

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF APRIL 2019

PRESENT

THE HON'BLE MR. JUSTICE B.VEERAPPA

AND

THE HON'BLE MR. JUSTICE R.DEVDAS

WRIT PETITION NO.20126/2019 (S-RES)

BETWEEN:

MRS. B.SUDHA
ADVOCATE
KAR NO.1772/1999
THE LEGAL ATTORNEYS AND BARRISTERS
NO.7, 2ND FLOOR, WALTON ROAD
BANGALORE 560001 ... PETITIONER

(BY SMT. B SUDHA, PARTY IN PERSON)

AND:

1. THE UNION OF INDIA
PARLIAMENT HOUSE
SANSAD MARG, GOKULNAGAR
JANPATH CANNAUGHT PLACE
NEW DELHI 110 001
REP BY ITS SECRETARY

2. THE MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA
IS-II DIVISION
ROOM NO.10, 2ND FLOOR GALLERY
MAJOR DHYAN CHAND
NATIONAL STADIUM, INDIA GATE
NEW DELHI 110 002
REP BY ITS DEPUTY SECRETARY

3. THE DIRECTOR GENERAL
NARCOTICS CONTROL BUREAU
WEST BLOCK-I, WING-V
R K PURAM, NEW DELHI-110003

4. THE ZONAL DIRECTOR
MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA
NARCOTIC CONTROL BUREAU
BANGALORE ZONAL UNIT
NO.7/1-2, BAGALUR MAIN ROAD
PRIYANKA VILAS, RAMANNA GARDEN
KATTIGEHALLI
BENGALURU-560064

5. THE DEPUTY DIRECTOR GENERAL (OPS)
NARCOTICS CONTROL BUREAU
(MINISTRY OF HOME AFFAIRS)
WEST BLOCK-1, WING NO.5
R K PURAM, NEW DELHI-110066. ... RESPONDENTS

(BY SRI B.PRAMOD, CGC)

THIS WRIT PETITION FILED BY PARTY-IN-PERSON PRAYING TO ISSUE DIRECTION TO RESPONDENT-AUTHORITIES TO NOT TO PROCEED WITH THE SCHEME FOR APPOINTMENT OF SPECIAL PUBLIC PROSECUTORS (SPPs) IN NARCOTICS CONTROL BUREAU ISSUED BY R-2 DATED 22.2.2019 VIDE ANNEXURE-A AS THE SAME IS ILLEGAL, ARBITRARY ETC.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, **B.VEERAPPA J.**, MADE THE FOLLOWING:

ORDER

1. This writ petition is preferred by Ms. B.Sudha, practicing Advocate, Bangalore seeking for a direction to the respondent-authorities to not to proceed with the Scheme for appointment of Special Public Prosecutors (SPPs) in

Narcotics Control Bureau issued by respondent no.2 dated 22.02.2019 (Annexure-A) as the same is illegal and arbitrary and also to direct the respondent-authorities to reconsider Proforma-A, Proforma-B, Proforma-C and Proforma-D for appointment as Special Public Prosecutors in Narcotics Control Bureau and thereafter call for applications for the post of Special Public Prosecutors, Narcotics Control Bureau.

2. Petitioner, who appears in person, alleged that she is a practicing Advocate vide KAR No.1772/1999 and a permanent member of Bangalore Advocates' Association, High Court unit and she came to know through her Colleague that respondent no.2, by its letter dated 22.02.2019, has approved the Scheme for appointment of Special Public Prosecutors in Narcotics Control Bureau with certain guidelines. According to the party-in-person, the present writ petition is confined to Proforma-C i.e. recommendation of District and Sessions Judge. She contended that the recommendation of District and Sessions Judge for appointment of Special Public Prosecutors in

Narcotics Control Bureau is illegal and arbitrary and is nothing but abuse of process and interference of this Court is necessary. She further contended that the act of the respondents insisting Proforma-C is nothing but appointment of Special Public Prosecutors in Narcotics Control Bureau is made based on recommendation by the District and Sessions Judge and not on merits. Therefore, she sought to allow the writ petition as prayed for.

3. Per contra, on taking notice to the respondents, Sri B.Pramod, learned CGC submits that the writ petition in the form of PIL is not maintainable merely because the petitioner is a practicing advocate and cannot challenge the same. He further contended that the petitioner has no *locus standi* seeking for a direction to the respondent-authorities and sought for dismissal of the writ petition.

4. Having heard the learned counsel for the parties, it is not in dispute that the Government of India, Ministry of Home Affairs, by its letter dated 22.02.2019, has approved the Scheme for appointment of SPPs in Narcotics Control

Bureau. It is relevant to refer to paragraph 1.3 of the Scheme, which reads as follows:

"1.3 The checklist of the required documents to be submitted by the Candidate:

- (a) Personal profile/Bio-data by the applicant duly typed along with passport size coloured photograph Proforma-A.
- (b) Self-attested data of the important criminal cases including NDPS Cases handled during the last 10 years in Proforma-B.
- (c) Self-attested certificate by the advocate to show that he has been in practice as an advocate for not less than ten years.
- (d) Recommendation certificate from the District and Sessions Judge in Proforma-C."

5. The challenge in the present writ petition is only with regard to Proforma-C i.e. the recommendation certificate from the District and Sessions Judge after consulting with the Administrative Judge/Portfolio Judge. As per paragraph 1.3 of the Scheme, the candidate who fulfills the conditions/documents prescribed in (a) to (c) then only (d) document/condition i.e. Proforma-C would come into picture. Therefore, mere recommendation by the learned District and Sessions Judge is not a guiding factor and not

binding on the Central Government or the appointing authority. It is for the respondents to consider each of the applications and pass orders strictly in accordance with law. The petitioner has not made out any legally enforceable and statutory right to issue writ of mandamus as sought for. Accordingly, the writ petition is dismissed.

**Sd/-
JUDGE**

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JUDGE**

hkh.