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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 11278/2024

ALL INDIA PATENT OFFICERS WELFARE ASSOCIATION

.....Petitioner

Through: Mr. Sanjay R. Hegde, Senior Counsel
with Mr. Gyanant Kumar Singh, Mr.
Abhishek Rai, Mr. Sarthak Shankar
and Mr. Ankit Tiwari, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Chetan Sharma ASG with Mr.
Amit Gupta, SPC, Mr. Saurabh
Tripathi, Mr. Shubham Sharma and
Mr. Vikramaditya Singh, Advocates
for UOI.
Mr. Tanmay Mehta, Adv.for R-3.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

18.12.2024

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1. The petitioner has filed the present petition *inter alia* praying as under:-

“a) Issue a writ in the nature of quo warranto or any other appropriate writ, order or direction declaring as void/ quashing the appointment of Respondent No. 3 as the Controller General of Patents, Designs and Trade Marks (CGPDTM) for not being eligible to hold on to the post;

b) Issue a writ of certiorari or any other appropriate writ, order or direction quashing the appointment of Respondent No.3 which stands vitiated on account of arbitrariness in the process of appointment, recommendation by a Search Committee which did not comply with the mandate of law and the order of appointment being issued in violation of extant rules;



c) Issue a writ of mandamus or any other appropriate writ, order or direction for framing Recruitment Rules for the post of CGPDTM within a timeframe as deemed appropriate by this Hon'ble Court;”

2. Mr. Sanjay R. Hegde, learned senior counsel appearing for the petitioner submitted that the appointment of respondent no.3 as Controller General of Patents, Designs and Trademarks is vitiated, as he is not eligible to hold the said post.
3. He has also submitted that a minimum of five ACRs are required for a person to be placed on deputation to the post of the Controller General of Patents, Designs and Trademarks.
4. On a query from this court to refer to any such Rule or Regulation, he fairly states that there are no such Rules or Regulations for appointment to the post in question. However, he submits that there are other DOPT recommendations. He also contends that the entire process of the respondent no.3's appointment is arbitrary.
5. It is also relevant to note that the Supreme Court of India had issued guidelines for entertaining petitions and had indicated that cases falling under certain categories including “*service matter and those pertaining to Pension and Gratuity*” should not be entertained as Public Interest Litigation.
6. We also consider it apposite to mention the decision of ***Seema Dhamdhare v. State of Maharashtra & Ors.: (2008) 2 SCC 290*** where the Supreme Court had referred to the decision in ***Dr. Duryodhan Sahu & Ors. v. Jitendra Kumar Mishra & Ors.: (1998) 7 SCC 273*** and had observed that in service matters, Public Interest Litigation should not be entertained.



7. It is noted that the present writ petition has been filed as a Public Interest Litigation involving a service matter. In the given circumstances, we do not consider it apposite to entertain the present petition any further. The same is accordingly closed.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

DECEMBER 18, 2024
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