

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) D.NO(s). 1463 OF 2007

SUPREME COURT BAR ASSOCIATION

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With office report)

Date: 12/01/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE Dr. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner(s)

Mr. M.N.Krishnamani, Sr. Adv.

Mr. Sunil Kumar Jain,Adv.

Mr. S.Borthakur, Adv.

Mr. Soumyajit Pani, Adv.

For Respondent(s)

Mr. Gopal Subrmaniam, ASG,

Ms. Sushma Suri, Adv.

UPON hearing counsel the Court made the following

O R D E R

of a Primary stand in this writ petition is that appointment

retired Judge as Executive Chairman of any State Legal Service Authority

has many practical difficulties which result in creating hurdles in proper functioning of the Authority. It is contended that as a result the laudable objectives of the Legal Services Authorities Act, 1987 get frustrated. It is submitted that in some cases, in departure from decade old practices resulting in exemplary results, a retired judge is appointed as Executive Chairman. Though statute provides for such appointment, it should not be on the basis of any ipsi dixit and there should be rational basis for a decision in this regard.

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Issue notice.

Mr. Gopal Subramaniam, learned Additional Solicitor General takes notice on behalf of Union of India. He stated that there is substance in the plea of the petitioner.

Issue notice to other states also. They are permitted to be served through the counsel of the concerned states. Dasti service, in addition, is permitted. Prayer is made for stay of appointment of all retired Judges functioning as Executive Chairmen of State Authorities. We do not think it appropriate to direct such blanket stay.

As an interim measure, we direct that appointment of any retired Judge made after 1st December, 2006 shall not be given effect to. Order/Notification, if any, issued in that regard shall remain stayed. In

the meantime, the senior most Judge of the concerned High Court or on his declining, the next senior most Judge and so on shall function as the Executive Chairman until further orders. Notification in this regard shall be issued forthwith. Records of the High Court and State Government relating to the impugned appointment shall be produced.

List on 26.02.2007.

(Shashi Sareen)  
Court Master

(Madhu Saxena)  
Court Master