

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.6037 of 2020 & W.M.P.No.7086 of 2020

and

W.P.No.9883 of 2020 & WMP Nos.12019 & 12020 of 2020

W.P.No.6037 of 2020

Revenue Bar Association
Rep. by its Secretary, Mr.K.A. Parthasarathi .. Appellant

-VS-

1. Union of India
Ministry of Finance
(Department of Revenue)
No137, North Block,
New Delhi – 110 001
Represented by its Jt. Secretary
2. Union of India
Ministry of Law and Justice
4th Floor, A Wing,
Rajendra Prasad Road,
Shastri Bhavan,
New Delhi – 110 001
Represented by its Secretary ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Declaration to declare the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2020 framed by the first respondent vide Notification No.GSR 109(E) dated

12th February, 2020, as void defective and unconstitutional being violative of Articles 14, 21 and 50 of the Constitution of India and the Doctrine of Separation of Powers and Independence of Judiciary, which are part of the basic structure of the Constitution of India and further contrary to the principles laid down by the Hon'ble Supreme Court of India in *Union of India v R. Gandhi (2010) 11 SCC 1* and *Rojer Mathew v South Indian Bank Ltd. Civil Appeal No.8588 of 2019, dated November 13, 2019.*

For Petitioner : Mr.Rahul Unnikrishnan
For 1st Respondent : Mr.A.P. Srinivas
SPCGSC
For 2nd Respondent : Mr.D. Venkataswamy Babu

W.P.No.9883 of 2020

Recovery Tribunal Advocates
Association Rep. by its Secretary
C. Ramaiah S/o. Chellaiah Deva Towers
6th Floor 770/A Anna Salai Chennai 600 002

... Petitioner

Vs

- 1 Union of India represented
By its Secretary Department of Revenue No.
137 North Block New Delhi 110 001
- 2 Union of India represented
By its Secretary Ministry of Law and justice
4th Floor Prasad Road Shastri Bhavan
New Delhi 110 001

... Respondents

Writ Petition filed under Article 226 of Constitution of India praying to issue a Writ of Declaration declaring the Tribunal Appellate Tribunal and other Authorities (Qualification Experience and other Conditions of Service of Members) Rules 2020 vide first respondents impugned Notification No. GST 109 (E) dated 12.02.2020 and that of Notification F.No. 7/3/2020-DRT dated 23.06.2020 as null and void defective and unconstitutional being violative of Articles 14, 21, 50 of the Constitution of India and the Doctrine of Separation of Powers and Independence of Judiciary which are part of Basic Structure of the Constitution of India and further contrary to the principles laid down by the Honble Supreme Court in Union of India Vs. R. Gandhi and Roger Mathew vs. South Indian Bank Ltd in Civil Appeal No. 8588 of 2019 dated 13.11.2019.

For Petitioner : Mr.L. Chandrakumar

For Respondents : Mr.R. Sankaranarayanan
Addl.Solicitor General
assisted by
Mr.Ramachandrmoothy

ORDER

(Made by The Hon'ble Chief Justice)

Heard the learned counsel for the petitioners and the learned Additional Solicitor General of India, who submits that his instructions are still awaited and he further prays for time to file counter affidavit.

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2. We find that we had granted four weeks time on 08.07.2020 for seeking instructions, keeping in view the ratio of the judgment in the case of **Roger Mathew vs. South Indian Bank Limited and**

others, 2019 SCC OnLine SC 1456, which in turn relied on the judgment of the Apex Court in the case of **Madras Bar Association vs. Union of India, (2004) 10 SCC Page 1.**

3. It may also be pointed out that we had heard this matter along with W.P.No.9883 of 2020 (**Recovery Tribunal Advocates Association – Vs- Union of India and another**), where we had observed that an interim order may be necessary to enable the advocates to participate in the said selection process. The last date for submitting applications is till 03.08.2020 and has not been modified by the respondents.

4. In this Writ Petition, we had passed an interim order on 09.03.2020 that any selection which shall be made, shall be subject to the outcome of the writ petition. This order was passed in anticipation that the matter would be heard and disposed of. But, till date we find that no response has come forward from the respondents either by way of a counter affidavit or otherwise.

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5. Keeping in view the fact that the last date for receipt of applications is 03.08.2020, we direct that the respondents shall also accept the applications that may be filed by Advocates, who claim to be eligible for such appointment and also show cause as to why such applicants be not considered eligible for the posts in question. Further, the participation of the Advocates so permitted will not create any right in their favour and selection, if any, and the final selections shall not be announced except with the leave of this Court or any other appropriate orders that may be passed in future.

6. Keeping in view the request made by the learned Additional Solicitor General of India, we again post the matter on 28.08.2020, within which time he may file his response to both the petitions.

(A.P.S., CJ.) (S.K.R., J.)

31.07.2020

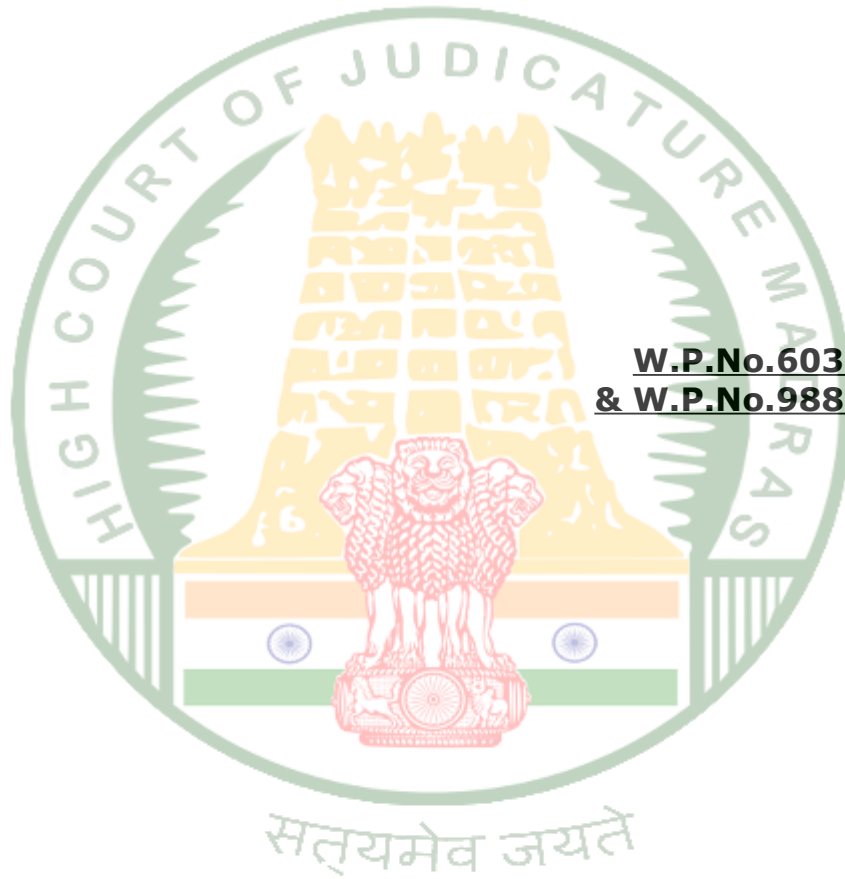
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Note : Issue order copy today (31.07.2020)

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The Hon'ble Chief Justice
and
Senthilkumar Ramamoorthy, J.

(KST)



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