

**THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR**  
**AND**  
**THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA**  
**Writ Petition No.15777 of 2022**

**ORDER:-** *(per the Hon'ble Sri Justice C. Praveen Kumar)*

The present writ petition is filed, to declare the orders passed on 09.03.2022 by respondent no.1 is against (a) Section 12(a) or Section 12(h) of the Legal Services Authorities Act 1987; (b) the ruling of Hon'ble Supreme Court in *Manoharan vs. Sivaranjan and others* in Civil Appeal No.10581 of 2013, arising out of SLP(C) No.23918 of 2012, dated 25.11.2013 and (c) Article 39-A of the Constitution of India and consequently to direct the respondent no.1 to grant Court Fee exemption certificate payable on the plaint, to the petitioner.

2. The facts, which lead to filing of the writ petition, are as under:-

(a) The petitioner herein filed a suit against respondent nos.2 to 5 for recovery of suit amount of Rs.1,21,233/- before the Court of Junior Civil Judge, Nandikotkur. The petitioner has to pay a Court Fee of Rs.3726/-. As the petitioner has no capacity to pay the Court Fee, filed a petition to send the plaint to Mandal Legal Services Authority, Nandikotkur, for exemption in payment of Court Fee.

(b) The trial Court returned the plaint with an endorsement that the suit papers be placed before the Mandal Legal Service Chairman, and if any exemption is given for payment of Court Fee, the same may be filed before the Court. When the plaint along with the application was submitted before the concerned, it was returned on 10.02.2022 with an endorsement that exemption for payment of Court Fee cannot be given. Relying upon the judgment of the Hon'ble Supreme Court, the present writ petition is filed challenging the order dated 09.03.2022 passed by the Mandal Legal Services Authority, Nandikotkur, rejecting the request of the petitioner for grant of exemption in payment of Court Fee.

3. Sri Budige Rangaswamy, learned counsel for the petitioner took us through Section 12 of the Legal Services Authorities Act, 1987 [for short, "**the Act**"], to contend that exemption in payment of Court Fee has to be given, if the plaintiff is a person belonging to a member of Scheduled Caste or Scheduled Tribe. He also relies upon a judgment in **Manoharan vs. Sivarajan & others**<sup>1</sup> in support of his plea.

4. On the other hand, Sri S. Lakshminarayana Reddy, learned counsel for the respondent no.1 would submit that Section 12 of the Act nowhere contemplates granting any

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<sup>1</sup> 2014 SAR (Civil) 22

exemption from payment of Court Fee to a member of Scheduled Caste or Scheduled Tribe. According to him, it only speaks about the extending legal services under the Act to the members of Scheduled Caste or Schedule Tribe. He also relies upon a Division Bench Judgment of Composite High Court at Hyderabad for the State of Telangana and the State of Andhra Pradesh in **Kopparthi Krishna Murthy vs. District Legal Services Authorities, West Godavari, Eluru and Others**<sup>2</sup> in support of his plea.

5. Before proceeding further, it would be appropriate to refer to Section 12 of the Act, which reads as under:-

**12. Criteria for giving legal services.**—Every person who has to file or defend a case shall be entitled to legal services under this Act if that person is—

- (a) a member of a Scheduled Caste or Scheduled Tribe;
- (b) a victim of trafficking in human beings or begar as referred to in article 23 of the Constitution;
- (c) a woman or a child; 4
- [(d) a person with disability as defined in clause (i) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996);]
- (e) a person under circumstances of underserved want such as being a victim of a mass disaster, ethnic, violence, caste atrocity, flood, drought, earthquake or industrial disaster; or
- (f) an industrial workman; or
- (g) in custody, including custody in a protective home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act, 1956 (104 of 1956), or in a juvenile home within the meaning of clause (j) of section 2 of the Juvenile Justice Act, 1986 (53 of 1986), or in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) of section 2 of the Mental Health Act, 1987 (14 of 1987); or 1 [(h) in receipt of annual income less than rupees nine thousand

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<sup>2</sup> 2018(2) ALD 678

*or such other higher amount as may be prescribed by the State Government, if the case is before a court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the Central Government, if the case is before the Supreme Court.]*

6. From a reading of the above, it is very much clear that Section 12 of the Act only contemplates providing legal services under the Act, to a person belonging to Scheduled Caste or Scheduled Tribe or for persons falling under the categories 'b' to 'h' of Section 12 of the Act. Therefore, a plain reading of Section 12 of the Act does not contemplate providing any exemption in payment of Court Fee, while filing the suit. In fact, the Division Bench of Composite High Court in **Kopparthi Krishna Murthy** case [cited 2<sup>nd</sup> supra] has categorically held as under:-

*19. The Legal Services Authorities Act, 1987 does not speak about any exemption from payment of court fees. On the contrary, Section 21(1) of the Legal Services Authorities Act, 1987 enables only the refund of the court fee, in cases where a compromise or settlement is arrived at by a Lok Adalat in a case referred to it under Section 20(1). But even this refund is to be made, as per Section 21(1) of the Legal Services Authorities Act, 1987, only in the manner provided under the Court Fees Act. It is an irony that Section 21(1) of the Legal Services Authorities Act, 1987 makes a reference only to the Court Fees Act, 1870 despite the fact that after the adoption of the Constitution, court fee became a State subject and every State issued its own enactment. Every State Enactment contained a provision repealing the Court Fees Act, 1870, in so far as that particular State is concerned. For instance, the Court Fees Act, 1870 is repealed in its application to the State of Andhra Pradesh, under Section 79(1) of the Andhra Pradesh Court Fees and Suits Valuation Act, 1956.*

Similarly, in the above referred judgment, the High Court observed in the following paras, as under:-

31. As we have pointed out earlier, until the advent of the Legal Services Authorities Act, 1987, there were only two institutions namely (1) the Government and (2) the Court, both of which had different types of powers. While the State Government is conferred with the power to grant reduction or remission of the Court Fee, under Section 68 of the Andhra Pradesh Court Fees and Suits Valuation Act, 1956, the power of the original Court under Order XXXIII and of the Appellate Court under Order XLIV of the Code of Civil Procedure is only to postpone the payment but not to grant reduction or remission of the Court Fee. Since the court fee is a State subject, the Parliament was careful, while enacting the Legal Services Authorities Act, 1987 not to use any expression such as reduction or remission or exemption from payment of court fees. On the contrary, Section 21(1) of the Legal Services Authorities Act, 1987 speaks only about refund of court fees.

32. Irrespective of whether the regulations framed by the State Authority under Section 29-A (1) of the Legal Services Authorities Act, 1987 is in excess of the power conferred or not, what is contemplated by regulation 25(b) (ii) (a) is only "the payment to the entitled person of Court Fee". There is no provision (1) either in the Andhra Pradesh Court Fees and Suits Valuation Act, 1956; or (2) in the Code of Civil Procedure; or (3) in the Legal Services Authorities Act, 1987; or (4) in the Rules framed by the Central or State Government; or (5) in the regulations framed by the Central or State Authorities, for the grant of a certificate of exemption from payment of Court Fees. If at all, the Legal Services Authorities, until the validity of regulation 25(b) (ii) (a) is tested, can order payment of court fee to the entitled person, but not order the grant of a certificate of exemption from payment of court fee, as it would be an encroachment into the territory occupied by a State Enactment. The District and Mandal Legal Services Authorities shall keep the statutory scheme in mind while dealing with the applications of this nature.

33. As a matter of fact, even before the advent of the Legal Services Authorities Act, 1987, the State of Andhra Pradesh issued a set of Rules known as "Andhra Pradesh State Legal Aid and Advice to the Poor Rules, 1980". These Rules contained provisions for rendering legal aid and advice to the poor, but did not contain any provision for exemption from payment of court fees.

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35. After the advent of the Legal Services Authorities Act, 1987, the Government issued a notification in G.O.Ms.No.73 Law dated 19.06.2007, exempting persons entitled and provided with Legal Services under Sections 12 and 13 of the 1987 Act, from payment of Court Fees. This Government order was issued again in exercise of the powers conferred by Section 68 of the A.P. Court Fees and Suits Valuation Act, 1956. But this Government Order also made it clear that in the event of the persons provided with legal services succeeding in the proceedings, the amount of Court Fees shall be recovered by the State Government from the party ordered by the Court in the decree to pay the same.

36. But without understanding the scope and effect of such notifications, the District Legal Services Authorities were issuing certificates of exemption, in terms of 1980 Rules. This necessitated the Member Secretary of the Andhra Pradesh State Legal Services Authority to issue a circular bearing Roc.No.5772/APSLSA/LSW/2010, dated 21.08.2010. It was made clear in the said circular that the Legal Services institutions such as the Mandal/District/State Legal Services Authorities have no power or authority to issue a certificate of exemption from payment of court fees. Therefore, all that could be done by a person is to approach the concerned Legal Services Authority and seek the provision of legal services. If the concerned Legal Services Authority is satisfied that such a person satisfies the criteria specified in Section 12 of the Legal Services Authority Act, 1987, then it may be open to the concerned authority to invoke the stipulations contained in the Government order G.O.Ms.No.73 Law dated 19.06.2007 issued in exercise of the powers conferred by Section 68 of the A.P.

*Court Fees and Suits Valuation Act, 1956, subject, however, to the conditions stipulated in the said Government Order.*

*With the above clarification, the Writ Petition is dismissed as devoid of merits.”*

7. From the judgment referred to above, it is very clear that a person is not entitled to claim exemption of Court Fee under Section 12 (a) or under Section 12(g) of the Act, on a mere representation that he belongs to Scheduled Caste or Scheduled Tribe or is not meeting the financial requirements as contemplated under Section 12(h) of the Act. What all has to be done by the said person is that he should approach the Legal Services Authority and seek help under the provisions of Legal Services Authorities Act. If the concerned Legal Services Authority is satisfied that such a person satisfies the criteria specified in Section 12 of the Act, then it may be open to the concerned authority to invoke the stipulations contained in the Government Order in G.O.Ms.No.73 Law dated 19.06.2007 issued in exercise of the powers conferred by Section 68 of the A.P. Court Fees and Suits Valuation Act, 1956, subject to the stipulations contained in the said G.O. In the instant case, the petitioner sought exemption from payment of Court mainly on the ground that he belongs to Scheduled Caste.

8. Taking into consideration the fact that the petitioner herein had capacity to engage a counsel to provide legal assistance and represent the petitioner throughout the filing

of the suit; as there is no material to show that his yearly earnings are around Rs.3 Lakhs, and having regard to the judgment referred to above, the authority rejected the request of the petitioner for exemption in payment of Court Fee. The discretion exercised by the Mandal Legal Services Authority, Nandikotkur in holding that the petitioner is not an eligible candidate for the legal services cannot be found fault with. Basing on the material available on record, the authority found that the petitioner has enough financial capacity to pay Court Fee and fight the litigation.

9. It is to be noted here that learned counsel for the petitioner relied upon by the judgment of Hon'ble Supreme Court in **Manoharan** case [cited 1<sup>st</sup> *supra*] in support of his plea. But, the facts in the said case, are totally different. It was a case where no application was made before the Lok Adalat seeking exemption from payment of Court Fee or for extending legal services. In the last paragraph of the judgment, the Hon'ble Supreme Court while setting aside the order of the High Court remanded the case back to the trial Court for payment of Court Fee within eight (8) weeks, if for any reason, it is not possible for the appellant to pay the Court Fee, in such event, he was at liberty to approach the jurisdictional district legal service authority and Taluk Legal Services Committee seeking for grant of legal aid for sanction



of court fee amount payable on the suit before the trial Court.  
If such application is filed, the same shall be considered.

10. The said judgment, as observed earlier, does not relate to total exemption from payment of Court Fee. The issue identical to the case on hand for consideration is in **Kopparthi Krishna Murthy's** case, which we have dealt with earlier.

11. Having regard to the above and for the reasons stated in the order, the exemption from payment of Court Fee, cannot be accepted. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

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**JUSTICE C.PRAVEEN KUMAR**

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**JUSTICE VENKATESWARLU NIMMAGADDA**

Date: 12.07.2022

**MS**

**THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR**  
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**Writ Petition No.15777 of 2022**  
*(per the Hon'ble Sri Justice C. Praveen Kumar)*

**Date:12.07.2022**

**MS**