
(2000) 03 AP CK 0035

In the Andhra Pradesh High Court

Case No : Writ Petition No. 22717, 26763 of 1999 and CC No. 2074 of 1998

G. Seshamma

APPELLANT

Vs

Government of Andhra Pradesh and others

RESPONDENT

Date of Decision : 15-03-2000

Acts Referred:

Andhra Pradesh Law Officers (Appointment and Conditions of Service) Rules, 1999 — Rule 23, 5(2), 7
Andhra Pradesh State and Subordinate Service Rules, 1996 — Rule 22

Citation : (2000) 3 ALD 54 : (2000) 2 ALT 749 : (2000) 2 APLJ 457 : (2000) 2 APLJ 17

Hon'ble Judges : V. Eswaraiah, J

Bench : Single Bench

Advocate : Mr. M.V.S. Suresh Kumar, for the Appellant; Government Pleader for Home, Mrs. M. Bhaskara Lakshmi and Mr. K. Someshwara Kumar, for the Respondent

Judgement

1. These two writ petitions and the contempt case are filed by Smt. G. Seshamma, an Advocate practicing at Kovvur Court of Nellore District since 1978.

2. She filed WP No.22717 of 1999 stating that on the request of the District Collector, Nellore, the District Judge, Nellore, by his proceedings issued in the month of November, 1999 requested the senior civil Judge, Kovvur to submit a panel containing three names of practicing advocates with their Bio-Data for being sent to the government for appointment Assistant Government Pleader for Senior Civil Judge's Court and Junior Civil Judge's Court at Kovvur duly considering the names of OC/ ST/BC and Women Advocates, having seven years standing at the Bar. A copy of the said proceedings was also communicated to all the Advocates of Kovvur Bar Association for furnishing information besides affixing a copy of the said proceedings on the Notice Board of the Senior Civil Judge's Court Kovvur. Pursuant to the same the petitioner also furnished her Bio-Data as required to the Senior Civil Judge, Kovvur. Considering the relative merits of different Bio-Datas of the respective advocates practicing at Kovvur Bar

Association the Senior Civil Judge sent the panel of advocates to the District Judge, Nellore, who forwarded the same to the District Collector, Nellore and the District Collector, Nellore, in turn sent the same to the Government for consideration and appointment of the Assistant Government Pleader at Kovvur Courts of Nellore District. The writ petitioner contended that her name was included in the panel sent by the District Collector, Nellore, to the Government vide Letter Rc.C5. 10041/98, dated 6-2-1999 and however the Government while keeping the said panel pending and without taking any decision on it, a fresh panel was called and the District Collector by Letter No.C5/I0041/98, dated 19-3-1999 have requested the District Judge, Nellore, to submit a panel of three practicing advocates of Kovvur Bar and pursuant to the letter of District Collector dated 19-3-1999, the District Judge, Nellore, vide his Official Memorandum in Dis. No.1588, dated 26-3-1999, requested the Senior Civil Judge, Kovvur, to submit a fresh panel containing three names of practicing advocates and their Bio-Data for being sent to the Government for considering the proposal for appointment to the post of Assistant Government Pleader at the Senior Civil Judge's and Junior Civil Judge's Courts at Kovvur. The official memorandum reads as follows:

The Senior Civil Judge, Kovvur is requested to submit a fresh panel containing three names of practicing advocates with their Bio-Data for being sent to the Government to consider the proposals for appointment to the post of Assistant Government Pleader for Senior Civil Judge's Court and Junior Civil Judge's Court, Kovvur duly considering the names of OC/ST/SC/BC and Women Advocates who are having 7 years standing at the Bar to the undersigned on or before 1-4-1999.

District Court, Nellore Sd/- Dated 26-3-1999. V. Prabhakar Reddy, District Judge, Nellore.

DIS. No.1588, dated 26-3-1999.

To

The Senior Civil Judge (By name),

Kovvur.

Copy to file.

Copy communicated to all the Advocates of Kovvur Bar for furnishing information by 31-3-1999.

Sd/-

Senior Civil Judge,

Kovvur

27-3-1999.

Copy to the Junior Civil Judge, Kovvur.

Copy to the Additional Judicial Magistrate of 1st Class, Kovur, for affixing on the notice Boards of their Courts.

Copy to Notice Board, Senior Civil Judge Court, Kovur.

3. As seen from the said Official Memorandum, a copy of which was communicated to all the Advocates of Kovvur Bar Association for furnishing the information and also a copy of the said official memorandum was affixed on the notice board of the Additional Judicial Magistrate of First Class Court, Kovvur and on the notice board of the Senior Civil Judge's Court at Kovvur. Pursuant to the said official memorandum the petitioner once again furnished her Bio-Data as required for her appointment to the Post of Assistant Government Pleader. She filed this writ petition stating that she came to know that her name was not included in the fresh panel of advocates even though she is a woman candidate available and as per the Government Orders in G.O. Ms. No.57, Law, dated 16-3-1990, as amended by G.O. Ms. No.24, dated 24-2-1996, Special Reservation to an extent of 33V3% is provided for women in each category of Law Officers. She also stated in her affidavit that in a similar case where the rule of reservation in the case of woman candidate namely Ch. Nirmalatha was not considered, she filed WP No.7582 of 1999 and this Court allowed the said writ petition on 5-10-1999 setting aside the order of the Government and directed to implement the rule of reservations as provided in G.O. Ms. No.24, dated 24-2-1996.

4. Writ Petition No.22717 of 1999 was filed on 30-10-1999 and the notice was served on 5-11-1999 and when WPMP No.28473 of 1999 which was filed to stay the appointment of Assistant Government Pleader of Kovvur at Nellore District, this Court issued interim direction on 26-11-1999 which reads as follows:

"The only grievance of the writ petitioner is that the respondents are not following the rule of reservation as contemplated under rule.

Having regard to the facts and circumstances of the case, I am not inclined to grant stay of appointment of Assistant Government Pleader at Kovvur, Nellore District. But the first respondent is directed to follow the rule of reservation in accordance with law while making appointment."

5. As per the aforesaid direction, the Government of Andhra Pradesh, represented by its Secretary, Law Department, Secretariat, Hyderabad, was specifically directed to follow the rule of reservation in accordance with law while making the appointment of the Assistant Government Pleader at Kovvur, Nellore District.

6. In the said WP No.22717 of 1999 counter has been filed on behalf of the Government of Andhra Pradesh, represented by its Secretary, Law Department, Secretariat, Hyderabad, admitting that initially the District Collector, Nellore has sent the panel of three names i.e., (1) Sri G. Syamcharyulu, (2) Sri T. Koteswara

Rao and (3) Smt. G. Seshamma (petitioner herein) for appointment as Assistant Government Pleader in the Courts at Kovvur to the Government in Letter No.C5/10041/98, dated 6-2-1999. The Government have considered the panel and decided to call for a fresh panel and accordingly the District Collector was directed to send a fresh panel. Pursuant to thereof the District Collector, Nellore had sent a revised panel in Letter No.C5/10041/ 98, dated 9-4-1999 consisting of three names of the advocates, i.e., (1) Sri G. Syamacharyulu, (2) Ch. Sunmdra and (3) Sri T. Koteswara Rao in consultation with the District and Sessions Judge, Nellore for making appointment to the post of Assistant Government Pleader for both the Courts for Senior and Junior Civil Judges at Kovvur and appointed Sri G. Syamachatyulu, Advocate, in open category as Assistant Government Pleader and issued orders G.O. Rt. No. 1822, Law, dated 21-12-1999.

7. It is also admitted that as per the amended executive instructions in G.O. Ms. No.24, dated 24-2-1996 instructions 4-A as inserted in G.O. Ms. No.57, Law, dated 16-3-1990 which came into force with effect from 24-2-1996 and the Rule 22 of the Andhra Pradesh State and Subordinate Service Rules, 1996, Special Representation (Reservation) for appointment to the Post of Law Officers were made applicable to the candidates belonging to the reserved categories of OC/BC/SC/ST and also according to the instructions contained in 4-B, it provides 33V1% reservation for women candidates in each category of appointment of Law Officers and for the purpose of implementing the said rule of reservation, all Courts subordinate to the High Court in the State are taken as one unit for appointment and the High Court and A.P. Administrative Tribunal and other Courts in the twin cities of Hyderabad and Secunderabad are taken as another unit of appointment for observing the said rule of reservation. It is also stated that in supersession of the said executive instructions issued in G.O. Ms. No.57, Law, dated 16-3-1990 as amended from time to time the Government issued A,P. Law Officers (Appointment, Conditions of Service) Rules, 1999 issued in G.O. Ms. No.118, Law, dated 28-6-1999 (in short called Rules 1999). According to 7(2) explanation each district is a unit for the purpose of implementing the rule of reservation and after coming into force the said Rules, 1999, Government have made one appointment to the post of Law Officer in Nellore District and Sri Syamcharyulu, Advocate was appointed as Assistant Government Pleader. It is also submitted that as the name of woman candidate was not included in the second panel of the District Collector of 14-4-1999, the Government has appointed eligible qualified and suitable advocate as law Officers to civil Courts to defend the interest of the State in the concerned Courts of Kovvur, Nellore District.

8. It is stated that as the women candidates were not included in the panel of District Collector, Nellore in Rc.C5/1004/ 98, dated 9-4-1999, her name was not considered. A general statement has been made in the counter stating that the Government have to appoint eligible, qualified and suitable advocates as Law Officers to safeguard and defend the interests of the State in the concerned

Courts of the district and the appointment will be made after taking into account, the educational qualification, standing at the bar, the nature of practice, the volume of work, age, antecedents and after considering the relative merits of the panel advocates. With regard to the judgment in which similar appointment was set aside by this Court in Writ Petition No.7582 of 1999, dated 5-10-1999, it is stated that the above reliance placed has no application to the facts of this case since the name of the petitioner was not included in the panel and however the Government have decided to file writ appeal and therefore it is submitted that the petitioner has no locus standi in challenging the process of confidential nature of preparation of panels as the petitioner's name is not found in the panel sent by (he District Collector, Nellore).

9. In view of the fact that one Mr. G. Syamacharyulu, Advocate was appointed as Assistant Government Pleader for Senior Civil Judge and Junior Civil Judge Courts at Kovvur by the Government in G.O. Rt. No. 1822, Law, dated 21-12-1999, the petitioner filed a contempt case in CC No.2074 of 1999 on 27-12-1999 to punish Sri G. Bhavani Prasad, Secretary to Government, Law Department, Hyderabad for violation of the orders dated 26-11-1999 passed in WPMP No.28473 of 1999 in WP No.22717 of 1999 and also the petitioner filed WP No.26763 of 1999 on 28-12-1999 to issue a writ of mandamus and to declare G.O. Rt. No.1822, Law, dated 21-12-1999 issued by the Government, represented by its Secretary to Government, Legal Affairs, Hyderabad, as illegal, arbitrary and unjust. The contempt case came up before me on 31-12-1999 in which I have issued a notice before admission and the sole respondent in contempt case i.e., Secretary to Government, Law Department, filed counter and additional counter which I will deal with regard to the contempt case at a later stage.

10. WP No.26763 of 1999 was filed to issue a writ of mandamus declaring G.O. Rt. No.1822, dated 21-12-1999 as illegal and arbitrary and when the said writ petition came up for admission before my learned brother, Sri Justice O. Raghuram on 30-12-1999 the following order was passed:

"Notice before admission.

Learned Government Pleader for Home undertakes to obtain instructions and file counter.

Prima facie (he appointment of the fourth respondent as Assistant Government Pleader, Kovvur, appears to be contrary to the earlier orders of this Court and the policy of reservation for Women candidates enunciated in the relevant and extent of Government Orders, including G.O. Ms. No.118, dated 28-6-1999. Therefore, the matter has to be heard. Post the writ petition for admission and hearing on 10-2-2000."

When the contempt case came up for hearing it was posted along with these writ petitions and that is how these writ petitions were also posted for hearing and disposal along with the contempt case.

11. It is stated by the learned Counsel for the petitioner in WP No.26763 of 1999 that pursuant of the request of the Government the District Collector, Nellore, in consultation with the District Judge, Nellore and the Senior Civil Judge, Kovvur, the information was obtained and considering the relative merits of the petitioner her name was included in the panel of three advocates and the District Collector in consultation with the District Judge and the Senior Civil Judge, Kovvur forwarded the panel in Rc.C5/1004i/98, dated 6-2-1999 to the Government and the Government without any justification either rejected the panel nor considered the same and while the said panel was subsisting and pending again asked for a fresh panel without any justification and in the said process the name of the petitioner was not included without any reason or justification even though she is available as a contempt woman candidate will all requisite eligible qualification.

12. It is stated that the action of the respondents in not considering the name of the petitioner for appointment as Assistant Government Pleader in the reserved quota of 33 113% reserved for women as per the Government orders in G.O. Ms. No.57, Law, dated 16-3-1990 incorporated by G.O. Ms. No.24, dated 24-2-1996 as illegal and also contrary to the judgment of this Court in WP No.7582 of 1996. It is further stated that there are 13 posts of Law Officers in Nellore District and all the 13 posts are filled up and there is no single woman advocate in the entire district of Nellore and the first respondent has not chosen to implement the rule of reservation as provided in the A.P. Law Officers (Appointment and Conditions of Service) Rules, 1999 issued in G.O. Ms. No.118, dated 28-6-1999 even though when there is an eligible woman candidate available in Kovvur. In those circumstances, it is submitted that the order of the Government in G.O. Ms. No.1822, dated 21-12-1999 appointing the fourth respondent in WP No.26763 of 1999 namely, G. Syamacharyulu as Assistant Government Pleader is illegal and liable to be set aside.

13. A counter filed in the WP No.26763 of 1999 similar to the counter in WP No.22717 of 1999 stating that the District Collector, Nellore in consultation with the District Judge, Nellore sent a panel of three names viz., (1) Sri G. Syamacharyulu, (2) Sri T. Koteswara Rao and (3) Smt. G. Seshamma and the Government have considered the panel and decided to obtain a fresh panel and accordingly the Government issued Memo No.422/L2/99, dated 8-3-1999, requesting the District Collector to furnish a fresh panel consisting of SC/ST/BC and women candidates as per rule of special representation. Pursuant to the said memo, the District Collector, Nellore again consulted the District Judge and sent a panel of three names in which the name of the petitioner is not included for making appointment to the Post of Assistant Government Pleader and therefore the impugned orders in G.O. Rt. No. 1822, dated 21-12-1999 are issued. It is also stated that there are 11 posts of Law Officers in Nellore District and during the period from 24-2-1996 to 27-6-1999, the Government have appointed 7 Law Officers in the district, all of them are male candidates and since the name of the petitioner is not included in the panel, her name is not considered and the judgment in WP No.7582 of 1999, dated 5-10-1999 is not applicable to

petitioner. It is further submitted that after coming into force of the A.P. Law Officers (Appointment, Conditions of Service) Rules, 1999 issued G.O. Ms. No.118, Law, dated 28-2-1999, treating each district as one unit for the purpose of maintaining the rule of reservation, the Government have made appointment only to the Post of Assistant Government Pleader for Senior Civil Judge's Court and Junior Civil Judge's Court, Kovvur, Nellore District in favour of a OC man advocate against the first appointment which is earmarked to women candidates as a woman candidate is not included in the second panel by the District Collector, Nellore. As per Rule 7 when women candidate is not available, the same may be filled by men and this order issued by the Law Department, dated 24-12-1999 appointing the fourth respondent is valid and legal.

14. The point for consideration is whether the Government have followed the rule of reservation as contemplated in G.O. Ms. No.24, dated 24-6-1996 and the A.P. Law Officers (Appointment, Conditions of Service) Rules, 1999 issued in G.O. Ms. No.118, Law, dated 28-6-1996 and whether the Orders of the Government in G.O. Rt. No. 1822, dated 21-12-1999 appointing the fourth respondent as Assistant Government Pleader for the Senior Civil Judge's and Junior Civil Judge's Courts at Kovvur ignoring the claim of women candidate is justified and whether the said appointment is contrary to the rule of reservation as provided in the Government orders and whether the Government has violated the interim order of this Court in WPMP No.28473 of 1999 in WP No.22717 of 1999, dated 26-2-1999 and committed the contempt of Court.

15. Heard the rival contentions of the Seamed Counsel for the petitioner and the learned Government Pleader for Home and also the learned Counsel appearing for the fourth respondent in WP No.26763 of 1999 at length. The learned Government Pleader vehemently argued and seriously contended justifying this action of the Government. I have perused the file of Law Department in G.O. Rt. No. 1822, dated 21-12-1999. The Government vide its memo No.422/L4/99, Law Department, dated 19-1-1999 requested the District Collector, Nellore to furnish panel of three names of eligible advocates as per the executive instructions issued in G.O. Ms. No.57, Law, dated 16-3-1990 for making appointment to the post of Assistant Government Pleader for the Courts of Senior Civil Judge and Junior Civil Judge at Kovvur, who have seven years standing, along with their Bio-Data in consultation with District Judge, Nellore, immediately, considering the claim of SC/ST/BC and women candidates, while ending the panel as the rule of special reservation applies to the post and as the term of Assistant Government Pleader is likely to expire by 20-1-1999. The Collector, Nellore, vide his letter Rc.No.C5/10041/98, dated 6-2-1999 sent panel of three advocates and according to the said panel all the three advocates namely G. Syamacharyulu, T. Venkateswar Rao and G. Seshamma are all having 20 years of practice standing at the Bar and Smt. Seshamma is also having considerable work viz., 100 suits, 60 appeals and other allied work and with regard to the general antecedents, it is stated that there is nothing to complain, efficiency and reliability is satisfactory, an appraisal by the officer about the nature of advocacy is also satisfactory,

General Report and personality is satisfactory. Viewed from any angle, there is nothing to complain against any of the three advocates. Mr. G. Syamacharyulu is a OC candidate, Mr. T. Venkateswar Rao is a BC candidate and Smt. G. Seshamma is a woman candidate.

16. On careful consideration of the entire material placed on record, a perusal of the note file reveals that the said panel was neither rejected nor had any final decision was taken with regard to the panel sent by the District Collector, Nellore in Letter No.C5/10041/98, dated 6-2-1999. It appears that without assigning any reasons and while the said panel is pending a fresh panel was called for by the Government vide its Memo No.422/L2/99, dated 8-3-1999. The petitioner herein furnished her Bio-data as was done by the other advocates but her name was not included in the second panel and nothing against her has been stated. The District Collector, Nellore, vide letter Rc.C5/10041/ 98, dated 9-4-1999 sent the names of three advocates consisting of Sri G. Syamacharyulu, Sri Ch. Swendra and Sri T. Koteswar Rao, and on the said panel a note was put up stating that according to the instructions in 4-B, 33 V % reservation for women advocates in the category of OC, BC, SC, ST shall be observed for appointment of Law Officers. For the purpose of this rule all the Courts in the district and the Courts in the cities of Hyderabad and Secunderabad which are subordinate to the High Court of Andhra Pradesh shall be regard as one Unit of appointment and the High Court and Andhra Pradesh Administrative Tribunal as another Unit. If the candidates belonging to women are not available, the vacancy shall be filled up by men candidates. But without considering the rule of reservation, a decision was taken on 29-4-1999 to appoint Sri G. Syamacharyulu as Assistant Government Pleader for the Courts of Senior Civil Judge and Junior Civil Judge at Kovvur but the orders have not been issued. Therefore, the orders of this Court in WP MP No.28473 of 1999 in WP No.22717 of 1999 dated 26-11-1999 directing the Government to follow the rule of reservation are discussed at Para 24 of the note file and it was specifically noted at Para 25 which is extracted as follows :

"In this connection it is further submitted that from 28-6-1999 each district is treated as a separate unit for the purpose of rule of reservation in the appointment of Law Officers as per G.O. Ms. No.118, Law, dated 28-6-1999. No appointment is made so far in the Nellore District after these new rules came into force. As per the roster points the first point is for OC women, second point for SC women and the third point for OC. In the panel there are no OC women and SC women candidates. Sri Syamacharyulu belongs to OC category."

Even though according to the roster point in the Nellore District the first point with regard to the appointment of Law Officer in Nellore District is reserved for the OC women the same has not been followed and the Government have chosen to ignore the claim of the petitioner, and appointed the fourth respondent contrary to the rule of reservation as enunciated in the Rules, 1999, issued in G.O. Ms. No. 118, Law, dated 28-6-1999.

17. In the counter filed on behalf of Secretary to Government, Law Department,

in WP No.26763 of 1999, at the end of ParaNo.4 it is clearly admitted that the first point in a 100 point roster is earmarked to women candidates in Nellore District. Therefore, as per Andhra Pradesh Law Officers (Appointment, Conditions of Service) Rules, 1999 issued in G.O. Ms. No.118, dated 28-6-1999 the first point in a 100 point roster is earmarked to women candidates in Nellore District and this is the first appointment made pursuant to the A.P. Law Officers (Appointment, Conditions of Service) Rules, 1999 which is specifically reserved for the women candidates and therefore the appointment of the fourth respondent in G.O. Rt. No.]822, Law, dated 21-12-1999 is illegal, arbitrary and contrary to the said Rules, 1999 and unsustainable and accordingly it is liable to be set aside.

18. The first panel was sent by the District Collector, Nellore, vide Letter No.C5/10041/98 dated 6-2-1999 to the Secretary, Law Department including the name of the petitioner as eligible OC women candidate having 20 years of practice with relative qualification similar to that of other two candidates and therefore there is no reason why the name of the petitioner was not considered and also there is no reason as to what made the Government to get a fresh (second) panel and it is not known why the name of the eligible candidature of the petitioner was not included in the second panel sent by the District Collector while forwarding to the Secretary in his letter dated 9-4-1999. It appears that there is something which meets the eye in ignoring the claim of the petitioner for considering her candidature for appointment as Assistant Government Pleader at the Courts of senior and Junior Civil Judges at Kovvur of Nellore District. Even according to the A.P. Law Officers (Appointment, Conditions of Service) Rules, 1999 wherein Rule 23 stipulates that the panel of candidates sent under the executive instructions issued in G.O. Ms. No.57, Law, dated 16-3-1990 for appointment of the Law Officers and are pending for consideration of the Government as on the date of issue of these rules, shall be valid and deemed to have been sent under the provisions of these Rules.

19. It is relevant to consider some of the Rules of A.P. Law Officers (Appointment, Condition of Service) Rules, 1999 issued in G.O. Ms. No. 1 \ 8, Law, dated 28-6-1999, hereinafter referred to as "Rules". As per Rule 5(2), the District Collector shall prepare a panel of Advocates well in advance before expiry of the term of incumbents and send the same to the Government for consideration. As per Note 1 of Rule 5(2) while recommending the panel of advocates the District Judge may obtain the Bio-Data from such of the advocates whom he considers to be fit for appointment and send the panel of eligible candidates on that basis without calling bio-data from the advocates. In this particular case as per the instructions stipulated therein the Senior Civil Judge, Kovvur, obtained Bio-Datas from the eligible candidates and the District Judge considered them to be fit for appointment and sent to the District Collector, Nellore, who in turn send the same to the Government on 6-2-1999 in which the name of the petitioner is included and the said panel is valid and subsisting under the provisions of Rule 23 (b) of Rules 1999. When that panel was valid, it

is not known why the Government has ignored the claim of the petitioner having framed the rules to reserve 33V3% quota in the appointment of Law Officers in favour of Women and the Government cannot ignore its own framed Rules. Rule 7 is relevant which is extracted as below :

Rule 7 : Special Representation (Reservation)

(1) The rule of Special Representation as in Rule 22 of the A.P. State and Subordinate Service Rules, 1996, providing reservation in favour of SCs/STs/BCs at 15%, 6% and 25% respectively shall be followed, except in the case of physically handicapped persons and ex-servicemen, in the matter of appointment to the posts of law officers;

(2) 33 1/3% reservation for women as in Rule 22-A of the A.P. State and Subordinate Service Rules, 1996 in all the categories of OCs/BCs/STs shall also be observed in such appointment of Law Officers.

Provided that if no candidate belonging to any of the reserved categories is available, the same post may be filled by a candidate belonging to other categories.

Provided further that if no women candidate is available, the same be filled by men.

Explanation :--For the purpose of this Rule

(a) The High Court of A.P. and A.P. Administrative Tribunal and other Courts and Tribunals at the State level shall be regarded as one unit of appointment.

(b) All the Subordinate Courts and Tribunals in each District shall be regarded as one unit of appointment; and

(c) In the case of cities of Hyderabad and Secunderabad the subordinate Courts and Tribunals in those cities shall be regarded as one unit of appointment."

As per the aforesaid Rule 7(2), 33V,% is reserved for women candidates as in Rule 22-A of the A.P. State and Subordinate Service Rules, 1996, in all the categories of OCs/BCs/SCs/STs and this particular post is reserved for OC Women as per the roster of the Nellore District and OC women candidate is available and therefore filling up of the said post by BC women or SC women or ST women or OC men does not arise, when particularly the said post is reserved for OC women and OC women is available. Even as per the provisions of Rule 7(2) if the women candidates is not available i.e., OC/BC/SC/ ST women candidates then only the post shall be filled by men but not otherwise. As per examination, all the subordinate Courts in each District is to be regarded as one unit of appointment and the Nellore District is considered as one unit and in the roster the first point is reserved for OC women and therefore, the impugned order in appointing the fourth respondent against the reserved OC women candidate is contrary to the Rule 7 of the Rules, 1999 and is liable to be set aside.

20. In the impugned order of the Government in G.O. Ms. No. 1822, dated 21-12-1999 it is clear from the third reference that the panels sent by the Collector, Nellore District in Utters No.C5/10041/9, dated 6-2-1999 and 9-4-1999, both were considered but ignoring the panel of advocates sent by the Collector, Nellore District in Lr. No.C5/i0041/98, dated 6-2-1999 and the Government appointed the 4th respondent considering the second panel of the District Collector, dated 9-4-1999 alone, and therefore, the order of the Government in not considering the panel of advocates sent by the District Collector in his letter dated 6-2-1999 is illegal, arbitrary and contrary to Rule 5(4) of Rules, 1999 as per Rule 5(4) of the Rules, 1999, the Government in Law Department shall consider the panel sent by the District Collector and appoint one among the panel as Law Officers following special representation (reservation) as contemplated under Rule 7. As per explanation to Rule 7(2), all the Subordinate Courts, Tribunals in each district shall be regarded as one unit for appointment for the purpose of following the rule of reservation for providing special representation to the reserved categories as contemplated under Rule 22 of A.P. State and Subordinate Services Rules, 1996 providing reservation in favour of Scheduled Castes, Scheduled Tribes, Backward Castes in 15%, 6% and 25% respectively. As per Rule 7(2), 33 1/3% reservation for women as in Rule 22-A of A.P. State Subordinate Service Rules, 1996, in all categories of OCs, BCs, SCs and STs shall be provided in the appointment of the Law Officers. To comply with the said rules, roster shall be prepared in each district reserving the posts for providing special representation and the Government shall take and explore all possible steps to fill up the posts by the reserved categories as per the roster prepared for each district. Similarly, the High Court of Andhra Pradesh, A.P. Administrative Tribunal and other Courts and Tribunals in the State level shall be regarded as one unit of appointment. In case of cities of Hyderabad and Secunderabad, Subordinate Courts and Tribunals in the cities of Hyderabad and Secunderabad shall be regarded as one unit and accordingly roster shall be prepared for each unit separately. As per Rule 7(1), if Scheduled Caste candidate is not available, the other category of Scheduled Tribe shall be considered and if Scheduled Tribe is not available, the next category of Backward Caste shall be considered. Similarly, as per Rule 7(2), if OC women is not available, the BC women shall be considered and if the BC women is not available, the SC women has to be considered and if SC women is not available, ST women has to be considered and if no women candidate of OC/BC/SC/ST are available, then only the vacancy shall be filled up by men. Therefore, the Government shall prepare roster for each unit as contemplated under explanation to Rule 7(2) and fill up the vacancies as per the norms indicated above. If the District Collectors fail to observe the rule of special representation while sending the panels, the Government cannot show its helplessness and simply follow the panels sent by the District Collectors but the Government shall take every endeavour to consider the appointment of Law Officers by the reserved categories under Rule 7(1) and (2) as indicated above. The Government while calling for the panels from the District Collectors, shall indicate the particular post of Law Officer to

which reserved category it is earmarked as per the roster, so as to enable the Collectors to send panel of Advocates from the particular reserved category.

21. Accordingly the writ petitions are allowed with costs and the order of the Government in G.O. Rt. No. 1822, Law, dated 21-12-1999 is set aside and the Government is directed to fill up the said post of Assistant Government Pleader for the Courts of Senior and Junior Civil Judges at Kovvur, Nellore District, within a period of one month from the date of receipt of this order considering the panel recommended by the Collector, Nellore District in Letter No.C5/!0041/98, dated 6-2-1999 and in the meanwhile it is open for the District Collector, Nellore to make alternative arrangement till the appointment is made by the Government in accordance with law and in the light observation made in this judgment.

CC No.2074 of 1998

22. In the contempt case the Law Secretary filed a counter dated 19-1-2000 and also filed additional counter dated 29-1-2000. I have specifically directed on 26-11-1999 in WPMP No.28473 of 1999 in WP No.22717 of 1999 directing the Government of Andhra Pradesh, represented by its Secretary, Law Department, Hyderabad, to follow the rule of reservation in accordance with law while making appointment of the Post of Assistant Government Pleader at Kovvur, pending disposal of WP No.22717 of 1999.

23. It is stated in the first counter that as per Rule 7(2) of the Rules, 1999, 33V3% reservation is provided for women and as per the proviso if no candidate belonging to the reserved categories are available the same will be filled up by men. As per the explanation all the Courts in Nellore District shall be regarded as one unit. It is also stated that the first vacancy is earmarked to OC women and after new Rules, 1999 came into force, first appointment was made appointing Sri G. Syamacharyulu as Assistant Government Pleader, as he belongs to open category and it is further stated that initially the District Collector has send the panel of three names in which the names the names of Sri G. Syamacharyulu and the petitioner of Smt. G. Seshamma are also recommended and the Government have considered (he panel and decided to obtain a fresh panel and accordingly the District Collector, Nellore, was directed to send a fresh panel of Assistant Government Pleader for the Courts of Senior and Junior Civil Judges at Kovur, but the District Collector has not included the name of the petitioner in the second pane!. Therefore, the Government after due consideration of the panel as per the rules have appointed Sri G. Syamacharyulu male candidate belonging to the open category, and as the name of the women candidate is not included in the panel recommended by the District Collector, Nellore, the Government appointed Sri G. Syamacharyulu as Assistant Government Pleader in G.O. Ms. No.118, dated 2S-6-1999, and it is in accordance with law and also as per the interim orders of this Court in WPMP No.28473 of 1999 in WP No.22717 of 1999, dated 26-11-1999 and being a public servant have got highest regard and respect for the orders of this Court.

24. In the additional counter the Law Secretary stated that though the District Collector, Nellore in his letter dated 6-2-1999 recommended the name of the petitioner the Government have decided to obtain a fresh panel and a memo dated 8-3-1999 was issued requesting the District Collector to furnish a fresh panel for making appointment to the said post duly considering OC/ST/SC/BC and women advocates as per rules. But the District Collector, Nellore in consultation with the District Judge, Nellore have sent a panel of three candidates in which the name of the petitioner is not there in the second panel. In the second panel two OC candidates and one BC and all men only are included and in view of the fact that the District Collector has not included the name of a women in the second panel the Government have appointed one of the candidate from the panels sent by the District Collector, Nellore. Nowhere it is stated that how the said rule of providing the special reservation to the women is followed and how the orders of this Court have not been violated and all along he tried to justify that there is no violation of direction of this Court. But in para 5 of the additional counter filed by the respondent, it is stated that the Government issued Memo No. 11247/1,2/99, dated 16-12- 1999 to ensure the names of persons belonging to SC/ST/ BC and women advocates who are eligible and suitable for appointment as Law Officer shall be taken into account without fail in future. When the District Collector do not want to send the names of the reserved candidates, the Government cannot automatically follow the panel sent by the District Collector and the Government have a right to implement its own rules framed by its and implement the same directing the District Collectors to send the panels in accordance with rules giving reasons. The Government cannot just depend upon the panel sent by the District Collector if rule of reservation is not followed. The rule of reservations issued are for implementation, but not just to be framed and kept on the statutes. The Law Secretary being an experienced Judicial Officer and he cannot circumvent and violate the orders of this Court, The Law Secretary tried to circumvent the orders of this Court and made an attempt to justify the orders of the Government and violated the orders of this Court. If this is the attitude of the Law Secretary, how can the other Secretaries who have no sufficient legal knowledge are expected to interpret the rules and the orders of the Court.

25. I would like to emphasise that the top most officers of the Government who are the main persons to guide the Government should exercise utmost vigilance and care in compliance of the orders of the Courts particularly in implementing the rules. The Law Secretary being a Judicial Officer of long standing and having long judicial experience behind him, it is difficult to believe that he could make any mistake in understanding the orders of this Court which was only to follow the Rules of 1999 to implement the rule of reservation. To uphold the majesty of law and in view of the aforesaid facts and circumstances of the case, as I am of the prima facie opinion that the respondent has violated the orders of this Court, and I am inclined to issue notice to the respondent as to why he should not, be punished under Contempt of Courts Act. Accordingly, issue notice to the

respondent for his personal appearance on 17-4-2000 to explain as to why he should not be punished for contempt.