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W.P.No.39391 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.39391 of 2024

V.Vijay

... Petitioner

Vs

1. The District Collector,
Chennai District,
Chennai 600001.

2. The State
Rep. by the Deputy Superintendent of Police,
CBCID,
OCU-I,
Chennai – 600008.

... Respondents

Writ Petition filed under Article 226 of the Constitution praying to issue a Writ of Mandamus, directing the 1st Respondent herein to immediately take steps in accordance with law to engage Mr.B.Mohan, as an eminent Senior Advocate (Special Public Prosecutor), to conduct the case in SPL.S.C.No.175 of 2023 on the file of the Special Court for the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act Cases cum Principal Sessions Judge, Chennai pursuant to Rule 4(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, which allows for the appointment of a Senior Advocate in light of the Petitioner's



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representation dated 23.10.2024.

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For Petitioner : Mr.J.Saravana Vel

For Respondents : Mr.P.Balathandayutham,
Special Government Pleader (for R1)

Mr.A.Gopinath,
Government Advocate (Crl. Side) (for R2)

ORDER

This Writ Petition has been filed for directing the 1st Respondent herein to immediately take steps, in accordance with law, to engage Mr.B.Mohan, as an eminent Senior Advocate (Special Public Prosecutor), to conduct the case in SPL.S.C.No.175 of 2023, on the file of the Special Court for the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act Cases cum Principal Sessions Judge, Chennai, pursuant to Rule 4(5) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 (hereinafter referred to as the SC/ST Rules, for short), which allows for the appointment of a Senior Advocate, in light of the Petitioner's representation dated 23.10.2024.

2. Heard the learned counsel for both sides and perused the materials



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available on record.

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3. The petitioner's brother was murdered by the Police officials. He belongs to the Scheduled Caste community. Therefore, the petitioner apprehends that there would not be a fair trial if the same Public Prosecutor conducts the trial, since the Police Officials are the accused. The learned counsel for the petitioner also pointed out that Rule 4(5) of the SC/ST Rules provides the right of the petitioner to engage an eminent Senior Advocate (Special Public Prosecutor) for conducting cases in the Special Court.

4. On a perusal of the counter affidavit filed by the first respondent and the submission made by the learned counsel for the respondents, it reveals that the petitioner seeks to appoint a Senior Advocate from Erode District. However, appointing a different District Advocate for the matter in question is not feasible. This is due to the substantial expenses that will be incurred, including travel allowances, accommodation, food, and professional fees. Therefore, the first respondent is prepared to provide a legal aid panel based in Chennai District, in accordance with Rule 4(5) of the SC/ST Rules, because the Chennai District legal aid expenses include



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only the fees, with other expenses being excluded.

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5. It is relevant to extract the provisions under Rule 4(5) of the SC/ST

Rules, as follows:-

“ 4. Supervision of prosecution and submission of report –

.....
(5) Notwithstanding anything contained in sub-rule (1), the District Magistrate or the Sub-Divisional Magistrate may, if deem necessary or if so desired by the victims of atrocity, engage an eminent Senior Advocate for conduction cases in the Special Courts on such payment of fee as he may consider appropriate.

Thus, it is clear that the first respondent is the competent authority to engage an Advocate for conducting the cases in the Special Court.

6. Further, it does not lay down any clarification as to the minimum length of practice for the person to be appointed as Special Public Prosecutor. Further, it does not put any restriction, and the choice of victims of atrocity is subject to the condition that the person should be an eminent Senior Advocate. Thus, the Advocate should be of the choice of the victim of atrocity and also, in the opinion of the first respondent, an eminent Senior Advocate.



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8. In view of the above, the first respondent is directed to appoint Mr.B.Mohan, as an eminent Senior Advocate (Special Public Prosecutor), to conduct the case in SPL.S.C.No.175 of 2023, on the file of the Special Court for the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act Cases cum Principal Sessions Judge, Chennai, within a period of two weeks from the date of receipt of a copy of this order.



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9. With the above directions, this Writ Petition is allowed. No costs.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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To

1. The District Collector,
Chennai District,
Chennai 600001.
2. The Deputy Superintendent of Police,
CBCID,
OCU-I,
Chennai – 600008.
3. The Special Court for the Scheduled Castes and Scheduled
Tribes (Prevention of Atrocities) Act Cases cum Principal
Sessions Judge, Chennai
4. The Public Prosecutor,
High Court of Madras,
Chennai.



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G.K.ILANTHIRAIYAN. J.

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