

**HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI**

**MAIN CASE: W.P.Nos.897, 898 and 1064 of 2024**

**PROCEEDING SHEET**

Sl.No.	DATE	ORDER	Office Note
1.	11.01.2024	<p><b><u>BKM, J</u></b></p> <p><b><u>W.P.No.1064 of 2024</u></b></p> <p>In this writ petition the learned Advocate General is shown as 3<sup>rd</sup> respondent and he is also arrayed in the personal capacity as 4<sup>th</sup> respondent. This Court informed the party-in-person and as well as the learned Special Government Pleader that, my daughter Smt. B. Amrutha is working in the office of the learned Advocate General as Private Junior Associate. Hence offered for recusal of hearing this matter. But the party in person and as well as the learned Special Government Pleader expressed no objection to proceed with the matter before this Court. Hence it is taken up for hearing.</p> <p>Heard the party in person and the learned Special Government Pleader for the respondent Nos.1 to 3.</p> <p>In this writ petition, the party in person is questioning the appointment of the 5<sup>th</sup> respondent as Assistant Government Pleader</p>	

	<p>vide G.O.Rt.No.208, Law (G) Department, dated 02.08.2022.</p> <p>In this case also he refers to the resume purported to have been belonging to the 5<sup>th</sup> respondent wherein, it is shown as B.A.L.L.B (Hons.) Course was is between the period 2013-2018. However, the date of enrollment is not mentioned therein.</p> <p>In this case, the party in person refers to the Andhra Pradesh Law Officers (Appointment and Conditions of Service) Instructions, 2000 issued <i>vide</i> G.O.Ms.No.187, Law (L) dated 06.12.2000, in which he mainly relied upon the Instruction No.4-Sub-clause 5, according to it no person shall be eligible for appointment as Assistant Government Pleader unless he is an Advocate of High Court of Andhra Pradesh, at least for a period of 5 years.</p> <p>His specific case is that, the 5<sup>th</sup> respondent does not have minimum standing at the Bar as required under the said instructions. But the 1<sup>st</sup> respondent <i>vide</i> G.O.Rt.No.208 dated 02.08.2022 appointed the 5<sup>th</sup> respondent as Assistant Government Pleader to assist the 3<sup>rd</sup>/4<sup>th</sup> respondents.</p> <p>On the other hand, the learned Special Government Pleader submits that, these writ petitions cannot be entertained as unfounded,</p>	
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	<p>uncharitable and unwarranted allegations are made without demonstrating any violations of the Rules/instructions regarding the appointments of Law Officers by the Government.</p> <p>He refers to the Division Bench decision of the erstwhile High Court of Andhra Pradesh reported in 2003 (6) ALD 214 (DB), wherein, it was observed at Para No.21 as under:-</p> <p><b>21.</b> <i>Concededly the executive instructions regulating the appointment and conditions of service of the Law Officers of the Government of Andhra Pradesh are not statutory in their nature. The executive instructions were obviously issued by the Government to structure the discretion of those who are involved in the process of making appointments of the Law Officers to represent the State and its instrumentalities and other authorities in various Courts including the High Court of Andhra Pradesh and the Andhra Pradesh Administrative Tribunal. The executive instructions clearly provide that the Law Officers, i.e., Government Pleader or Assistant Government Pleader and Public Prosecutor or Additional Public Prosecutor or Special Counsel, are required to be appointed by the Government in consultation with the Advocate-General. The Law Officers shall ordinarily be appointed for a term of three years and that engagement may be terminated with one month's notice or by paying one month's honorarium in lieu of one month's notice.</i></p>	
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		<p>received. With the growth of litigation, lawyering became a full-time occupation and most of the lawyers came to depend upon it as the sole source of livelihood. The nature of the service rendered by the lawyers was private till the Government and the public bodies started engaging them to conduct cases on their behalf. The Government and the public bodies engaged the services of the lawyers purely on a contractual basis either for a specified case or for a specified or an unspecified period. Although the contract in some cases prohibited the lawyers from accepting private briefs, the nature of the contract did not alter from one of professional engagement to that of employment. The lawyer of the Government or a public body was not its employee but was a professional practitioner engaged to do the specified work.</p> <p>This is so even today, though the lawyers on the full-time rolls of the Government and the public bodies are described as their Law Officers. It is precisely for this reason that in the case of such Law Officers, the saving clause of Rule 49 of the Bar Council of India Rules waives the prohibition imposed by the said rule against the acceptance by a lawyer of a full-time employment.</p> <p>The relationship between the lawyer and his client is one of trust and confidence. The client engages a lawyer for personal reasons and is at liberty to leave him also, for the same reasons. He is under no obligation to</p>	
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		<p>give reasons for withdrawing his brief from his lawyer. The lawyer in turn is not an agent of his client but his dignified, responsible spokesman. He is not bound to tell the Court every fact or urge every proposition of law which his client wants him to do, however irrelevant it may be. He is essentially an adviser to his client and is rightly called a Counsel in some jurisdictions. Once acquainted with the facts of the case, it is the lawyer's discretion to choose the facts and the points of law which he would advance. Being a responsible Officer of the Court and an important adjunct of the administration of justice, the lawyer also owes a duty to the Court as well as to the opposite side. He has to be fair to ensure that justice is done. He demeans himself if he acts merely as a mouthpiece of his client. This relationship between the lawyer and the private client is equally valid between him and the public bodies." (Emphasis is of ours).</p> <p><b>35.</b> <i>The advise tendered by the Advocate-General or Additional Advocates- General in discharge of their duties and constitutional obligations itself cannot be judicially reviewed by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. On the other hand, any such review may hamper the independent and autonomous functioning of the Advocate- General and the Additional Advocates- General resulting in prejudice to public interest. It would be in public interest not to raise and create controversies regarding the protected</i></p>	
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		<p><i>communications between the State and its Counsel.</i></p> <p><b>37.</b> <i>The Advocate-General is the highest Law Officer in the State and leader of the Bar by virtue of his official position. He represents public interest as well as interests of the legal profession of which he is the formal head in the State. Courts must maintain the dignity of the judicial institutions. At the same time, the prestige and position of the office of the Advocate- General must be equally dear to the Courts. Nothing should be done and said which affects the dignity of the office of the Advocate-General.</i></p> <p>In view of the above said facts and circumstances, for the purpose of going into the averments made by the party in person in all these three writ petitions, the counters of the respondent Nos.1 to 3 are required.</p> <p>The issuance of notices to the respondent Nos.4 and 5 from the Registry is deffered for the present, which can be considered after filing of the counters by the official respondents as it also lacks <i>prima facie</i> substantiation of allegations made against them. However the party-in-person insisted to take out personal notice.</p> <p>Hence, it is open for the petitioner to take out personal notices to the respondent Nos.4 and 5.</p>	
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