

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. 1005 OF 2022

Shri Mathews J. Nedumpara & Ors.

...Petitioner(s)

Versus

Hon'ble The Chief Justice of India & Ors ... Respondent(s)

O R D E R

1. By way of the present writ petition, the petitioners have invoked the Civil Original Jurisdiction of this Hon'ble Court under Article 32 of the Constitution of India on the premise that the Collegium System of appointment of judges has resulted in the denial of equal opportunity for the petitioners and thousands of lawyers. The petitioners primarily seek mechanism in place of the Collegium and prays for reconsideration on the striking down of the National Judicial Appointments Commission Act, 2014. The petitioners have *inter alia* sought for the following reliefs as prayed for in the instant petition:

(a) to declare that the collegium system and favoritism, nay, has resulted in the denial of fair opportunity in the selection and appointment of Judges of the Supreme Court and High Courts to petitioner Nos. 1 to 6 who are practising lawyers and thousands of others who are equally, if not, more deserving, but less privileged, lest their fundamental right for equal

Sd/L

opportunity for being considered for such appointments if not deprived;

(b) to direct the Collegium of this Hon. Court and High Courts to notify the vacancies in the office of the Judges of the Supreme Court and High Court and invite applications from all eligible and desirous and select the most deserving, ideally allowing the public at large to offer objections, if any;

(c) to declare that the Constitution (Ninety-ninth Amendment) Act, 2014 and the NJAC Act are the will of the people on a matter which falls in the exclusive province of legislative and executive policy, namely, the appointment and transfer of the Supreme Court and High Courts, that the same is not justiciable and that the judgment of this Hon. Court in SCAORA vs. Union of India (2016) 5 SCC 1, popularly known as the NJAC Case, is one rendered void ab initio, non-est, still born, one which never ever existed in the eyes of law; and

(d) to declare that the Rules of the Supreme Court mandating that a Curative Petition can be instituted only upon procuring a Certificate of a Senior Advocate that there exist sufficient grounds for its institution is violative of the fundamental rights of the petitioners and has led to denial of their very right to access to justice.

2. Perused the petition. The petitioners have alleged that the prevailing Collegium System which has evolved by way of second and third Judges case is not effective for maintaining and procuring records of administrative functions in Higher Judiciary nor it is effective so as to apprise the general public about the candidates who have been appointed to Supreme Court. It has been alleged by him that there is no fixed criteria and procedure for appointment of Judges.

3. It is pertinent to mention here that on examination it has been noticed that the issues raised in the instant matter and directions sought for have already been examined and adjudicated upon by a Constitution Bench of this Hon'ble Court. This Hon'ble Court in the matter of Writ Petition (Civil) No.13/2015 etc. titled as "Supreme Court Advocates-on- Record Association and Anr. vs. Union of India " while hearing the matter in Constitution Bench comprising five Hon'ble Judges rendered the Judgment on 16.10.2015 inter-alia, holding as under:

".....the prayer for reference to a larger Bench, and for reconsideration of the Second and Third Judges cases [(1993) 4 SCC 441, and (1998) 7 SCC 739, respectively] is rejected; the Constitution (Ninety-ninth Amendment) Act, 2014 is declared unconstitutional and void; the National Judicial Appointments Commission Act, 2014, is declared unconstitutional and void; the system of appointment of Judges to the Supreme Court, and Chief Justices and Judges to the High Courts; and transfer of Chief Justices and Judges of High Courts from one High Court, to another, as existing prior to the Constitution (Ninety-ninth Amendment) Act, 2014 (called the "collegium system"), is declared to be operative."

4. It is relevant to mention here that even the Review Petition subsequently filed in the matter bearing Review Petition (Civil) No. 3831 of 2018 titled as "National Lawyers Campaign for Judicial Transparency and Reforms its Gen. Secretary and Ors. vs. Supreme Court Advocates on Record Association and ors." was also dismissed

by a Constitution Bench of this Court on 27.11.2018 holding as under:

“There is a delay of 470 days in filing the present Review Petition, for which no satisfactory explanation has been offered. The Review Petition is liable to be dismissed on the ground of delay alone. Even otherwise, we have carefully gone through the Review Petition and the connected papers. We do not find any merit in the same. The Review Petition is dismissed on the ground of delay as well as on merits.”

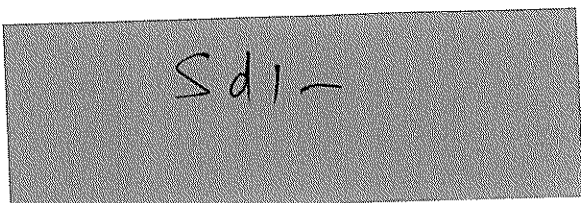
5. It appears that the petitioners are in a manner challenging the striking down of Constitutional Ninety-ninth Amendment Act, 2014 and National Judicial Appointment Commission Act, 2014 by which the Constitution Bench of this Hon'ble Court had declared both the Acts unconstitutional and void vide Judgment dated 16th October, 2015.

6. By virtue of the present petition, the petitioners under the garb of original jurisdiction are seeking review of the judgment dated 16th October, 2015 remedy of which has already been exhausted in Review Petition (Civil) No. 3831 of 2018 and the same cannot be legally permitted to be re-agitated again. Moreover, once the Hon'ble Court has been pleased to settle down a law the same cannot be allowed to be reopened by invoking civil original jurisdiction of this Court.

7. In my opinion the prayers as have been sought for have already elaborately been covered in the aforementioned judgment which is a *judgment in rem* dated 16th October, 2015. The present petition, in one manner or the other replicates the issues as have already been put to rest by detailed Judgment (supra). In order to prevent needless waste of judicial time and energy, it is critical to ensure litigants do not overburden courts with the matters already stands adjudicated. Additionally, the repeated litigation of an already adjudicated matter is generally not in the public's best interest. The principle of *res-judicata* bars the invoking of provisions of law as sought by the petitioner. It appears that the present petition has been filed in order to over-reach the principles of settled law or with some ulterior motive.

8. Therefore, in view of the said aspect as discussed above and in light of the reconsideration of the registration of the present matter, I am of the considered view that this is a fit case which attracts Order XV Rule 5 of the Supreme Court Rules, 2013. and entails non-registration. Accordingly, I hereby, hold that the registration of the present case was not proper and by virtue of Order XV Rule 5 of the Supreme Court Rules, 2013, I hereby, decline to receive the same.

9. Ordered accordingly.



Sd/-

10. The petitioners-in-person be informed.

Sd/-

(Puneet Sehgal)
Registrar (J-A)
24.04.2024

Additional Registrar (IB)