



2025:TSHC:40880-DB

[3488]

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

**FRIDAY, THE TWENTY SECOND DAY OF AUGUST
TWO THOUSAND AND TWENTY FIVE**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN**

WRIT PETITION NO: 24862 OF 2025

Between:

Kappera Rajesh, S/o. Kappera Rama Chandru, Aged. 29 years, Occ.
Advocate, R/o. Jangala Colony, Venkatadri Palern. Miryalaguda. Nalgonda
District - 508207

...PETITIONER

AND

1. State of Telangana, Represented by its Principal Secretary, Home Department, Secretariat, Hyderabad.
2. Telangana State Level Police Recruitment Board, Represented by its Chairman, DGP Office Complex, Lakidi-ka-pul, Hyderabad

...RESPONDENTS

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus and Declaration, thereby, Declare Rule 5 (column No. 3) of the Telangana State Prosecution Rules, 1992 issued by Respondent No. 1 insofar as it mandates three (3) years active practice in Criminal Courts in the State for recruitment as Assistant Public Prosecutor including para No. 11(c) of Notification bearing Rc No. 234/Rect./Admn-2/2025 dated 15-08-2025 issued by Respondent No. 2 as Unconstitutional being violative of Articles 14 and 16(1) of the Constitution of India, manifestly arbitrary, and Consequently, set-aside the same and Direct the Respondent Nos. 1 and 2 to allow the Advocates to participate in the forthcoming Assistant Public prosecutor exam to be conducted based on Notification Rc No. 234/Rect./Admn-2/2025 dated 15-08-2025 without insistence on 3 years practice.

**IA NO: 1 OF 2025**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay the operation of Rule 5 (column No. 3) of the Telangana State Prosecution Rules, 1992 issued by Respondent No. 1 insofar as it mandates three (3) years active practice in Criminal Courts in the State for recruitment as Assistant Public Prosecutor including para No. 11(c) of Notification bearing Rc No. 234/Rect./Admn-2/2025 dated 15-08-2025 issued by Respondent No. 2, pending disposal of the Writ petition.

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to Direct the Respondent No. 2 to allow the Petitioner to participate in forthcoming Assistant Public prosecutor exam to be conducted pursuant to Notification Rc No. 234/Rect./Admn-2/2025 dated 15-08-2025 without insistence on 3 years practice by taking, online application also issuing Hall ticket, pending disposal of the Writ petition.

Counsel for the Petitioner: SRI B.AKASH KUMAR

Counsel for the Respondent No.1: SRI B.KRISHNA, GP FOR HOME

**Counsel for the Respondent No.2: SRI C.RAJA SEKHAR REDDY,
SC FOR TSLPRC**

The Court made the following: ORDER



THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH

AND

THE HON'BLE SRI JUSTICE G.M. MOHIUDDIN

WRIT PETITION No.24862 of 2025

ORDER:

This writ petition is filed seeking to declare Rule 5 (column No. 3) of the Telangana State Prosecution Rules, 1992 issued by respondent No.2 insofar as the condition requiring a minimum of three years active practice in criminal Courts for recruitment as Assistant Public Prosecutor, as arbitrary and violative of Articles 14 and 16(1) of the Constitution of India and to set aside the same.

2. Heard Sri B. Akash Kumar, learned counsel for the petitioner, Sri B. Krishna, learned Government Pleader for Home appearing for respondent No.1, Sri C.Raja Sekhar Reddy, learned Standing Counsel for Telangana State Level Police Recruitment Board (TSLPRC) and perused the record.

3. The petitioner, an Advocate, enrolled on 26.08.2023 contends that he is deprived of an opportunity to apply for the post of Assistant Public Prosecutor inasmuch as he lacks the requisite three years standing at the Bar as mandated in the impugned notification.

4. The main grounds urged by the petitioner are:-

- i) that the classification between Advocates with less than three years into one category and Advocates with three or more years practice into another category, is not based on any intelligible criteria and is therefore unjust and bears no rational nexus with the object of the rule of appointment of Assistant Public Prosecutors.
- ii) the mere enrolment of three years does not guarantee additional competence for being appointed as Assistant Public Prosecutor, which makes the rule illusory, and in any event the persons selected for appointment would be provided to training.
- iii) Section 19 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'the BNSS') does not prescribe such a mandatory requirement of three years for Assistant Public Prosecutors as specified in Section 18 for the appointment of Public Prosecutors and the said condition in the notification which is in the nature of subordinate Rules is *ultra vires*.
- iv) that the office of the Assistant Public Prosecutor is an independent office and not that of a Government servant, in the strict sense. Therefore, the Article 309 of the Constitution of India and the rule making power contained therein cannot be made applicable for the post of Assistant Public Prosecutor.



5. *Per contra*, the learned Government Pleader for Home representing the State supported the notification issued by respondent No.2 and contended that:

- i) the requirement of three years practice is a well reasoned stipulation and exists in many states and is intended to ensure that the Assistant Public Prosecutors, who conduct criminal prosecutions on behalf of the State, possess atleast a minimum level of practical familiarity with the Court procedure;
- ii) the functions of the Assistant Public Prosecutor are not merely academic but involve handling criminal cases, examining and cross-examining witnesses and advancing arguments in accordance with law, which are all tasks for which practical experience at the bar is indispensable,
- iii) the classification of Advocates into two classes, namely, Advocates with less than three years of active practice and Advocates with more than three years of active practice is rational and has a direct nexus with the purpose of appointment of Assistant Public Prosecutors with some practical experience, whose appointment is governed by the Service Rules framed by the respective State Governments,
- iv) the Assistant Public Prosecutors have been held to be employees of the State holding civil posts by the Hon'ble



Supreme Court in the case of ***State of Uttar Pradesh and another v. Johri Mal***¹.

v) the mandatory condition of three years of active practice does not override Section 19 of the BNSS, rather it supplements Section 19 of the BNSS, by prescribing service conditions pursuant to the Rule making power vested under Article 309 of the Constitution of India.

6. On the basis of rival submissions, the following questions arise for determination:

1) Whether the imposition of the requirement of minimum active practice of three years for appointment as Assistant Public Prosecutors is violative of Articles 14 and 16 of the Constitution of India?

2) Whether the impugned Rule and notification are *ultra vires* to the BNSS, 2023?

3) Whether the writ petition warrants interference by this Court?

Discussion and findings:

POINT No.1:

7. The contention of the writ petitioner that the law graduates without possessing minimum practice requirement

¹ (2004) 4 SCC 714



are equally equipped to discharge the duties of an Assistant Public Prosecutor cannot be accepted. While academic knowledge of substantive and procedural laws is acquired in the law school, prosecution entails applied advocacy skills, including conducting of trials, resisting bail applications, understanding police investigations and presenting arguments in Court, most of the times against experienced defence counsel.

8. The requirement of minimum active practice of three years in criminal Courts ensures that the candidates have exposure to litigation on the criminal side, atleast at the foundational level and are exposed to various nuances of criminal law. The classification is thus based on an *intelligible differentia* namely actual exposure to the practice of criminal law and has a rational nexus to the object sought to be achieved by having competent Assistant Public Prosecutors.

9. The Hon'ble Supreme Court while dealing with the prescription of minimum period of practice as eligibility for the post of Junior Civil Judges in the case of ***All India Judges Association v. Union of India***², has upheld a similar classification in respect of appointment of Civil Judge (Junior Division) and held that:

² 2025 SCC OnLine SC 1184

58. neither knowledge derived from books nor pre-service training could be an adequate substitute for the first-hand experience of the working of the court-system and the administration of justice begotten through legal practice. This Court found that the experience as a lawyer was therefore essential to enable the Judge to discharge his/her duties and functions efficiently and with confidence and circumspection...

10. This Court is of the view that the principles laid down by the Hon'ble Supreme Court mandating that all the High Courts and State Governments in the Country amend the relevant Service Rules to the effect that candidates appearing in the examination for the post of Civil Judge (Junior Division) must have practice for a minimum period of three years to be eligible for the said examination, applies with equal force and rigour to the post of Assistant Public Prosecutor.

11. Further, the mandatory condition of three years of active practice in the criminal Court is certainly not a condition, which is inconsistent either with the statute or with the object of maintaining standards in the criminal justice system sought to be achieved.

POINT No.2:

12. The argument that Section 19 of the BNSS is silent on the mandatory minimum experience does not by any stretch of



imagination imply, that no such requirement can be imposed by the appointing authority.

13. The statutory silence in Section 19 of the BNSS does not bar the Government or the Telangana State Level Police Recruitment Board from supplementing the Service Rules, under Article 309 of the Constitution of India so long as they are not inconsistent with the statute.

14. The minimum active practice of three years in criminal Courts is a scheme devised by the State aligning with the legislative framework for the purpose of ensuring competence of the Public Prosecutors. The said requirement does not travel beyond the parent enactment and cannot be said to be *ultra vires* the BNSS, 2023.

POINT No.3:

15. The scope of judicial review in matters where the validity of a Rule is challenged, is restricted. The State as the appointing authority has liberty in prescribing qualification for recruitment, with which Courts normally do not interfere in exercise of judicial review, unless the said Rules are completely arbitrary or irrational. The prescription of the minimum active practice of three years for appointment ~~as~~ Assistant Public



Prosecutors is neither arbitrary nor irrational and does not warrant interference by this Court.

16. The petitioner has also submitted that there has been no notification for the post of Assistant Public Prosecutors for the past few years, which we do not find as a reason sufficient to fault the prescription of minimum condition as prescribed in the notification.

17. For the reasons mentioned above, we hold that the prescription of three-year active practice condition as a mandatory condition for eligibility to the post of Assistant Public Prosecutors is rational, reasonable and legally valid.

18. The impugned Rule 5 of the Telangana State Prosecution Rules and the notification dated 15.08.2025 are thus held to be valid. The prescription in the notification of active practice of three years in the criminal Courts as an essential condition for appointment as Assistant Public Prosecutors is not violative of Articles 14 or 16 of the Constitution of India as contended by the petitioner. Thus, the writ petition is without any merits and is liable to be dismissed.



19. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, shall stand closed.

SD/- M. JAWAHAR REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to SRI B.AKASH KUMAR, Advocate [OPUC]
2. One CC to SRI C.RAJA SEKHAR REDDY, SC FOR TSLPRC [OPUC]
3. Two CCs to GP FOR HOME, High Court for the State of Telangana at Hyderabad [OUT]
4. Two CD Copies

BSR

GJP

Pme.



2025:TSHC:40880-DB

HIGH COURT

DATED: 22/08/2025

ORDER

WP.No.24862 of 2025



**DISMISSING THE WRIT PETITION,
WITHOUT COSTS**

⑦ PMG.

22/11/25