



W.P.No.24129 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On:
27.11.2025

Pronounced On:
23.01.2026

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.No.24129 of 2025 and
W.M.P.Nos.27128, 27129, 27131 & 39191 of 2025

- 1.P.N.Ramesh Baabhu
- 2.N.Ayyappan
- 3.S.Ramalingam
- 4.K.Kumaraguruparan
- 5.M.V.Mohanakrishnan
- 6.M.Senthil
- 7.R.Sundarraaj
- 8.D.Parthasarathy
- 9.M.Jagadeesan
- 10.Dr.K.Anbuvelan
- 11.Approved Panel Engineers Association -
Public Buildings Karaikudi,
Rep. By its General Secretary,
No.49, Murugan Complex,
Munieswaran Kovil Santhu, Karaikudi,
Sivaganga District – 630 001.

.. Petitioners

(P11 impleaded vide order dated
05.11.2025, made in W.M.P.No.33200
of 2025 in W.P.No.24129 of 2025)



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Vs.

1.State of Tamil Nadu,
Represented by the Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Fort St. George, Chennai.

2.Public Works Department,
Represented by its Additional Chief Secretary to Government,
Secretariat, Fort St. George,
Chennai.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the G.O.Ms.No.89, Municipal Administration and Water Supply [MA.1] dated 27.05.2025, issued by the 1st respondent and quash Clause (6) substituting Rule 11 and Clause (8) omitting Rule 12-A of the Tamil Nadu Public Building (Licensing) Rules, 1966 as illegal.

For Petitioners	:	Mr.V.P.Raman for Mr.Gowwtham Thelak VB
For Respondents	:	Mr.M.Suresh Kumar Additional Advocate General Assisted by Dr.T.Seenivasan Special Government Pleader

ORDER

The petitioners are registered as class - I and class - IA Engineers, registered to certify public places situated in Tamil Nadu. They are also registered valuers under the erstwhile Wealth Tax Act, 1957 and the Insolvency and Bankruptcy Board of India (IBBI).



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2.The petitioners have filed this writ petition challenging the validity of G.O.Ms.No.89, Municipal Administration and Water Supply [MA.1] dated 27.05.2025, and seek quashing of clause (6) which substitutes Rule 11, clause (9) which omits Rule 12-A of the Tamil Nadu Public Buildings (Licensing) Rules, 1966.

3.The State of Tamil Nadu by amending Rule 11, has modified the qualification required to certify the safety of public buildings. By the amendment, faculties of civil engineering department in engineering institutions / universities, with specified years of experience, have also been included. They also challenge the amendment omitting Rule 12-A, pleading that the earlier Rule had prescribed a fee, and as this Rule has been omitted, it could lead to the services of persons like the petitioners, being offered free of cost or could lead to unhealthy competition, thereby putting public building at risk.

4.This Court entertained the writ petition and granted interim stay of the impugned rules. It also directed the respondents to file a counter. With the pleadings having been completed, I took up the matter for final disposal.



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5.I heard Mr.V.P.Raman for Mr.Gowwtham Thelak VB for the petitioners, Mr.M.Suresh Kumar, Additional Advocate General assisted by Dr.T.Seenivasan, Special Government Pleader for the respondents.

6.A fire accident took place on 04.04.1964 at Saraswathi Vidyasala Higher Elementary School, Maninagaram, Madurai. On account of this accident, 36 persons lost their life, of which 35 were female students. Serious injuries were caused to 139 others. This tragedy occurred on account of a fire in a two-storied building, in which the school was functioning. The school had not been constructed in accordance with basic engineering and safety measures. It was also an unauthorized one, since it did not have proper authorization from the town planning authorities.

7.Taking note of this unfortunate incident, the then Government realized that, there was a critical need to bring in robust safety regulations. There were in existence the earlier legislations such as Tamil Nadu Places of Public Resorts Act, 1888. Finding that the older legislations did not meet the requirement of the times, the Tamil Nadu Public Buildings



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(Licensing) Act, 1965, was enacted. The purpose of the Act is to ensure that public buildings are structurally sound and safe for public use. Certification is necessary in order to ensure that the building is continued to be used as a public building. The Act required both existing as well as new buildings to obtain a license on an application. On inspection, the authorities grant the license. The Act was published on 14.08.1965 and came into force with effect from 01.04.1966. The Act by itself, is a very short one. It has only 28 provisions. This Court will set out a few paragraphs for bringing forth the salient features of the Act.

8.Public buildings are defined under Section 2(8) of the Act. It covers buildings used as schools, colleges, universities or other educational institutions, hostels, libraries, hospitals including nursing homes, dispensary, clinic, maternity centre, clubs, as well as boarding and lodging houses, hotels, choultries, and any other building used for public meeting or for celebrating marriages or for holding parties.

9.Section 3 prohibits the usage of a building as a public building when it does not possess a license. Section 3(2) saved existing public buildings. They were granted a year's time to



apply and obtain a license.

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10.The expression 'building' is defined under Section 2(1) of the Act. 'Building' means any structure made up of masonry bricks, mud, wood metal or any other material. The expression 'owner' is defined under Section 2(7) of the Act. It is an inclusive definition. 'Owner' includes a lessee, a licensee, a mortgagee in possession and any person or authority having possession and control of a building, entrusted to such a person as a trustee, agent, correspondent, manager, superintendent, secretary or any other name whatsoever.

11.Under Section 4, an owner, who intends to use a building as a public building was called upon to make an application to the competent authority for a license. The details that are necessary to be filled out, along with such an application seeking a license is specified under Section 4(3). Section 4(2) dealt with the existing public buildings.

12.Section 5 applies when an application is not accompanied by a certificate of structural soundness. Under Section 4(4), discretion is given to the owner to file the



application seeking license with a certificate of structural soundness obtained from an engineer.

13.Under Section 5(1) of the Act, if the application was not accompanied by a certificate of structural soundness, the competent authority in its discretion, can obtain an opinion from an engineer as regards the structural soundness of the building. Section 5(2) of the Act empowered the competent authority to inspect the building to satisfy himself that the building is structurally sound and adequate precautions have been taken for the safety of the public, having access to such building.

14.Under Section 6, the competent authority was granted the power to issue a license, if he was satisfied with the certificate of structural soundness accompanying the application under Section 4, or on the basis of the opinion obtained from the engineer under Section 5(1), and if he was satisfied that the building was safe for the public and structurally sound. The license issued under Section 6(1) could also specify the purpose for which the building could be used and the number of persons that the building could accommodate without danger to their safety. Under Section 6(4), a license granted under Section 6(1)



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was held to be valid for a maximum period of three years or for such a short period as the competent authority may specify.

15. Under Section 6(5), the competent authority was also given the power to refuse a license. Subject to the restriction that reason must be recorded in support of such refusal.

16. Under Section 7(1), when the authority does not consider the application for license, within a period of three months from the date of its receipt, it contemplates a deemed license for varying periods. If an application was not accompanied by a certificate of structural soundness and no order was passed within a period of three months, it was deemed to have been refused.

17. Section 8 deems that a license issued under Section 6 to be capable of renewal from time to time on an application. Such an application for renewal should be filed not less than three months before the date of expiry. The provisions relating to grant of license were made applicable to an application for renewal.



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18. Under Section 9, if the building or a portion was altered or added upon, the owner had to discontinue the usage of the building, till a fresh application is made and a fresh license is granted for the building so altered. Section 9 also demands that an application filed under Section 9(1) would have to be treated in the same manner as if a fresh application had been filed under Section 4(1).

19. Section 10 confers power on the competent authority to cancel or suspend a license under certain circumstances.

20. Section 11 of the Act provides for an appeal from an order of the competent authority to an appellate authority to be prescribed by the Government.

21. Section 12 deals with a situation where a public building could be used for a temporary period, not exceeding three months, on a license granted by the competent authority. An application for temporary license did not require a procedure under Section 5 & 6 to be followed. The supervening power of the Government to deal with any situation is granted under Section 13.



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22. Under Section 14, the competent authority, any engineer mentioned under Section 5(1), the appellate authority and the revisional authority (originally the Board of Revenue, now the State of Tamil Nadu) were empowered at all reasonable times to enter a public building for the purpose of ascertaining its structural soundness.

23. Under Section 15, a competent authority or an appellate authority was empowered to prohibit the use of public buildings under certain circumstances. Section 16 deals with the levy of penalty and imprisonment.

24. Section 17 deals with offences by body corporates. Section 19 deals with the Court entitled to impose punishment for the offences under the Act.

25. Section 20 deals with the power of the Government to exempt any class of public building from the provisions of the Act and the rules made thereunder. Such exemption requires a notification. Such exemption would be ordered if it is required in public interest.



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26. Sections 21 & 22 declare that all authorities under the

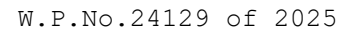
Act were deemed to be 'Public Servants' within the meaning of Section 21 of the Indian Penal Code, 1860. Jurisdiction of the Civil Court was barred, under Section 22, from entertaining any suits on matters which have to be decided or dealt with by the authorities under the Act.

27. Section 23 gave a finality to the orders of the authority and Section 24 granted indemnity against any suit, proceedings, against the Government, or any authority acting in discharge of the functions, pursuant to the duties imposed under the Act.

28. Section 25 empowered the Government to make rules to carry out the purpose of the Act and also lays down the procedure as to how the rules should be brought into force.

29. Section 26 empowered the Government to do anything that may be necessary for removing the difficulties, if they arose while giving effect to the provisions of the Act.

30. Section 27 gave the Act an overriding effect with respect to any other law, custom, usage or contract to the contrary.



31.Under Section 28, any authority or an officer under any

32. In exercise of the powers under Section 25 of the Act,

33.The qualification that a private engineer should possess



district. Under Rule 11-B, the Government of Tamil Nadu was called upon to publish a panel of engineers in the State as well as in the concerned District Gazette. Rule 12 fixes the fee that the person had to pay for the several proceedings covered under the Act. Rule 12-A prior to its deletion, fixed the fee that a private engineer was entitled to charge, for the grant of a certificate of structural soundness of the building. It was 0.07% of the cost of the building, subject to a maximum of Rs.1,000/-.

34. These Rules have been regularly amended from time to time. By an amendment made under G.O.Ms.No.43, Municipal Administration and Water Supply (MA4), dated 17.02.2011, Rule 11 was amended. The following table will show the differences between the original and amended Rule.

Before amendment		After amendment			
		Sl. No.	Category	Cost of Building	Qualification of Engineers
(1) Class III:- Buildings, the cost of which does not exceed Rs.50,000	An Engineer with a degree in Civil Engineering of Indian or Foreign University or a Corporate Member of the Institution of Engineers (India) or recognized professional Association abroad, such as Institute of Structural Engineers	(1)	Class III:-	Buildings, the cost of which does not exceed Rs.6.00 lakhs	An Engineer with a degree in Civil Engineering of Indian or Foreign University or a Corporate Member of the Institution of Engineers (India) or Recognized Professional Association abroad, such as Institute of Structural Engineers



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	(London), Institute of Civil Engineers (London), American Society of Civil Engineers and the like and others as may be recognized by the Government of Tamil Nadu from time to time, with not less than five years experience in building construction OR a person possessing a diploma in Civil Engineering awarded by the State Board of Technical Education and Training or with equivalent qualification thereof with not less than five years experience in building construction.				(London), Institute of Civil Engineers (London), American Society of Civil Engineers and the like and others as may be recognized by the Government of Tamil Nadu, from time to time with not less than five years experience in buildings construction or a person possessing a diploma in Civil Engineering awarded by the State Board of Technical Education and Training or upper subordinate or lower subordinate diploma of the College of Engineering, Guindy, Tamil Nadu or with equivalent qualification thereof with not less than five years experience in building construction.
(2) Class II:- Buildings, the cost of which exceeds Rs.50,000 but does not exceed Rs.2.00 lakhs	An Engineer with a degree in Civil Engineer of Indian or Foreign University or a Corporate Member of the Institution of Engineers (India) or recognized professional Association abroad such as Institute of Structural Engineers (London), Institute of Civil Engineers (London), American Society of Civil Engineers and the	(2)	Class II:-	Buildings, the cost of which exceeds Rs.6.00 lakhs but not exceeding Rs.20.00 lakhs	An Engineer with a degree in Civil Engineering of Indian or Foreign University or a Corporate Member of the Institution of Engineers (India) or recognized Professional Association abroad, such as Institute of Structural Engineers (London), Institute of Civil Engineers (London), American Society of Civil Engineers and the like



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	like and others as may be recognized by the Government of Tamil Nadu, from time to time, with not less than five years experience in building construction.				and others as may be recognized by the Government of Tamil Nadu, from time to time with not less than five years experience in building construction; or a person possessing a diploma in Civil Engineering awarded by the State Board of Technical Education and Training or upper subordinate or lower subordinate diploma of the College of Engineering, Guindy, Tamil Nadu; or with equivalent qualification thereof with not less than fifteen years experience in building construction.
(3) Class I:- Buildings, the cost of which exceeds Rs.2.00 lakhs.	An Engineer with a degree in Civil Engineering of Indian or Foreign University or a Corporate Member of the Institution of Engineers abroad, as specified in item (2) above with not less than ten years experience in building construction or with a post graduate degree with not less than five years experience in building construction.	(3)	Class I:-	Buildings, the cost of which exceeds Rs.20.00 lakhs but not exceeding Rs.50.00 lakhs	An Engineer with a degree in Civil Engineering of Indian or Foreign University or a Corporate Member of the Institution of Engineers (India) or recognized Professional Association abroad, as specified in Item (2) above with not less then ten years experience in buildings construction; or with a Post Graduate Degree with not less than five years experience in building construction.



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		(4)	Class IA:-	Buildings, the cost of which exceeds Rs.50.00 lakhs	An Engineer with degree in Civil Engineering of Indian or Foreign University or a Corporate Member of the Institution of Engineers (India) or recognized professional Association abroad, as specified in Item (2) above with not less than fifteen years experience in buildings construction: or with a Post Graduate Degree with not less than five years experience in buildings construction.
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35.The amendment was necessitated on account of the huge rise in the cost of construction. By 2011, if the Rules had not been amended, all the public buildings in the State would have fallen under Class-I. Hence, the Government amended it, keeping in view the needs of time.

36.The cause of action for this writ petition are the amendments that have been made by the Government in 2025. The challenge is confined only to Rule 11 and the removal of Rule 12-A of the rules.



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37.For ready understanding, the amended Rule is extracted hereunder:-

Sl. No.	Category of Public Buildings	Qualifications
(1)	(2)	(3)
1	Class III - Public Buildings that are lesser than 10,000 square feet (Non High Rise Building).	(a) Must possess a Bachelor's Degree in Civil Engineering or related stream from any AICTE recognised Indian or Foreign University / Institution; and (b) Five years practical experience in building construction; (OR) (a) Must possess a Diploma in Civil Engineering from any recognised Institution; and (b) Seven years practical experience in building construction; (OR) Faculty in Civil Engineering Department in Engineering Institution / University with not less than five years teaching experience.
2	Class II - Public Buildings that are above 10,000 square feet (Non High Rise Building)	(a) Must possess a Bachelor's Degree in Civil Engineering or related stream from any AICTE recognised Indian or Foreign University / Institution; and (b) Five years practical experience in building construction; (OR) (a) Must possess a Diploma in Civil Engineering from any recognised Institution; and (b) Ten years practical experience in building construction; (OR) Faculty in Civil Engineering Department in Engineering Institution / University with not less than seven years teaching experience.
3.	Class I - High Rise Building	(a) Must possess a Masters Degree in Structural Engineering or related stream from any AICTE recognised Indian or Foreign University / Institution; and



	(above 18.3 metres in height)	(b) Five years practical experience in building construction; (OR) Faculty in Civil Engineering Department in Engineering Institution / University with not less than ten years teaching experience.”;
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(2)The application submitted in Form E for each class along with the supporting documents shall be verified by Superintending Engineer (Planning & Design), Public Works Department. In the event of any discrepancies or doubts regarding the authenticity of the submitted documents, he shall duly record the observations on the online portal and mark the application as closed.

(3)Once the documents are verified, the applicant shall be interviewed by the Superintending Engineer (Planning & Design), Public Works Department within a period of fifteen days from the date of submission of such application and his recommendations shall be placed before the Board of Engineers, Public Works Department for approval. On approval, the certificate shall be issued by Engineer-in-Chief, Public Works Department in Form F through the online portal within twenty days from the date of interview.

(4)The Engineers already empanelled under these Rules shall update their registration details on the online portal.

(5)The list of Empanelled Engineers for each district shall be made available in the online portal.

(7) rules 11-A and 11-B shall be omitted;

(8) for rule 12, the following rule shall be substituted, namely:-

“12.Fee.- (1) The fee to be paid in respect of application for licence and appeal under the Act shall be as follows:-



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Sl.No.	Nature of Application	Fees
(1)	(2)	(3)
		Rs.
1.	Application for Class III category Public Building Licence / Renewal of licence	3,000/-
2.	Application for Class II Category Public Building Licence / Renewal of licence	5,000/-
3.	Application for Class I Category Public Building Licence / Renewal of licence	10,000/-
4.	Appeal preferred	1,000/-
5.	Registration for empanelment of Engineer	500/-

(9) rule 12-A shall be omitted;”

38.Mr.V.P.Raman urged that this amendment is arbitrary and deserves to be struck down, for the following reasons:-

(i)The Rules place academic excellence on par with experience. He states that the categories found under A & B of first two branches of each of the class cannot be equated with a faculty of an engineering college or an institution, whatever be his / her teaching experience. As an example, he referred to the various departments in the department of Civil Engineering in Anna University, to point out that a faculty could teach several subjects in civil engineering, which have nothing to



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do with structural engineering.

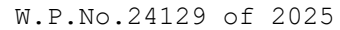
(ii) Relying upon the judgment of the Supreme Court in ***Avinash Mehrotra Vs. Union of India and others, (2009) 6 SCC 398***, he urged that the rules framed are contrary to those specified under the National Building Code. He extended this submission saying that the rules cannot run contrary to the judgment of the Supreme Court which had made the National Building Code applicable to all public buildings.

(iii) Taking me to the Tamil Nadu Combined Development and Building Rules, 2019; Mr.V.P.Raman urged that, those rules override any other rules or regulations specified therein. He points out that under Rule 23, Registration, Qualification, duties and responsibilities of persons concerned with conception and erection of buildings have been framed by the State of Tamil Nadu and since, the present amendment is in conflict with the 2019 Rules, they have to fail.



(iv)Next, he urges that the amendment has no nexus with the purpose of the Public Buildings Act and changing the criteria from cost of the building to area of construction effectively excludes Class-I and Class-IA engineers to deal with the new Class-I contemplated under the Rules. He pleads that the lesser qualified person can test the structural strength, since the Rules have reduced the rigorous standards required, it will have a direct effect on public safety.

(v)Finally, by deletion of Rule 12-A, he urges it could encourage unhealthy competition amongst engineers, which would result in violation of public safety and could result in auctioning of certificates. His fear is that, on account of the competition amongst the engineers, a person would quote a very nominal rate and get a contract with the owner of the public building and would certify anything and everything on receipt of money, throwing public safety to the winds. Hence, he seeks striking down of the order.



40.Rebutting these pleas, Mr.M.Suresh Kumar, Additional Advocate General urged as follows:-

(i) The faculty of engineering colleges and institutions are not mere graduates. By virtue of the standard of education and qualification fixed by the University Grants Commission and the Educational Institutions, the minimum qualification they require to be in such an institution is a Masters Degree.

(ii) Referring to Rule 11(2) & 11(3), he states the certificate given by an Engineer, is not automatically taken for the purpose of license, but it follows the



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procedure of evaluation under Rule 11(2) & 11(3).

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(iii) Referring to Form B, he states that an inspection takes place before certification and therefore, the fear of the petitioners that academicians would sit in their chambers and grant structural soundness certificate is unfounded.

(iv) He points out that, the norm for buildings today is that of high-rise building. Therefore, the Government decided to classify the buildings according to the area and height rather than to continue with the old rule on cost of construction.

(v) He pleads that by expanding the area of qualification, it encourages the competition and no person is ousted from certification.

(vi) Referring to three clauses, he pointed out, a class-I registered Engineer can give a certificate for high rise buildings and the other two categories; whereas, a class-II registered engineer can certify a



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building more than 10,000 square feet non high rise buildings and a class-III registered engineer can certify buildings which are lesser than 10,000 square feet. Therefore, the fear of the petitioners that they are being ousted from certification in an unfounded one.

(vii)He points out that the academicians do not carry on their profession by resorting to academic knowledge earlier acquired, but constantly update themselves and that the standards and qualifications that have been fixed earlier have not been revised drastically but have been increased to increase the pool of talent. He relied upon the judgment of the Supreme Court in ***State of Bihar and others Vs. Bihar Distillery Ltd. and others, (1997) 2 SCC 453*** and sought for dismissal of the writ petition.

41.In response, Mr.V.P.Raman, urged that a certificate of structural soundness is not given by persons like the petitioners as a matter of course. They inspect the property, take samples



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and thereafter issue the certification. He states a practical approach is essential while dealing with such issues, which the academicians would not possess. He points out that a certificate is valid for a period of three years and the Tahsildar, who is the competent authority, heavily relies upon a report that is given by a structural engineer and hence, qualification should not be amended.

42. Referring to the amended rules, he states that a school including a play school could be constructed in an area of 10,000 sq.ft. or less and if a person who does not possess sufficient qualification were to certify it, it would put the lives of children to peril. He points out that, it is only on account of such an incident, the very Act and Rules came into force. The amended rules, not keeping in mind the purpose of the legislation, is manifestly arbitrary and hence, required to be struck down. He completed his submission by referring to the Supreme Court judgment in ***Naresh Chandra Agrawal Vs. Institute of Chartered Accountants of India and others, (2024) 13 SCC 241***, laying special emphasis on paragraph No.37.6.



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43.I have carefully considered the submissions of both sides and I have applied my mind to the facts of the case.

44.At the outset, I should point out that the principles laid down in paragraph No.17 of the judgment in ***State of Bihar and others Vs. Bihar Distillery Ltd. and others, (1997) 2 SCC 453***, relied upon by the learned Additional Advocate General does not have an application in the present case. This is because, the challenge in the said case related to an enactment titled Bihar Excise (Amendment and Validating) Act, 1995. The principles said forth in paragraph No.17 were laid down keeping in mind the Supreme Court was dealing with a challenge to the constitutional validity of a legislation. That is not the situation in the present case. The challenge is not to the Tamil Nadu Public Buildings (Licensing) Act, 1965, but to the amendment to the rules made thereunder – a piece of a subordinate legislation. As rightly pointed out by Mr.V.P.Raman, a subordinate level legislation cannot be treated on par with a legislative enactment.

45.The position of law that prevailed, prior to 2004, was laid down in the ***State of Tamil Nadu and another Vs. P.Krishnamurthy and others, (2006) 4 SCC 517***. The relevant



paragraph read as follows:-

“Whether the rule is valid in its entirety?

15. There is a presumption in favour of constitutionality or validity of a subordinate legislation and the burden is upon him who attacks it to show that it is invalid. It is also well recognised that a subordinate legislation can be challenged under any of the following grounds:

- (a) Lack of legislative competence to make the subordinate legislation.*
- (b) Violation of fundamental rights guaranteed under the Constitution of India.*
- (c) Violation of any provision of the Constitution of India.*
- (d) Failure to conform to the statute under which it is made or exceeding the limits of authority conferred by the enabling Act.*
- (e) Repugnancy to the laws of the land, that is, any enactment.*
- (f) Manifest arbitrariness / unreasonableness (to an extent where the court might well say that the legislature never intended to give authority to make such rules). ”*



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46. These principles have been re-cast and extended by the Supreme Court in ***Naresh Chandra Agrawal Vs. Institute of Chartered Accountants of India and others***, cited supra.

47. The test which a subordinate level legislation is required to satisfy, has been laid down in paragraph No.37 of the said judgment, which is extracted hereunder:-

“37. From reference to the precedents discussed above and taking an overall view of the instant matter, we proceed to distil and summarise the following legal principles that may be relevant in adjudicating cases where subordinate legislation are challenged on the ground of being “ultra vires” the parent Act:-

37.1. The doctrine of ultra vires envisages that a rule-making body must function within the purview of the rule-making authority, conferred on it by the parent Act. As the body making Rules or Regulations has no inherent power of its own to make rules, but derives such power only from the statute, it must necessarily function within the purview of the statute. Delegated legislation should not travel beyond the purview of the parent Act.



37.2. *Ultra vires may arise in several ways; there may be simple excess of power over what is conferred by the parent Act; delegated legislation may be inconsistent with the provisions of the parent Act; there may be non-compliance with the procedural requirement as laid down in the parent Act. It is the function of the courts to keep all authorities within the confines of the law by supplying the doctrine of ultra vires.*

37.3. *If a rule is challenged as being ultra vires, on the ground that it exceeds the power conferred by the parent Act, the Court must, firstly, determine and consider the source of power which is relatable to the rule. Secondly, it must determine the meaning of the subordinate legislation itself and finally, it must decide whether the subordinate legislation is consistent with and within the scope of the power delegated.*

37.4. *Delegated rule-making power in statutes generally follows a standardised pattern. A broad section grants authority with phrases like “to carry out the provisions” or “to carry out the purposes”. Another subsection specifies areas for delegation, often*



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using language like “without prejudice to the generality of the foregoing power”. In determining if the impugned rule is intra vires/ultra vires the scope of delegated power, courts have applied the “generality vs. enumeration” principle.

37.5. The “generality vs. enumeration” principle lays down that, where a statute confers particular powers without prejudice to the generality of a general power already conferred, the particular powers are only illustrative of the general power, and do not in any way restrict the general power. In that sense, even if the impugned rule does not fall within the enumerated heads, that by itself will not determine if the rule is ultra vires/intra vires. It must be further examined if the impugned rule can be upheld by reference to the scope of the general power.

37.6. The delegated power to legislate by making rules “for carrying out the purposes of the Act” is a general delegation, without laying down any guidelines as such. When such a power is given, it may be permissible to find out the object of the enactment and then see if the rules framed satisfy the Act of having been so



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framed as to fall within the scope of such general power confirmed.

37.7. However, it must be remembered that such power delegated by an enactment does not enable the authority, by rules/regulations, to extend the scope or general operation of the enactment but is strictly ancillary. It will authorise the provision of subsidiary means of carrying into effect what is enacted in the statute itself and will cover what is incidental to the execution of its specific provision. In that sense, the general power cannot be so exercised as to bring into existence substantive rights or obligations or disabilities not contemplated by the provisions of the Act itself.

37.8. If the rule-making power is not expressed in such a usual general form but are specifically enumerated, then it shall have to be seen if the rules made are protected by the limits prescribed by the parent Act.”

48.The plea which Mr.V.P.Raman places great emphasis was that the 2025 Rules fall foul of the Supreme Court judgment in ***Avinash Mehrotra Vs. Union of India and others, [(2009) 6 SCC 398]***.



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49. That judgment arose under a situation similar to those,

which made the State of Tamil Nadu to enact the Tamil Nadu Public Buildings (Licensing) Act, 1965. A fire accident occurred in a school known as Lord Krishna Middle School, Kumbakonam. On account of the fire, nearly 94 children lost their lives and 18 children sustained serious injuries. Another incident had taken place at Dabwali in the State of Haryana, resulting in death of nearly 400 persons. These incidents resulted in **Mr. Avinash Mehrotra** filing a Public Interest Litigation before the Supreme Court invoking Article 32 of the Constitution of India. He sought for a direction from that Court for more stringent rules and regulations, keeping in mind the safety of the students, and for enforcement of those rules to ensure continued protection of the children in the class rooms across the country.

50. During the course of discussion, the Supreme Court had pointed out that the Union of India, had promulgated through the Bureau of Indian Standards, published a code titled National Building Code of India, 2005. The code had opined that, by the adoption of certain pre-determined fire safety measures, proper planning of the buildings, appropriate choice of materials



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and components, suitable electrical equipments, and installation of fire detectors and suppression systems, the hazardous of fire can be considerably reduced.

51.The Supreme Court referred to the National Building Code, and directed that each school in the country must possess the bare minimum safety standards and should comply with Part-IV of the National Building Code, 2005. The Court concluded the judgment by holding that there should be a direction that the National Building Code, 2005, should be implemented by all Government and Private Schools functioning across the country. It was further pointed out that a safety certificate should be issued only after due inspection, and in case, it is violated, disciplinary proceedings have to be initiated against the officials concerned. The Court called upon the States to enforce the existing laws and implement the safety programs with right earnest.

52.A careful reading of the judgment shows nowhere did the Court states that the qualification for Engineers under the National Building Code should be uniform across the country. It is in this context, I will refer to the judgment of the Constitution



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Bench of Supreme Court in ***Padma Sundara Rao and others***
Vs. State of Tamil Nadu and others, (2002) 3 SCC 533. In

this judgment, the Supreme Court held that the judiciary must interpret the laws as enacted by the legislature and cannot introduce provisions that are not expressly stated in the statute. It was further added that the Court cannot legislate on any aspect. As to how one should read and implement a judgment was also laid down by the Constitution Bench. The Court held:-

“Court should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case.”

53.Applying this principle to ***Avinash Mehrotra***'s case, I have to conclude that the Supreme Court in that case had held it is the duty of the State to ensure that buildings, especially schools have to conform to certain standards of construction and operations. As would be seen later, the National Building Code, 2005 itself does not exist as on today. Hence, this Court is not in



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a position to apply the judgment as Mr.V.P.Raman wants this Court to. I should remember “one-size-fits-all” view would only lead to injustice.

Manifest Arbitrariness

54.It has been pleaded in the affidavit that the amendment should be struck down on the ground that it is manifestly arbitrary. A Rule can be said to be manifestly arbitrary, when it is capricious, irrational, or has been one made without adequate determining principles. It has been recognized as the facet of right to equality under Article 14 of the Constitution of India.

55.This doctrine ensures that an action initiated by the State is not based on whims, fancies or prejudice. Whenever a decision is taken and the same is based on irrelevant facts ignoring relevant considerations, such an action has been held to be arbitrary. If the rule is founded on prejudice or preference rather than a discernible policy, it can be termed capricious or irrational. The rule to unreasonableness must be inherent in the substantive provision of the rules, rather than confined to its procedural aspects, so as to enable the Court to arrive at a conclusion that the rule is substantially unreasonable. The



doctrine can be applied even when the effects sought to be achieved by the rule are counter-productive to its stated objects.

56.The burden of establishing that a rule is manifestly arbitrary lies on the petitioner. The Courts also do not rush into a situation and apply the said doctrine, unless and until, the same is *ex facie* patent and palpable.

57.Keeping these principles in mind, let me now approach the issue presented before this Court.

Persuasive Nature of Structural Certificate

58.I have already surveyed the Tamil Nadu Public Buildings (Licensing) Act, 1965. This Act applies when a building is sought to be used as a public building. An option is given to the owner to obtain a certificate of structural soundness from a structural engineer. This is clear from Section 4(4) of the Tamil Nadu Public Buildings (Licensing) Act, 1965. In case, the application is not accompanied by a certificate of structural soundness, then the competent authority may obtain such a certificate from an engineer specified by the Government. The manner in which a certificate of structural soundness must be



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issued is also specified under the Rules. Under Rule 4, the Form of the structural soundness certificate is prescribed. It is termed as Form-B certificate.

59. Structural soundness certificate shows that, prior to certifying the soundness of the building, certifying engineer should specify two particular factors namely, the foundation and the superstructure. He should state the depth below ground level, the nature of soil at the foundation level, the pressure at the foundation, and the probable bearing capacity met at the foundation.

60. Insofar as the superstructure is concerned, the engineer is required to certify the maximum stress at the most critical points of masonry and concrete, and the nature of masonry and concrete used and, whether the stress is within the permissible limits. At the time of certification, the Engineer should also state whether the building conforms to the relevant Indian standards of code of practice and ISI loading standards 875 (latest version). This certificate is merely an opinion of the engineer and is not binding on the competent authority. This is because, under Section 6(1) of the Act, the competent authority, on the basis of



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such opinion and inspection if any, should record his independent satisfaction that the building may be used for the purpose specified in the application. The opinion of an engineer, is at best persuasive and not binding. The certificate of structural soundness relates to the manner of construction of the building its load-bearing capacity, its suitability for use as a public building.

61.It is in this context that I advert to the submissions of Mr.V.P.Raman that, the public building rules fixed different norms than the one under the Tamil Nadu Combined Development and Building Rules, 2016. The combined Development and building rules governs any development and construction of the building. Whereas, the public building rules operates only post the construction. The application of the Tamil Nadu Combined Development and Building Rules, 2016, has been clearly set forth in regulation 3. The Government has framed detailed regulations under Tamil Nadu Combined Building Rules, 2016, as rigorous standards had to be maintained at the stage of construction. The 2016 regulations as specified itself dictate that a professional must register himself under Rule 23. It is only an empanelled professional, who is



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entitled to perform the duties under the Tamil Nadu Combined Building Rules, 2016. The role of a structural engineer under the Tamil Nadu Public Buildings (Licensing) Act and the Rules arises once the rigorous standards that have been placed by the Tamil Nadu Combined Development and Building Rules, 2016, are completed.

62.For the purpose of implementation of the Tamil Nadu Combined Development and Building Rules, 2016, the qualification of professionals has been enumerated under Annexure-13. Insofar as the structural engineers are concerned, it is categorized under Class-III of Annexure-13. Here too, the qualifications are divided on the type of the building. As the Tamil Nadu Combined Development and Building Rules, 2016 and the Tamil Nadu Public Buildings (Licensing) Act and Rules operate on different planes, the petitioners cannot insist that the same set of qualifications and regulations which are necessary for putting up a construction should be applied even to an engineer, who is certifying its soundness.

Doctrine of Professional Competence

63.If the submission of Mr.V.P.Raman were to be accepted,



then only engineers with experience should be permitted not only during the stage of design and execution, but also during the stage of certification. Such an interpretation, in the considered view of this Court is that, if a person is otherwise qualified to inspect a building and assess whether the requirements of structural soundness have been satisfied in such a person need not necessarily be a non academic engineer. Any person who is qualified to verify the building against the norms would be entitled to certify such a work.

64.It is here the argument of Mr.M.Suresh Kumar becomes relevant. The qualification for academic staffs in Technical Institutions are fixed by the All India Council for Technical Education (AICTE). It has issued regulations from time to time. These regulations run through the whole gamut of Engineering and Technology, Architecture, Planning, Pharmacy, Management Studies and Computer Application studies. As per 2010 regulations, the minimum qualification prescribed for a faculty member in B.E or B.Tech programmes are as hereunder:-

Programme	Cadre	Qualification	Experience
Engineering & Technology	Assistant Professor	BE/B.Tech & ME/M.Tech in relevant branch with 1 st class or equivalent either in BE/B.Tech or	



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		ME/M.Tech.	
	Associate Professor	Qualifications as above that is for the post of Assistant Professor, as applicable and PhD or equivalent, in appropriate discipline. Post PhD publications and guiding PhD students is highly desirable.	Minimum of 5 years experience in teaching / research / industry of which 2 years post PhD experience is desirable. In case of Architecture, Professional Practice of 5 years as certified by the Council of Architecture shall also be considered valid.
	Professor	Qualifications as above that is for the post of Associate Professor, applicable. Post PhD publications and guiding PhD students is highly desirable.	Minimum of 10 years teaching/research/industrial experience of which at least 5 years should be at the level of Associate Professor or Minimum of 13 years experience in teaching and / or Research and / or Industry. In case of research experience, good academic record and books / research paper publications / IPR / patents record shall be required as deemed fit by the expert members of the selection committee. If the experience in industry is considered, the same shall be at managerial level equivalent to Associate Professor with active participation record in devising / designing, planning, executing, analyzing, quality control, innovating, training, technical books / research paper publications / IPR / patents, etc., as deemed fit by the expert members of the Selection Committee.

65.Even for appointment as an Assistant Professor, a



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person must be qualified with both Bachelors' and Masters' degree in the relevant branch. The amended rules do not permit a green-horn Assistant Professor to certify Class-III buildings. He should possess not less than five years of experience in teaching. When we progress to Class-II buildings, the faculty should possess not less than seven years of experience, and in case of high rise buildings under Class-I, he should be a person having not less than 10 years of experience.

66.Under the AICTE norms, a person with five years of experience as an Assistant Professor is entitled to be appointed as an Associate Professor. The AICTE norms when read closely further shows even a person who has gained experience in the field of research or industry, is also qualified to be appointed as an Associate Professor. Even more rigorous are the norms when it comes to the post of the Professor. In addition to the qualifications that are necessary for an Associate Professor, a Professor should also have 10 years of experience in the teaching, research, or industry, as stipulated under AICTE Regulations.

67.In the view of this Court, the norms that have been



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fixed for faculties in Civil Engineering department in Engineering Institutions / Universities and particularly coupled with experience, is higher in academic qualification and teaching experience. Academic excellence provides the foundational knowledge and the reason behind the process. Experienced teachers have the ability and knowledge as to how and when to apply that knowledge in a real world context. Experience and academic excellence are not mutually exclusive. They are complimentary. Mere experience without theoretical knowledge is of no avail. The insistence of “how and when to apply the knowledge gained through academic qualifications” is what is found in the Tamil Nadu Combined Development and Building Rules. Once that process is completed, the role of a person certifying the license of the building is to verify whether the process that has been carried out in accordance with the technical knowledge that he has acquired. Hence, to compare one with the other might not be a proper comparison.

68.The role of an engineer certifying the structural soundness of a building, as pointed out above, is confined to assessing whether the building has been constructed in accordance with the norms which governs such construction. To



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contend that, a teaching faculty will be devoid of such basic knowledge is an extremely unfair submission. This Court is not willing to accept the same.

69.Now I will turn to the argument on the National Building Code. The National Building Code is a comprehensive compilation of standardized guidelines issued by the Bureau of Indian Standards from time to time.

70.While Mr.V.P.Raman places reliance upon the judgment of the Supreme Court in **Avinash Mehrotra**'s case to point out that the National Building Code had been incorporated by the Supreme Court as a law of this Country. I have to point out that this submission is not legally sound for the following reasons:-

(i)The National Building Code, as the Code itself points out is only a model or a recommendatory document at the National level.

(ii)It becomes mandatory only when, concerned States and local bodies incorporate the provisions of the National Building Code into their respective



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building laws and regulations.

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(iii)The National Building Code itself is not a permanent and irreplaceable document. The first edition of the National Building Code was issued in the year 1970. That Code was revised by the second edition in the year 1983 and underwent several amendments in the years 1987 and 1997.

71.The National Building Code on which Mr.V.P.Raman places reliance upon, namely National Building Code, 2005 also suffered an amendment after the judgment in **Avinash Mehrotra**'s case in the year 2015. In fact, that Code in itself is not in force today. The Bureau of Indian Standards revised the 2005 Code in the year 2016. It is the National Building Code of 2016, which is in force. Hence, to plead as if the 2005 Code is one written in stone and incapable of revision is wrong.

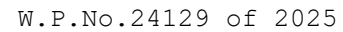
72.In addition, Entry 18 of List-II of the Seventh Schedule of the Constitution of India shows that the Parliament does not have the power to make a legislation with respect to matters concerning land. When the Union Government has no power to



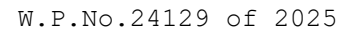
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bring out a binding document, if the submissions of Mr.V.P.Raman were to be accepted, this Court will indirectly confer the power on the Union of India by treating this National Building Code as mandatory, when even the Parliament cannot do so. The Constitution cannot be altered by an order of a Court. It can be amended only through a process contemplated by the Constitution itself. As long as the State legislature is empowered by the Constitution to legislate under this entry, this Court cannot make a Code, which is recommendatory, as binding on the State.

73.Turning to the last submission that, amendment has no nexus to the purpose of the Act, here too, I am not in agreement with Mr.V.P.Raman. This is because, the purpose of the Act was to ensure that the public buildings are safe for their users. A certificate as pointed out can be issued by any person qualified in the field of Civil Engineering with experience either in the field, or in teaching. The Rules do not permit a person unconnected with the field of Civil Engineering to certify a building. Had such a situation been contemplated, the Rule would have fallen foul of the doctrine of manifest arbitrariness.



75. Once an application is made under Form-E, the Superintending Engineer, (Planning and Designing) of the Public Works Department, has been mandated to verify the details given therein. As many as eight heads have been brought forth under Form-E. In case, the application does not stand scrutiny under Rule 11(2), the Superintending Engineer should make his / her observations and close the applications at that stage itself. If the application successfully goes through this first level of scrutiny, the applicant is thereafter personally interviewed by the Superintending Engineer, (Planning and Design) of the Public Works Department. It is only if the application clears the impersonal nexus at the first instance and the secondly, the interview with the Superintending Engineer, it is placed before the Board of Engineers of the Public Works Department for approval. Thus, the Rules introduce a three-stage filtering



76. The fear expressed by Mr. V.P. Raman that a raw hand might get registered is absolutely without basis. A raw hand, even if he / she clears the first stage of document verification, might not that easily clear the interview, and, if he / she were to do so, the subsequent scrutiny by the Board of Engineers of the Public Works Department would filter him / her out.

Test of Reasonable Classification

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Mr.V.P.Raman stating that, earlier the nature of classification was on the cost the building and today, it is on the basis of the size of the building is arbitrary, as the classification is not founded on an intelligible differentia having a rational nexus with the object sought to be achieved by the legislation.

79.I should point out that with passage of time, the nature and the manner of construction have undergone a sea of change. While a couple of decades ago, a building with three or four stories was considered an exception, whereas, today, they have become normal and common place. In addition, builders have gone in for high-rise structures to accommodate more residents than ever before. If the Government were to continue to classify the buildings solely by the cost of construction, it will not be keeping pace with contemporary realities. The Government, after constituting a committee have found the increase in high-rise buildings and hence, have decided to amend the Rules on the basis of their proportion and determination, rather than the cost of land which keeps with times cannot be struck down as arbitrary.

80.In fact, the classification of building under the Tamil



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Nadu Combined Development and Building Rules is also classified on the basis of the height of the building. As pointed out throughout this judgment, the role of Public Buildings Act and the Rules is only to certify the safety of the public buildings, and when buildings have increased in height and proportion, I, do not find any error in the Government making the classification based on the dimension rather than cost.

81.Finally, the submission of Mr.K.Sivasubramanian need not detain us for long. There is no law which states only private engineers with experience alone are entitled to certify the building. On account of this amendment, the eligibility band for engineers have only been made wider. The Rules do not exempt that an academicians need not take samples and give a report. The rules apply uniformly to all empanelled engineers. Accordingly, this plea is also untenable.

82.I would also look at the issue presented in another angle. This court has considered the Act and the surrounding circumstances of its enactment. The purpose of the public (buildings) Act and the Rules made thereunder was to ensure that public buildings before so certified go through a process of



validation. One of the several parameters required to be adhered to, prior to the licence being granted by the competent authority, is the certification by an engineer. The legislation was not meant to encourage a body of engineers to certify buildings. The Tamil Nadu Public Buildings (Licensing) Act, 1965 is manifestly a public-safety legislation enacted for the protection of the public at large who use public buildings, and not for conferring any proprietary or exclusive right upon engineers engaged in its certification. The petitioners, therefore, cannot claim any enforceable right merely on the ground that the field of certification has been widened to include other qualified persons. So long as the object of ensuring structural safety is preserved, the purpose of the Act cannot be said to be violated.

83.The conclusion this court arrives at is that the legislature brought about the legislation for the above said purpose and it was not intended to confer any right on a specific class of individuals. The statute was not intended to be “an engineer charter”. To this effect, this court would rely upon the judgment in **Cutler v. Wandsworth Stadium Ltd. [1949] AC 398**. This principle has been cited with approval by the Supreme Court in **K. Ramadas Shenoy v. chief officers, Town**



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municipal council udupi and others, [1974 INSC 141]. Hence on this ground too the Writ petition has to fail.

84.The arguments of the counsel reminds me of the French Expression “*Faire tant de bruit pour une omelette*” – to make so much noise for an omelette.

85.The big fuss created by Engineers, who had empanelled themselves pre-amendment is trivial and meaningless. They should be ready to face the competition from their peers rather than attempting to shield themselves from the same.

86.In the light of the above discussions, the Writ Petition stands dismissed. Consequently, the connected miscellaneous petitions are closed. No costs.

23.01.2026

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To
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- 1.State of Tamil Nadu,
Represented by the Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Fort St. George,
Chennai.
- 2.Public Works Department,
Represented by its Additional Chief Secretary to Government,
Secretariat, Fort St. George,
Chennai.



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V.LAKSHMINARAYANAN, J.

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W.P.No.24129 of 2025 and
W.M.P.Nos.27128, 27129, 27131 & 39191 of 2025

23.01.2026