

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2020

CORAM :

The Hon'ble Mr.AMRESHWAR PRATAP SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.A.No.4286 of 2019
CMP No.26803 of 2019

S. Jamesha

... Appellant/Petitioner

-vs-

1. The Secretary to Government,
Home Department,
Secretariat,
Chennai - 600 009.

2. The Additional Chief Secretary to Government,
Home (Courts - VIA) Department,
Secretariat,
Chennai - 600 009.

3. The District Collector,
District Collectorate Office,
Coimbatore

... Respondents/Respondent

Writ Appeal filed under Clause 15 of Letters Patent against
the order passed in W.P.No.32083 of 2019 dated 15.11.2019.

W.P.No.32083 of 2019:

Writ petition filed under Article 226 of the Constitution of
India praying to issue a Writ of Certiorarified Mandamus, to
call for the records of the third respondent in
Ref.No.5431/2018/E1 dated 02.07.2019 and quash the same as
illegal, arbitrary and non est in law and consequently direct
the respondent to issue fresh notification within the ambit of
Section 32(2) of POCSO Act.

For appellant

: Mr.N. Raja for
Mr.G.Mohammed Aseef

For respondents

: Mr.R. Udayakumar
: AGP

JUDGMENT
(Delivered by The Hon'ble Chief Justice)

The contention raised by the learned counsel for the appellant is that the State has unjustifiably deprived the lawyers having less than ten years of service to act as Public Prosecutor on behalf of the State in the cases, particularly in Protection of Children from Sexual Offences (POCSO) Act, 2012 matters. The contention is that when the minimum requirement in terms of Section 24 of the Code of Criminal Procedure read with 32 (2) of POCSO Act is seven years, there is no occasion to deny this benefit to such lawyers who have practised for more than seven years.

2. We have considered the submissions raised and we find that the fixation of 10 years experience is not less than the minimum, but rather, more than the minimum qualification. The appellant cannot insist that the minimum qualification as prescribed should be only the criteria. Given the nature of the cases under the POCSO Act, it would be better if the prosecution is undertaken by the lawyers having ten years experience.

3. We do not find any irrationality so as to accept the arguments of the learned counsel for the appellant. Fixing the eligibility criteria does not suffer from any infirmity. Even otherwise, such heinous nature of crime should be conducted by lawyers having adequate experience.

4. Consequently, we find no merit in the writ appeal. Accordingly, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government,
Home Department,
Secretariat,
Chennai - 600 009.

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2. The Additional Chief Secretary to Government,
Home (Courts - VIA) Department,
Secretariat,
Chennai - 600 009.

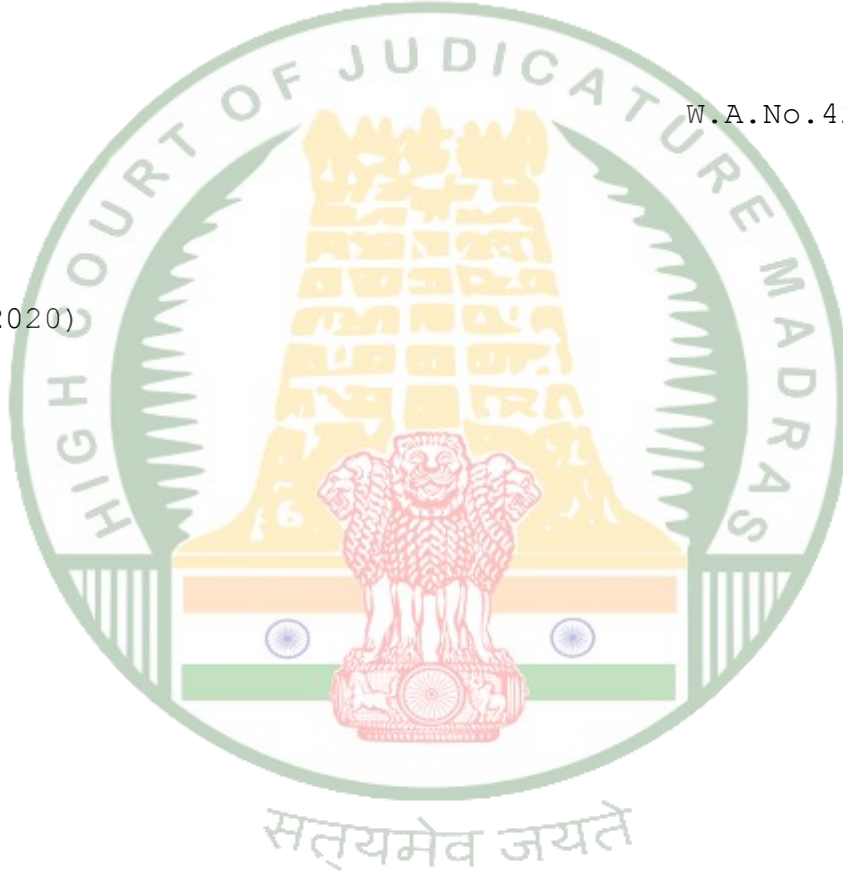
3. The District Collector,
District Collectorate Office,
Coimbatore

+1 CC to The Govt. Pleader sr 15649.

+1 CC to Mr.G.Mohammed Aseef, Advocate sr 15593.

W.A.No.4286 of 2019

PA (CO)
SP(13/03/2020)



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