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W.P(C)No. 662 OF 1998

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ITEM No.101

Court No.1

SECTION X

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

WRIT PETITION (C) NO.662 OF 1998@@
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Rajasthan Legal Service Association & Anr. Petitioner (s)

VERSUS

State of Rajasthan & Ors. Respondent (s)

(With appln. for innterim directions and office report)

Date : 15/03/2001 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE DORAISWAMY RAJU

For Petitioner (s) Mr. A.S. Nambiar, Sr. adv.
Mr. P.K. Manohar, adv.
Mr. Sewa Ram, adv.
Mrs. Shanta Vasudevan, adv.

For Respondent (s) Mr. Sushil Kumar Jain, AAG.
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RR-4 Mr. Aruneshwar Gupta, adv.

RR-5 Mr. B.D. Sharma, adv.

UPON hearing counsel the Court made the following
O R D E R

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The writ petition is disposed of in terms of the
signed order. No costs.

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(Neena Verma)
Court Master

(Prem Prakash)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO.662 OF 1998@@
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Rajasthan Legal Service Association
and Anr. Petitioners

Versus

State of Rajasthan & Ors. Respondents

O R D E R@@
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The petitioners are members of Rajasthan Legal Service. Consequent upon the judgment of this Court in All@@
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India Judges' Association and Ors. etc. etc. Vs. Union@@
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of India & Ors. etc. etc. (1993 (4) SCC 288), the State@@
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of Rajasthan amended Rajasthan Judicial Service Rules by Rajasthan Judicial Service (Amendment) Rules, 1994 and an additional condition was incorporated in the Rules in terms of the directions given in para-20 of the Second Judges Case. That direction reads as follows :

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"We, therefore, direct that all States shall take immediate steps to prescribe three years' practice as a lawyer as one of the essential qualifications for recruitment as the judicial officer at the lowest rung."

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The First National Judicial Pay Commission, which was set up as per directions given in Writ Petition No.1092 of 1989 on 13.11.1991, has since submitted its report. One

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of the issues considered in that report also pertains to recruitment to the judicial service at all stages and prescription of qualifications for recruitment as a judicial officer at the lowest rung.

The petitioners submit that the direction given in paragraph 20 in the Second Judges Case (supra) is being interpreted by the State as a restraint on its power to legislate or make amendments to Rajasthan Judicial Service Rules relating to qualifications for recruitment. That does not appear to be the intention of the above direction. To allay this apprehension expressed before us, we clarify that

observations made in paragraph 20 of the Second Judges Case (supra) were not meant to operate as any restraint on the power of the State to legislate, in consultation with the High Court, and amend or frame rules pertaining to recruitment to judicial service including prescription of qualifications therefor. However, while framing or amending such rules, we have no doubt that the State as well as the High Court shall keep in mind various pronouncements of this Court as also the suggestions made by the First National Judicial Pay Commission in that behalf. As and when such an amendment is carried out or new rule framed, it would be open to any aggrieved party to question its validity or

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constitutionality, but at this stage, we express no opinion about it.

With the above observations, the writ petition is disposed of. No costs.

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.....CJI.

.....J.
(R.C. LAHOTI)

New Delhi,
March 15, 2001.

.....J.
(DORAISWAMY RAJU))