

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.03.2015

Coram:

The Honourable **Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE**

and

The Honourable Mr.Justice **M.M.SUNDRESH**

W.P.SR.No.20656 of 2015

V.Vasanthakumar

.... Petitioner

Versus

1. Sri H.C.Bhatia
Deputy Secretary to Government of India
Ministry of Law and Justice
Department of Justice, Jaishmer House
New Delhi 110011.

2.The Secretary,
Ministry of Law and Justice
Department of Justice,
Jaisalmer House, Man Singh Road,
New Delhi.

3.The Chief Secretary
Government of Tamil Nadu
Fort St. George, Chennai

... Respondents

Petition filed under Article 226 of the Constitution of India praying
for the issue of a writ mandamus, calling for the records in the proceedings of

the first respondent dated 03.12.2014, comprised in No.K=12011/01/2014=US.1 and quash the same and consequently direct the respondents to reconsider the representation of the petitioner dated 21.11.2013 for implementation of the suggestion of the Constitutional Bench of the Supreme Court reported in 1986 (4) SCC 767 (Bihar Legal Support Society vs. Chief Justice of India) for the establishment of National Court of Appeal with its Regional Benches at Chennai, Mumbai and Kolkatta within a time frame.

For Petitioner ::: Mr.V.Vasanthakumar (Party-in-person)

ORDER

(The Order of the Court was made by The Hon'ble The Chief Justice)

The writ petition is posted before this Court for maintainability.

2. The Hon'ble Supreme Court in the context of a number of bail applications coming before it, had observed in a passing reference_in *Bihar Legal Support Society v. Chief Justice of India, 1986(4)SCC 767*, about the desirability to set up a National Court of Appeal with the present Apex Court only dealing with the questions of Constitutional and Public Law. In W.P.No.139 of 2014 filed by the petitioner before the Honourable Supreme Court of India, an order was passed on 10.10.2014, calling upon the respondent/Union of India to consider the representation made by the

petitioner dated 21.11.2013 in the aforesaid context. That representation made by the petitioner, an Advocate, in turn had relied upon the decision *Bihar Legal Support Society case* cited supra, to canvas the case of setting up of a National Court of Appeal and with the object of providing geographical proximity of the Court to the public at large.

3. The aforesaid representation has been considered and the decision communicated to the petitioner vide letter dated 03.12.2014. In terms of the said communication, the issue of setting a National Court of Appeal or Benches of the Honourable Supreme Court in other part of the country was taken up by the Central Government with the Honourable Chief Justice of India on several occasions and it was opined successive Chief Justices have consistently opposed the setting up of Supreme Court Regional Benches outside Delhi. The Attorney General was consulted in the manner recommended by the Law Commission in its 229th report and he opined that amendment to Article 130 was impermissible as this would change Constitution of the Supreme Court completely. Thus the representation stands rejected.

4. The case of the petitioner now is that this communication should be quashed and the matter should be re-considered qua setting up of a National Court of Appeal.

5. In our view, the subject matter itself brooks of various opinion – (i) Whether National Court of Appeal should be set up, (ii) Whether there should be different divisions of the Honourable Supreme Court and (iii) Whether in certain matters, the decision of the respective High Court should be treated as final within the Constitutional scheme. It is also interlinked with the issue as to how many tiers of appeals are required to be provided for different subject matters.

6. This is a matter of legislation and Constitutional amendment. The representation of the petitioner having been examined and rejected, we are of the view that the petitioner cannot keep on agitating re-consideration of the issue again and again by filing the present writ petition and such a petition would not be maintainable.

7. We thus dismiss the writ petition as not maintainable. No costs.

(S.K.K., CJ) (M.M.S., J.)

05.03.2015

ksr

To

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The Hon'ble The Chief Justice
and
M.M.Sundresh, J

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