

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Special Original Jurisdiction )

Wednesday, the Eighth day of January Two Thousand Twenty

PRESENT

THE HON'BLE THIRU.AMRESHWAR PRATAP SAHI, THE CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE SUBRAMONIUM PRASAD

WP No.26762 of 2019  
AND WMP.NO.26150 OF 2019

1 REVENUE BAR ASSOCIATION, [ PETITIONER IN BOTH THE PETITIONS ]  
NEW NO. 115 (FIRST FLOOR), LUZ CHURCH ROAD,  
MYLAPORE, CHENNAI 4 REP BY ITS SECRETARY  
K.A.PARTHASARATHI

Vs

1 UNION OF INDIA, [ RESPONDENT IN BOTH THE PETITIONS ]  
REP BY JT. SECRETARY, MINISTRY OF FINANCE,  
DEPARTMENT OF REVENUE, NORTH BLOCK, NEW  
DELHI 110 001

Writ petitions under article 226 of the Constitutions of India praying that in these circumstances stated therein and in the respective affidavits filed their with the High Court will pleased to

(I) Issue any writ, order or direction more particularly in the nature of a writ of Declaration to declare the Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2019 framed by the respondent vide Notification No. GSE 584(E) dated 21st August, 2019, 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 independency of judiciary, which are part of the basis structure of the Constitution of India, and further contrary to the principles laid down by the Honourable Superme Court of India in Union of India v. R. Gandhi, (2010) 11 SCC 1. in WP.NO.26762 OF 2019 AND ;

(II) to pass an order of injunction restraining the respondent from making any appointments under the Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2019 (IN WMP.NO.26150 OF 2019) pending disposal of the present writ petition NO.26762 OF 2019 Respectively.

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.RAHUL UNNIKRISHNAN, Advocate for the petitioner AND OF M/S.K.SRINIVASAMURTHY SPCGSC on behalf of the Respondent the court made the following order:-

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

Learned counsel for the respondent has placed the following letter dated 1.1.2020 before us:

"F.No.C.18017/9/2019-Ad.1C (CESTAT)

Government of India  
Ministry of Finance  
Department of Revenue

Room No.51-II, North Block

Dated: 01<sup>st</sup> January, 2020

To:

Sh.K.Srinivassa Murthy  
Senior Panel Counsel  
Central Government  
Sarada Nilayam  
No.28, Govindappa Naicken Street  
Chennai - 600 001.

Subject: W.P.No.26762/2019 titled as Revenue Bar Association versus Union of India & Ors. filed before the Hon'ble High Court of Madras - reg.

I am directed to refer to the subject cited above and to say the recently the Hon'ble Supreme Court in its judgment dated 13.11.2019 in Civil Appeal No.8588 of 2019, titled Rojer Mathew v. South Indian Bank Ltd. has given certain directions with regard to qualifications, tenure, selection procedure & other conditions of various Tribunals under Government of India.

2. The Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2019 are being re-examined by the Department keeping in view the aforesaid decision and will be revised after seeking recommendation of the GST Council.

3.The Hon'ble High Court may be apprised of this fact accordingly."

2. Learned counsel for the petitioner contends that the issue was also taken up by a Division Bench of the Delhi High Court in *Bharatiya Vitta Salahkar Samiti and another v. Union of India and others*, [W.P.(C) Nos.6900 of 2018 and 3247 of 2019], whereby it is urged that an interim order was passed on 2.5.2019, which was made absolute on 26.7.2019. It is stated that further appointments had been restrained.

3. We have considered the submissions raised and in this matter, for the present, instead of passing any interim order, we make it clear that any appointment made shall be subject to the outcome of this petition.

Let the matter come up on 21.2.2020. In the event any decision is taken by the Central Government, the same shall be intimated by the learned counsel to the Court.

-sd/-

08/01/2020

/ TRUE COPY /

Sub-Assistant Registrar ( Statistics / C.S. )  
High Court, Madras - 600 104.

TO

1 THE JT. SECRETARY,  
UNION OF INDIA,  
MINISTRY OF FINANCE,  
DEPARTMENT OF REVENUE, NORTH BLOCK,  
NEW DELHI 110 001

C.C. to M/S.RAHUL UNNIKRISHNAN Advocate on payment of  
necessary charges  
C.C.TO M/S.K.SRINIVASAMURTHY SPCGSC SR.NO.280

The Government Advocate, High Court, Madras - 104.

WEB COPY

Order

in

WP No.26762 of 2019  
AND WMP.NO.26150 OF 2019

Date :08/01/2020

From 26.2.2001 the Registry is issuing certified  
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VC (10/01/2020)

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