

W.P.No.3450 of 2014

THE HON'BLE CHIEF JUSTICE
and
SENTHILKUMAR RAMAMOORTHY,J.,

(Order of the Court was made by The Hon'ble Chief Justice)

Heard Mr.A. Thirumaran, learned counsel for the petitioner, Mr.T.Poornam, learned counsel for the respondents 1 and 2 and Mr.FB.Benjamin George, learned counsel for the third respondent.

2. The issued raised in this writ petition was with regard to the permissibility of participation of advocates in proceedings before Ombudsman under the Banking Ombudsman Scheme 2006 promulgated by Reserve Bank of India.

3. The contention of the petitioner on the basis of certain information received is that there is no legal bar in the appearance of the advocates otherwise and secondly, the respondents are discriminating so far as the individual complainants are concerned by allowing Law Officers of the Bank to appear in such proceedings, whereas, at the same time, denying the individuals of the assistance of

advocates.

4. We had called upon learned counsel for the respondents to come forward explaining the nature of the functions of the Ombudsman and the powers exercised by him in order to ascertain as to whether the nature of the proceedings do require any such legal assistance and can be barred or not.

5. The Reserve Bank of India through the Ombudsman filed a counter affidavit annexing therewith 2006 Scheme, where Clause 7 entails the power and jurisdiction of the Ombudsman, Clause 10 prescribes the procedure for calling for information and Clause 11 or thereof indicates the exercise of jurisdiction by the Ombudsman to be not bound by any Rules of evidence and allow him to follow such procedure as may be considered just and proper, where providing an opportunity to the complainant along with documentary evidence has been made permissible within a time frame. The Award is to be made by the Banking Ombudsman with powers under Clause 12 and also empowers him to reject the complaint under Clause 13.

6. We further find that the appeal before the appellate authority is provided under Clause 14. In the background aforesaid, it is the contention of the learned counsel for the petitioner that the learned Single Judge in the case of *Fidelity Finance Ltd., Chennai vs Banking Ombudsman at Chennai State of Tamil Nadu/U.T of Pondicherry, Chennai* decided on 25.04.2002 reported in 2004 SCL Vol. 55 Madras Page 73 has held that the Ombudsman under the Scheme performs a quasi-judicial function and therefore, in view of the said pronouncement, it is evident that the Ombudsman proceeds like a adjudicatory forum and consequently, the legal assistance of an advocate should not be denied more so keeping in view the fact that law officers of the bank are allowed to attend such proceedings.

7. Having considered the submissions raised and having perused the Scheme, we find that the issue requires some more clarification and consequently, the respondents may file an appropriate response in order to explain the status, the jurisdiction and the powers exercisable by the Ombudsman in order to further proceed in the matter.

8. While explaining the same, learned counsel for both the

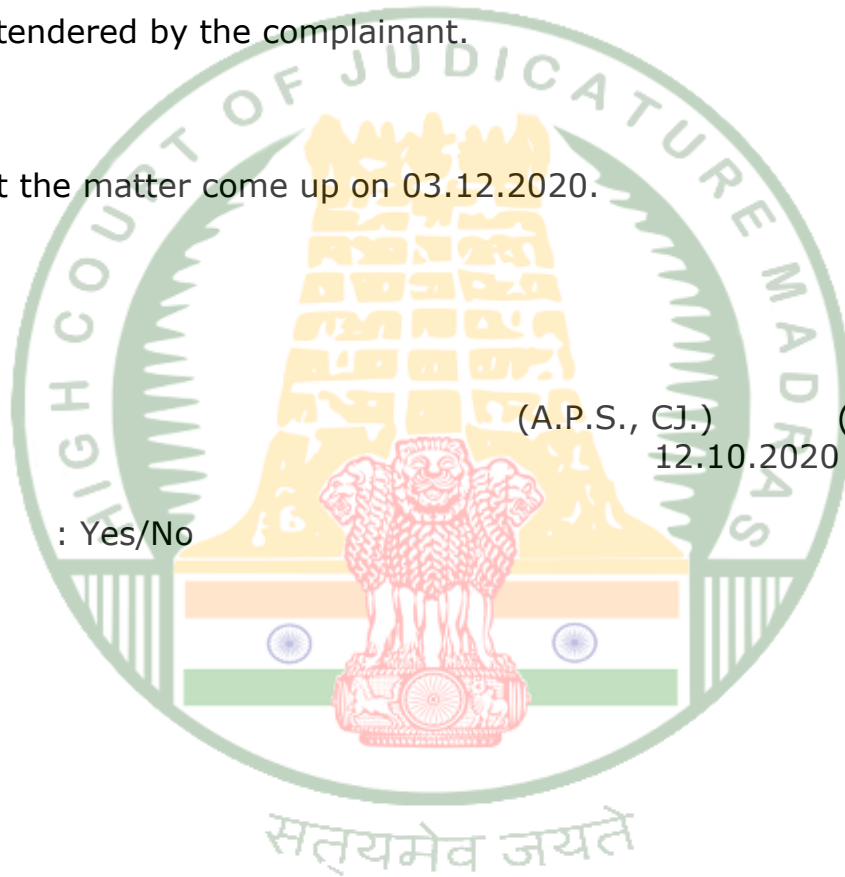
parties may also shed light on a very peculiar clause that has been incorporated under Clause 12(8) of the Scheme which provides that if any Award is rendered by Ombudsman it shall lapse and shall be of no use unless a letter of acceptance of full and final settlement of the claim is tendered by the complainant.

Let the matter come up on 03.12.2020.

(A.P.S., CJ.) (S.K.R., J.)
12.10.2020

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: Yes/No

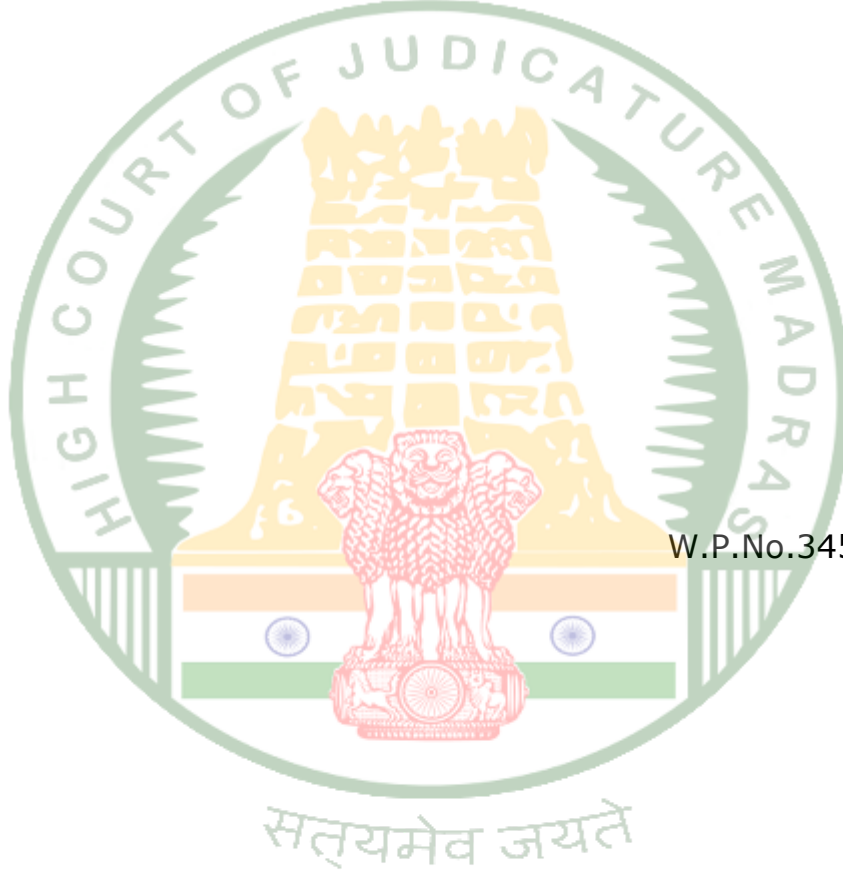


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