

ITEM NO.15

COURT NO.1

SECTION IX

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

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 45299/2023

(Arising out of impugned final judgment and order dated 20-10-2023 in WP No. 3680/2023 passed by the High Court Of Judicature At Bombay At Nagpur)

GANESHKUMAR RAJESHWARRAO SELUKAR & ORS.

Petitioner(s)

VERSUS

MAHENDRA BHASKAR LIMAYE & ORS.

Respondent(s)

(IA No.231990/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.231993/2023-EXEMPTION FROM FILING O.T. and IA No.231989/2023-PERMISSION TO FILE PETITION (SLP/TP/WP/..))

Date : 10-11-2023 This petition was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Nishant Ramakantrao Katneshwarkar, AOR

For Respondent(s) Dr. Tushar Mandlekar, Adv.
Ms. Anju Thomas, AOR
Ms. Mantika Haryani, Adv.
Ms. Muskan Surana, Adv.

Mr. Rajat Srivastav, AOR
Mr. Vinod Khera, Adv.

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

- 1 Permission to file the Special Leave Petition is granted.
- 2 Both Mr Nishant Ramakantrao Katneshwarkar, counsel appearing for the

Petitioner and Dr Uday Warunjikar, counsel appearing on behalf of the intervenor state that the State of Maharashtra has also filed a Special Leave Petition against the impugned judgment of the High Court which is likely to be listed after the ensuing Diwali recess of the Court.

- 3 The High Court has set aside the selection process which was conducted by the State Government primarily on the ground that while issuing directions under Article 142 of the Constitution, this Court, by its judgment dated 3 March 2023, had issued directions in regard to the manner in which the examination for selecting members of the State Commission and District Fora would be conducted pending the finalisation of the Rules. The Rules have been framed by the Central Government on 21 September 2023.
- 4 It appears from the judgment of the High Court that the High Court was of the view that it was not open to the State Government to enhance the number of questions in Paper-II from one essay to two essays and one case study to two case studies. The State Government directed that one of the essays and one of the case studies would have to be answered in Marathi. While the case of the petitioners is that this was legitimately done by the State Government to ensure proficiency in the language of the State, the submission which has found favour with the High Court is that this was contrary to the directions of this Court under Article 142 of the Constitution.
- 5 Apart from this, counsel appearing on behalf of the original petitioner before the High Court on caveat (the first respondent) submits that the State Government erroneously reduced the total number of marks from 100 marks for Paper-I as

prescribed by the directions of this Court under Article 142 of the Constitution to 90 marks on the ground that certain questions were erroneously framed. The submission of the first respondent is that even if that be so, the appropriate course of action would have been to allocate the marks pro rata to the remaining questions.

6 The High Court has held on the composition of the Selection Committee, the judgments of this Court were not complied with inasmuch as the selection committee consisted of only one nominee of the Chief Justice and two representatives of the State Government.

7 The submission is that for the selection to the consumer fora, there would be two distinguishing features from the judgments in ***Roger Mathew Vs South Indian Bank Limited & Ors***¹; ***Madras Bar Association (M.B.A. III) Versus Union of India & Anr***²; and ***Madras Bar Association (M.B.A. IV) Versus Union of India & Anr***³, namely :

- (i) The holding of the interviews is proceeded by a written examination which has to be cleared by all candidates; and
- (ii) Before other Tribunals, the State is interested in the outcome of the litigation being a contesting party, whereas before the consumer fora, the State has no interest in the litigation which ordinarily concerns private litigating parties.

1 (2020) 6 SCC 1]

2 (2021) 7 SCC 369

3 (2021 SCC OnLine SC 463

- 8 The issues which have been raised by the petitioner would require further deliberation.
- 9 Issue notice returnable on 24 November 2023.
- 10 Appointments were made by the State Government on 5 October 2023 after the judgment was reserved by the High Court on 01 September 2023 but before it was pronounced on 20 October 2023. Since the persons who are working at present would stand to be removed as a consequence of the impugned judgment of the High Court, we direct that the interim stay which was granted by the High Court shall continue to remain in operation till 24 November 2023.
- 11 List the Special Leave Petition on 24 November, 2023.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR