standards. The experience in social Audit is not mandatory as per the Government of India, ministry of Rural Development Officer A Memorandum F.No.L-11033/40/2016-RE-VII dated 19.12.2016. It is submitted that the provision of MGNREGA Audit of Scheme Rules 5 (1), 5(2) and 5(3) pertaining to Social Audit stipulate as follows:
>
> i. The social audit shall be a process independent of any process undertaken by the implementing agency of the scheme.
>
> ii. The implementing agency shall at no time interfere with the conduct of social audit.
>
> iii. Notwithstanding anything contained in sub-rule (2), the implementing agency of the scheme shall provide requisite information to the Programme Officer for making it available to Social Audit Unit at least 15 days prior to the date of Commencement of the social audit.

It is further submit that the above rules are related to pre-requisites for conduct of Social Audit and they are not related to the appointment of Director of Social Audit. The petitioner herein is misleading the Hon'ble Court that the application format prescribed does not contain any column to indicate experience in Social Audit. It is submitted that in column III of the Application format, the details of work experience in Social Audit, Evaluation of Social Audit Reports finds place so that any Applicant who has experience in conducting Social Audit may indicate in the particular column. The petitioner here is trying to divert the issue and wants to eliminate the educational qualification as criteria and to substitute the Social audit experience along should be the sole criteria for appointment of Director, which is not fair on his part. The Notification allows all eligible candidate through open competition. In some of the states Hindi (Speak, Writ and Read) as eligible criteria for appointment, which, cannot be expected in Tamilnadu. So each state has to clearly laid out the qualification of the Director in such a way it helps in enhancing the independence of Social Audit.

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15.It is submitted that for any Autonomous body like Society, the State Government is the overall authority to approve rules, by-laws, appointment, nomenclature, etc., Hence, based on the directions of the Hon'ble Court to fill up the post within the stipulated time, the 1st and 2nd respondents have taken necessary initiatives. Hence, the 1st respondent issued the Government Order regarding norms for qualification, selection and notification. Based on that the 2nd respondent issued the Notification. It is submitted that the 2nd respondent is not a member of the Selection Committee. Since the petitioner held the above post till 30.11.2016, he is very well aware that there was no interference. The State Government has formulated norms to give weight-age for educational qualification along with experience in Audit filed. The petitioner is well aware that in "Comptroller and Auditor General Officer", almost all the officers are having experience in Social Audit and Accounts. Their qualification and experience cannot be brush aside. The State Government had not taken broad view to made the appointment of Director more transparent.

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19.It is submitted that in respect of Para 23 of the affidavit, the petitioner while comparing the recruitment of director in some States has stated that prior experience in Conduct of Social Audit is mandatory. It is submitted that as already contended in Para 19 of this counter affidavit, the Government of India, Ministry of Rural Development letter No.M-13105/2/2012-MGNREGA-VII (Pt) dated 11.08.2014, have informed that the "State Government may follow the norms attached as Annedure II for short listening candidate." It is not mandatory that the weight-age prescribed in annexure II should be followed as stated by the petitioner. Subsequently in office memorandum dated 19.12.2016, Government of India have prescribed the following norms. In some of the states the candidates should know HINDI (SPEAK, WRITE and READ) as one of the norms/pre-requisite. But the same cannot be fixed as monetary requirement in every State. Hence the allegation of the petitioner is invalid and against fair play.

The qualification of the Director, SAU are to be clearly laid out and be of such a nature that, it helps in enhancing the independence. The Director, SAU should have sufficient experience in the field of audit and government account. He/she should also have proven administrative ability to handle human resources with varying skill levels who can be deployed in difference areas under his/her jurisdiction.

Hence, the weight-age prescribed in Government of India MoRD Letter No.M-13015/2/2012-MGNREGA-VII (Panchayat) dated 11.08.2014 becomes irrelevant.

It is submitted that the guidelines issued in Officer Memorandum 19.12.2016 issued by the MoRD, Government of India has to be followed and based on that only the notification has been issued. As already stated, the MGNREGA audit of Scheme Rules, 2011 does not indicate that the experience in Social Audit is mandatory. However, in the application Format a column requiring experience has been provided. However, it is reiterated that the petitioner who was working as Additional Director of Rural Development and Panchayat Raj was posted on deputation to SASTA as its Director. The petitioner served as Director of Social Audit from its inception till his superannuation on 30.11.2016.

20.It is submitted that in respect of Para 24 of the affidavit, there is no flaw in G.O.(Ms)No.60, Rural Development and Panchayat Raj (CGS.1) Department, dated 21.05.2019 and it is issued on the need of our State. Further, as per this said Government order, the Director of Rural Development and Panchayat Raj (2nd Respondent) published Notification on 07.06.2019 in the News Papers for the appointment of Director of Social Audit Society of Tamil Nadu. It is further submitted that the prescribed norms, no way deny the petitioner to participate in the selection, as contended by the petitioner.

42.The Central Government has taken a stand to the effect that, experience in social audit is not mandatory and it is left open to the State Government to approve the Rules, bye-laws, appointments, nomenclature etc., According to the Central Government, the Government order and notification does not violate the MGNREG Act, 2005 and Audit of Scheme Rules, 2011. Virtually the Central Government has given a certificate to the State Government to the effect that the Government order and the notification calling for application to fill up the post of Director is perfectly correct.

43.The Hon'ble Supreme Court had an occasion to deal with the term Social Audit, while considering the National Food Security Act, 2013. This judgment throws a lot of light on the importance shown to Social Audit which is considered to be the main object of MGNREGA Act. The Hon'ble Supreme Court in Swaraj Abhiyan vs. Union of India and others reported in (2018) 12 SCC 170, has held as follows:

27.During the course of submissions yesterday, the learned Attorney General stated that he would like to file a detailed affidavit giving the status report of the implementation of the MGNREGA. The learned Attorney General stated that he would file a detailed affidavit within a period of four weeks. The time as prayed for is granted.

28.We would like the learned Attorney General to focus, amongst other things, on the delay in payment of wages to the beneficiaries as well as the delay in payment of interest and compensation to them; reduction in person-days from those projected by the State Governments; the constitution and functioning of the Central Employment Guarantee Council as well as the State Employment Guarantee Council under Sections 10 and 12 of the MGNREGA and also whether any social audit has been conducted under the provisions of the MGNREGA read with the Mahatma Gandhi National Rural Employment Guarantee Audit of Schemes Rules, 2011 as well as the report of the task force constituted subsequent to the report given by the Comptroller and Auditor General.

29.We would also like to know from the Chief Secretaries of the State mentioned above whether the Social Audit Unit has been constituted in terms of the Mahatma Gandhi National Rural Employment Guarantee Audit of Schemes Rules, 2011. In case such a unit has been set up, whether a social audit has been conducted in any of the above States, whether any action has been taken thereon and whether the report has been placed before the State Legislature.

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We further required the concerned Chief Secretaries to inform us whether any social audit had been conducted under the provisions of Section 28 of the Act which reads as follows:

> 28.Conduct of social audit (1) Every local authority, or any other authority or body, as may be authorized by the State Government, shall conduct or cause to be conducted, periodic social audits on the functioning or fair price shops, Targeted Public Distribution System and other welfare schemes, and cause to publicise its findings and take necessary action, in such manner as may be prescribed by the State Government.

(2) The Central Government may, if it considers necessary, conduct or cause to be conducted social audit through independent agencies having experience in conduct of such audits.

58. On 26th April, 2017 most of the Chief Secretaries appeared in Court and some had genuine reasons for not appearing. On our asking, we were informed about the constitution, establishment and appointment of the State Food Commission as follows:

1. Madhya Pradesh - Appointments not made.
2. Andhra Pradesh - Appointments not made.
3. Telangana - Appointments made.
4. Maharashtra - Appointments made but no member belonging to any Scheduled Caste or Scheduled Tribe has been appointed.
5. Gujarat - Appointments made.
6. Jharkhand - Appointments made.
7. Bihar - Appointments made but there are still two vacancies.
8. Chhattisgarh - Appointments made.
9. Karnataka - (informed on 27th April, 2017) Constituted and established. However, the affidavit of the Chief Secretary states that appointments have not yet been made.
10. Haryana - Matter is pending in the Punjab and Haryana High Court.

59. This compliance with the NFS Act is pathetic to say the least and it is in this background that we are required to consider this case.

60. It was submitted by learned counsel for the petitioner that in so far as the appointment of a District Grievance Redressal Officer is concerned, an independent person should be appointed and not the District Collector or the Deputy Commissioner of the district. The reason advanced by learned counsel was that these officers are already extremely busy, they

may not be able to address the grievance of the people within their district and are directly concerned with the implementation of the NFS Act. As such, they might not be independent enough to deal with the grievances.

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63.In our view, the draft Model Rules circulated by the Central Government need serious consideration by the State Governments before us as well as by other State Governments and Union Territories. As advised by the Central Government, the grievance redressal machinery should be independent and its functioning should be transparent. As long as this is achieved, it hardly matters that some officer of the government is appointed as the District Grievance Redressal Officer. However, as emphasized in the letter dated 14th March, 2017 it would be appropriate if an officer dealing with delivery of entitlements under the NFS Act is not appointed or designated as the District Grievance Redressal Officer since he or she might not be able to entertain a complaint against his or her own functioning. In view of the circulation of the draft Model Rules, it is now really up to the Central Government and the Governments of the States and Union Territories to ensure that a transparent and accountable Grievance Redressal Mechanism is put in place through notified rules so that the advantages of the NFS Act can be passed on to those who need the benefit of this social welfare legislation.

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69. It was pointed out by learned counsel and there was general agreement with his submission on behalf of the Central Government that the draft Report of the Working Group on Developing Social Audit Standards, which has been accepted by the Central Government, should be implemented with necessary modifications in so far as the NFS Act is concerned. The reason for the modifications is that the Working Group had prepared its Report and developed the protocol for conducting a social audit in consultation with the Comptroller and Auditor General of India in the context of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (for short the MGNREG

Act). In terms of the draft Report the overall arrangement is as follows:

1. Social audit is to be conducted every 6 months by Gram Sabhas.

2. Financial audit of accounts of panchayats and State Employment Guarantee Fund is to be conducted annually by Directors of Local Fund Audit/chartered accountants who send account together with audit certificates to State Governments.

3. The accounts of MGNREG Act Schemes, as certified, together with the audit report on them are sent to the Central Government which causes them to be tabled in each House of Parliament.

4. A copy is also sent by State Governments to CAG who audits the schemes periodically as per his independent judgment and powers under CAGs (DPC) Act, 1971 read with provisions of Section 24 of the MGNREG Act, 2005.

70. The social audit standards have been framed with the support of certain fundamental principles as is apparent from paragraph 1.6 of the draft Report which reads as follows:

> These social audit standards have been framed with the support provided by the fundamental principles of Public Sector Auditing (ISSAI 100) and the operational guidelines for coordination and cooperation between SAIs and internal auditors in the public sector (ISSAI 9150), issued by INTOSAI. The national legal framework has been borne in mind, especially taking into account provisions of MGNREG Act 2005, MGNREG Audit of Scheme Rules 2011, Local Fund Audit Acts of the State Governments and CAGs (DPC) Act, 1971 along with the Regulations, 2007 notified by CAG.

71. The draft Report is exhaustive and we were informed that it has been accepted by the Central Government and social audits under the MGNREG Act are

being conducted in accordance with the guidelines laid down as well as the statutory rules framed under the provisions of the MGNREG Act. The requirement of a social audit is undoubtedly salutary and since it has been accepted by the Central Government as well as by the Comptroller and Auditor General of India, we see no reason why it should not be put in W.P. (C) No. 857 of 2015 Page 18 place in so far as the NFS Act is concerned, particularly since a social audit is mandated under Section 28 of the NFS Act.

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85. It is to be noted that our Constitutional set-up mandates that Center is not powerless which is apparent from various Articles of the Constitution. Further, it is not proper on the part of the States to ignore the plight of the common man in enforcing such important legislations, more so when such legislation is a welfare legislation. From the table provided above we have seen more breaches than compliance which compelled us to call the Chief Secretaries of all the States to appear before us. I am of the opinion that for now a meaningful dialogue between the Center and the State should W.P. (C) No. 857 of 2015 Page resolve the issues which have emerged in this case in the spirit of co-operative federalism. Record indicates that a combined effort, both by Center and States, needs to be taken for effective implementation of the Act especially in the drought affected areas so as to save people from abject poverty and poor quality of life. States should take up this matter with much more seriousness and implement the Act in its true letter and spirit.

44.It is clear from the above judgment of the Hon'ble Supreme Court that the Hon'ble Supreme Court had laid a lot of emphasis on social audit and the very Act viz., MGNREG Act, 2005 was considered and it was held that the requirements of the social audit is salutary and mandatory.

45.In the present case, a reading of the Government Order and the Notification makes it clear that the requirement of experience in social audit has been given a complete go by and in the considered view of this Court, the same should have been made as an eligibility criteria for selection to the post of

Director. The requirement seems to have confined itself to regular audit, which is more focused on financial audit, which confines itself to verify all the accounts and comply with the Audit of Scheme Rules, 2011. It does not involve the process of understanding the public perceptions or verification of the outcome on the field in the implementation of the scheme. It will be more easier to understand the difference between the regular audit and social audit from the following tabular column.

Sl. No.	Regular Audit	Social Audit
1	Confined to financial audit	Social audit is people's rights-based approach, dealing with the people's rights and entitlements.
2	Financial Accounts are audited by specialists	People themselves audit not only the accounts by also the progress in schemes and the achievements
3	Stakeholders are involved	Stakeholders are involved
4	Professional Auditors are involved without the involvement of the people.	Social Audit is conducted by the people who are affected or the intended beneficiaries with the facilitation of the Government Sponsored independent agencies
5	Assesses procedural integrity and output	It looks at outcomes and not merely outputs
6	There is little scope for public perceptions or verification of outcomes	Brings in broad perceptions and knowledge of people. Social Audit helps to narrow the margin between goal and reality, between efficiency and effectiveness

Sl. No.	Regular Audit	Social Audit
7	It is confined to the verification of accounts in compliance with the rules. In certain cases, recommendations are made	Social Audit is a way of improving, understanding, reporting an organization's social and ethical performance and ultimately improving it.
8	Only the stakeholders can voice their opinion. Others have no right and that too, poor people	Social Audit values the voice of the stakeholders, including the poor and marginalized groups whose voice can rarely be heard
9	Audit is confined to single or multiple organizations and there is no scope for local governance, accountability and transparency	Social Audit enhances local governance, strengthens accountability and transparency in local bodies
10	There is no concept of Grama Sabha	Grama Sabha through Social Audit assesses the physical and financial gaps between needs and the resources available
11	Confidential Process	Transparent Process

46.It appears from the Government order as well as the counter affidavit filed by the Government of Tamil Nadu that an impression is created as if the Government is the over all authority of SASTA.

47.In the considered view of this Court, an Independent Director for SASTA is a very vital factor for effectively implementing the objects of the MGNREG Act, 2005 and Audit of Scheme Rules, 2011. At no point of time, the Government or the local body should be given control, since, it will defeat the very independence that is contemplated under the MGNREG Act, 2005 and Audit of Scheme Rules, 2011. Till now, the Government of Tamil Nadu has managed to run the Society, with the Secretaries and the Additional Secretaries, without appointing an independent Director for Social Audit. From the Government order and the notification, it is clear that the Government wants to continue to have this control by prescribing such qualifications, which will suit the existing or retired bureaucrats.

48.The extracts from the Auditing Standards which are prescribed for all processes and persons associated with social audit under MGNREG Act, 2005 are extracted hereunder:

Applicability

Para 1.4 - These standards will be applicable to all processes and persons associated with Social Audit under MGNREGA Act.

Para 1.5 - The Social Auditing Standards have been presently made keeping in mind the MGNREGA Act. These standards are to act as the basis for Government of India and State Governments' procedural guidelines on social Audit ....

7.- The Director, Social Audit Unit should have immense experience in the field.

Coverage

Para 1.7.ii - The Social Audit Unit, an independent organization, would facilitate conduct of Social Audit by Grama Sabha and identify, train and deploy suitable Resource Persons at Village, Block, District and State Level, drawing from primary stake holders and other Civil Society Organizations, having knowledge and experience of working for the rights of the people.

Para 2.1.iii.a - The qualification of the Director, SAU, are to be clearly laid out and be of such nature that it helps in enhancing the independence. The Director, SAU should have sufficient experience in the filed of Audit and Government account. He should also have proven administrative ability to handle human resources with varying skill levels who can be deployed in different areas in his jurisdiction.

Para 2.2 Professionalism - SAU Resource Persons must be diligent and have a questioning attitude when assessing the sufficiency and appropriateness of evidence obtained throughout the Audit. They must also remain open-minded and receptive to all views and arguments. They should apply Knowledge, Skills and Experience to the Audit Process.

Training and Capacity Building

Capacity building is the sustained development of the core capabilities of an organization to deliver its mandate more effectively so as to create the desired impact. An SAU's capacity is its institutional, organizational and professional ability ....

3.5 Documentation of Audit process:

The Director of SAU should ensure that SAU Resource Persons at Village Level document relevant information to the support the conclusions and result of Social Audit. The Director, SAU should also control access to engagement documents. Documentation should be sufficiently detailed to enable a person with no prior knowledge of Audit, to understand the nature, timing, scope and results of the procedures performed, the evidence obtained in support of the audit conclusions and recommendations, the reasoning behind all significant matters that may require the exercise of processional judgment.

3. Reporting

Reporting - Social Audit Reports should be accurate, objective, clear, concise and complete.

Dissemination - The Director, SU should communicate results to the stakeholders and be responsible for reviewing and approving the final engagement communication before issuance and for deciding and to whom it will be disseminated.

3.9 Aggregation of data at District and State level

The Director, SAU should be responsible for entering data extracted from the Social Audit reports in the public domain.

49.It is clear from the above that the Director of Social Audit should have immense experience in the field of social audit. There is a clear distinction between a person who has experience in a regular audit and the person who has experience in social audit. If the Director does not possess the experience in social audit, it is not known as to how he will be able to appreciate the social audit report submitted to him.

50.It is seen from the qualifications prescribed by the State of Kerala that the Government officials who have already held the position of Director should not be even considered for selection. This only reiterates the fact that, care must be taken to ensure independence in the functioning of the SAU.

51.In the considered view of this Court, even persons like the petitioner should be made ineligible, since, he has already held the post for more than 4 years. It is again made clear by this Court that, this Court is not concerned about the personal grievances of the petitioner and this Court is more interested in bringing in persons as Directors of SASTA, who have sufficient experience in social audit and the selection process must be thrown open by fixing the qualifications by keeping in mind the MGNREG Act, 2005, Audit of Scheme Rules, 2011 and the Office Memorandum. Social activists and persons who have experience in the field of implementation of social welfare schemes and who have directly worked with the grass root level people in the rural areas, will be more suited for the post of Director. Only those persons will be able to maintain independence and ensure that the scheme is properly implemented and ensure that the money actually reaches the poor persons who have been given the minimum guarantee of 100 days employment. Thousands of crores of rupees are being spent towards this scheme and the audit comes within the scope of Comptroller and Auditor General of India. Therefore, only an independent Director who cannot be influenced by the Government or any local body, who has sufficient experience in social audit, will be able to do justice to the post, in accordance with the objects of the MGNREG Act, 2005 and Audit of Scheme Rules, 2011.

52.It is too well settled that an executive instruction or a Government order passed under Article 162 of the Constitution of India cannot outweigh the provisions of the Act and Rules. Useful reference can be made to the judgment of a Division Bench of this Court in N.Priyadarshini vs. The Secretary to Government, Education Department, Fort St. George, Chennai - 9 and others reported in 2005 3 LW 101, where the Division Bench followed the famous theory of the eminent Jurist Kelsen with regard to hierarchy of laws. The impugned Government Order and Notification militates against the very object of the MGNREG Act, 2005 and Audit of Scheme Rules, 2011 and also the Office Memorandum issued by the Government of India, dated 19.12.2016 and also the norms of recruitment of Social Audit Director provided by the Government of India in its letter dated 11.08.2014. In view of the same, the qualification prescribed under G.O.Ms.No.60, dated 21.05.2019 and the notification issued by the 2nd respondent calling for applications to fill up the post of Director of SASTA, pursuant to the Government order requires interference.

53.In the result this writ petition is allowed and the G.O.Ms.No.60, dated 21.05.2019 and the Notification bearing No.Se.Ma.Tho.E./537/valaikalai/2019 dated NIL, issued by the 2nd respondent pursuant to the Government order, are hereby quashed. The 1st respondent is directed to issue a fresh Government order prescribing the qualifications for the appointment of independent Director of Social Audit to SASTA, strictly in accordance with the MGNREG Act, 2005 and MGNREGA Audit of Scheme Rules, 2011, norms fixed by the Government of India in its letter dated 11.08.2014 and also the Official Memorandum of the Government of India, dated 19.12.2016. The 1st respondent shall also take into consideration the qualification prescribed in the other States for filling up the above said post. This process shall be completed by the 1st respondent within a period of four weeks from the date of receipt of copy of this order. Pursuant to the fresh Government order, the 2nd respondent shall issue a notification calling for applications to fill up the post of Director of SASTA and the selection shall be completed within a period of eight weeks thereafter. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Additional Chief Secretary to Government,
Rural Development & Panchayat Raj Department,
Fort St. George,
Chennai - 600 009.

2. The Director of Rural Development & Panchayat Raj,
Saidapet, Chennai - 600 015.

3. The Secretary,
Union of India,
Ministry of Rural Development,
Department of Rural Development,
Krishi Bhavan, Dr.Rajendra Prasad Road,
New Delhi - 100 001.

4. The Director,
Social Audit Society of Tamil Nadu,
Panagal Maaligai,
West Saidapet,
Chennai - 600 015.

5. The Comptroller and Auditor General of India,
O.o The Comptroller and Auditor General of India,
Pocket-9, Deen Dayal Upadhayaya Marg,
New Delhi - 110 124.

+1cc to M/s.Giridhar and Sai, Advocate, S.R.No.12745
+1cc to Mr.M.Sundar, Advocate, S.R.No.11606
+2ccs to the Government Pleader, S.R.Nos. 13064, 13047

W.P.No.16329 of 2019
and W.M.P.No.16004 of 2019

SV(CO)
KKV/18/05/2020