
(2003) 10 AP CK 0022
In the Andhra Pradesh High Court
Case No : WA No. 1500 of 2003

Government of Andhra Pradesh and Others	APPELLANT
Vs	
Pushpindar Kaur	RESPONDENT

Date of Decision : 15-10-2003

Acts Referred:

Bar Council of India Rules, 1975 — Rule 49
Constitution of India, 1950 — Article 14, 226

Citation : AIR 2004 AP 41 : (2003) 6 ALD 214 : (2003) 6 ALT 30

Hon'ble Judges : P.S. Narayana, J;B. Sudershan Reddy, J

Bench : Division Bench

Advocate : S. Ramachander Rao, for K.R. Prabhakar, for the Respondent

Final Decision : Allowed

Judgement

B. Sudershan Reddy, J.—A distinguished member of the legal fraternity invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India in W.P. No. 18610 of 2002 challenging the legality of the action taken by the Government of Andhra Pradesh in terminating her engagement as Government Pleader, Andhra Pradesh Administrative Tribunal vide the impugned G.O. Rt. No. 1294, dated 21-8-2002. The whole grievance of the writ petitioner centers around her alleged illegal termination of the engagement as Government Pleader, Andhra Pradesh Administrative Tribunal.

2. A learned Single Judge of this Court allowed the said writ petition filed by the writ petitioner and accordingly set aside the impugned G.O. Rt. No. 1294, dated 21-8-2002. Hence this writ appeal by the State of Andhra Pradesh challenging the correctness of the said order passed by the learned Single Judge.

3. In order to appreciate the question as to whether the termination of the professional engagement of the writ petitioner as Government Pleader, Andhra Pradesh Administrative Tribunal suffers from any infirmities, it becomes just and necessary to notice the legal environment relating to the appointment and

conditions of service of Law Officers in the State of Andhra Pradesh.

4. The Government of Andhra Pradesh vide G.O. Ms. No. 187, dated 6-12-2000 issued instructions regulating the appointment and conditions of service of the Law Officers of the Government of Andhra Pradesh other than the Advocate-General and Additional Advocates-General. The said instructions are called "the Andhra Pradesh Law Officers (Appointment and Conditions of Service) Instructions, 2000 (for short "the Instructions").

5. Clause 4 of the Instructions provides that the Government, in consultation with the Advocate-General, shall appoint such number of Law Officers in the High Court of Andhra Pradesh, Andhra Pradesh Administrative Tribunal, etc., as they may consider necessary. Certain qualifications are prescribed without which no person shall be included in the panel for appointment as Government Pleader or Special Counsel.

6. Clause 8 of the Instructions is in the following terms:

8. Term of Law Officers :--Law Officers shall ordinarily be appointed for a term of three years. The Law Officers so appointed may be considered for a second term, if the Government are satisfied that he has proven efficiency, high rate of success and good performance and for a third term in exceptional cases:

Provided that Government Pleaders, Assistant Government Pleaders, Public Prosecutors and Additional Public Prosecutors in Subordinate Courts may be considered for appointment for a second term if their performance is very good and in the case of persons belonging to Scheduled Castes and Scheduled Tribes if their performance is satisfactory.

7. Clause 9 provides for termination of the engagement and it reads:

9. Termination of Service :--Notwithstanding anything contained in Instruction 8, either the Government or the Law Officer may terminate the engagement with one month's notice:

Provided that the Government may terminate the engagement by paying one month honorarium in lieu of one month's notice.

8. The other terms of the instructions are not very material for our present purpose.

Factual matrix:

9. We shall now refer to the facts in brief leading to filing of this writ appeal:

10. The writ petitioner was appointed as Government Pleader for Andhra Pradesh Administrative Tribunal, Hyderabad for a period of three years vide G.O. Rt. No. 1821, Law (L) Department, dated 26-12-2000 subject to certain terms and conditions mentioned therein. Condition No. 5 incorporated in the order of appointment of the writ petitioner as Government Pleader provides that "her appointment may be terminated by the Government by giving one month's

notice or payment of one month's emoluments. It will be open for her to resign after giving one month's notice". The terms of appointment provide that she shall be paid a consolidated honorarium of Rs. 20,000/- (Rupees twenty thousand only) per month.

11. The writ petitioner claims to have discharged her functions as Government Pleader to the best of her ability and capacity and in a diligent and efficient manner. Initially she was entrusted with the Education Department and later on with the Medical and Health Department.

12. That all Law Officers in the High Court and other Courts and Tribunals at the State level, according to the said instructions, are required to function under the general superintendence and control of the Advocate-General.

13. That according to the case set up by the writ petitioner while she was performing her responsibilities with utmost diligence, all of a sudden, was served with a letter from the Advocate-General's Office dated 3-7-2002 along with a copy of the letter dated 13-6-2002 received by the Advocate-General from the Acting Chairman and Member (A) of the Andhra Pradesh Administrative Tribunal requiring her to state her version in the matter. The said letter dated 13-6-2002 emanated from Acting Chairman and Member (A) of the Andhra Pradesh Administrative Tribunal is with reference to "undesirability of continuing" the writ petitioner as Government Pleader. In the said letter it is alleged that the writ petitioner "comes totally unprepared to the Court, even unprepared to the cause list that is before her, leave alone unpreparedness in the subject that is to be discussed in the O.As". The Tribunal expressed that it has become very difficult to conduct the regular work with the writ petitioner as Government Pleader.

14. The letter, no doubt, is somewhat strange and we are unable to appreciate as to how the Tribunal had chosen to address such a letter to the Advocate-General, Andhra Pradesh.

15. The writ petitioner submitted a detailed explanation to the letter of the Advocate-General vide reply dated 18-7-2002. It is totally unnecessary to refer to the contents in detail except to note that the writ petitioner denied the allegations made in the said letter by the Acting Chairman of the Tribunal addressed to the Advocate-General, Andhra Pradesh.

16. It is the case of the writ petitioner that without considering her explanation, the State Government had chosen to issue the impugned order of termination vide G.O. Rt. No. 1294, dated 21-8-2002. The decision of the State Government, according to the writ petitioner, is arbitrary and whimsical. The order of termination is rooted and attributable to the allegations levelled against the writ petitioner in the letter addressed by the Chairman of the Tribunal to the Advocate-General, which could not have been passed without making any proper enquiry into the truth or otherwise of the allegations levelled against her by an unconcerned agency. The Advocate-General having required the writ petitioner to state her version and having received her version should have made an enquiry

into the truth or otherwise of the allegations before the termination of engagement of the writ petitioner as Government Pleader. These are the broad contentions raised in the writ petition, which found favour with the learned Single Judge of this Court.

17. The case set up by the appellant-State is that the impugned order of termination was only a termination simplicitor without assigning any reasons. The appointment of Government Pleader is to be treated as engagement of Counsel by the State in the capacity of a litigant, which can be terminated by either of the parties with due notice as provided under the instructions. It is specifically stated in the counter-affidavit that the termination of engagement of the writ petitioner as Government Pleader is only a termination simplicitor, as provided under the instructions, without attaching any stigma on the writ petitioner. The sum and substance of the contention raised by the State is that no right of the writ petitioner was infringed and there is no enforceable right warranting interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

Submissions:

18. Sri Ramesh Ranganathan, learned Additional Advocate-General appearing on behalf of the appellants, contended that the impugned order of termination of engagement of the writ petitioner as Government Pleader is simplicitor in its nature. Such disengagement, under no circumstances, amounts to termination on the ground of any misconduct. The learned Additional Advocate-General submitted that the disengagement in the instant case is perfectly in tune and in accordance with Clause 9 of the Instructions regulating the appointment and conditions of service of the Law Officers of the Government of Andhra Pradesh read with the terms and conditions of appointment of the writ petitioner as Government Pleader. The concept of fairness and arbitrariness cannot be imported into a situation where the Government decides to terminate the engagement of one of its Counsel as Government Pleader.

19. Sri S. Ramachander Rao, learned Senior Counsel appearing on behalf of the writ petitioner, supported the order under appeal and submitted that the order of the learned Single Judge does not suffer from any legal infirmities requiring any interference. Sri Rao contended that the Administrative Tribunal had no authority or jurisdiction to address such a letter, which formed the basis for passing the impugned order of termination of engagement of the writ petitioner as Government Pleader. The learned Advocate-General did not apply his mind before deciding to act upon the said letter and requiring the writ petitioner to offer her comments. It was submitted that the action on the part of the Government is highly arbitrary and irrational and if the same is allowed to stand may adversely affect the reputation of the writ petitioner as a practising Advocate. The learned Senior Counsel in support of his submission relied upon the well-known decision of the Supreme Court in *Kumari Shrilekha Vidyarthi and Others Vs. State of U.P. and Others*,

20. The short question that falls for consideration is as to whether the impugned order of termination of engagement of the writ petitioner as Government Pleader suffers from any infirmities? Whether the writ petitioner is entitled for a notice and hearing before her termination of engagement as Government Pleader?

21. Concededly the executive instructions regulating the appointment and conditions of service of the Law Officers of the Government of Andhra Pradesh are not statutory in their nature. The executive instructions were obviously issued by the Government to structure the discretion of those who are involved in the process of making appointments of the Law Officers to represent the State and its instrumentalities and other authorities in various Courts including the High Court of Andhra Pradesh and the Andhra Pradesh Administrative Tribunal. The executive instructions clearly provide that the Law Officers, i.e., Government Pleader or Assistant Government Pleader and Public Prosecutor or Additional Public Prosecutor or Special Counsel, are required to be appointed by the Government in consultation with the Advocate-General. The Law Officers shall ordinarily be appointed for a term of three years and that engagement may be terminated with one month's notice or by paying one month's honorarium in lieu of one month's notice. The Law Officers so appointed in the High Court, other Courts and Tribunals at the State level shall function under the general superintendence and control of the Advocate-General and they shall be wholly responsible for ensuring all cases entrusted to them are properly prepared and represented in the Courts.

22. That a cumulative reading of the Instructions and the order of appointment in unmistakable terms reveal that the Law Officers are engaged to represent the State and its instrumentalities and other authorities in the cases entrusted to them for and on behalf of the Government and other authorities. They are not recruited and appointed into any service as such. The services of the Advocates are engaged and hired by the Government for a specified period and some cases are entrusted to them to represent the State and its agencies in the Courts. They are not paid any salary. The Government Pleaders appointed in the High Court of Andhra Pradesh and the Andhra Pradesh Administrative Tribunal or in any State level Court or Tribunal are paid a consolidated honorarium of Rs. 20,000/-per month.

23. In *State of U.P. and others Vs. U.P. State Law Officers Association and others*, the Apex Court while considering the scope of its earlier decision and the ratio in *Kumari Shrilekha Vidyarthi (supra)*, in which it was held that the wholesale termination of the District Government Counsel was arbitrary and violative of Article 14 of the Constitution, observed that since the appointment of District Government Counsel is made strictly on the basis of comparative merit and after screening at different levels, the termination of their services is not consistent with the public interests. The ratio of the said decision can hardly be applied to the appointments of the Law Officers in the High Court whose appointment was not made strictly on the basis of any comparative assessment of merit. The

Supreme Court noted that the State Government had the discretion in the matter of appointment of Law Officers in the High Court and found that the method of appointment was not calculated to ensure that the meritorious alone will always be appointed or that the appointments made will not be on considerations other than merit. It is observed:

"The appointment of Lawyers by the Government and the public bodies to conduct work on their behalf, and their subsequent removal from such appointment have to be examined from three different angles, viz., the nature of the legal profession, the interests of the public and the modes of the appointment and removal.

Legal profession is essentially a service-oriented profession. The ancestor of today's lawyer was no more than a spokesman who rendered his services to the needy members of the society by articulating their case before the authorities that be. The services were rendered without regard to the remuneration received or to be received. With the growth of litigation, lawyering became a full-time occupation and most of the lawyers came to depend upon it as -the sole source of livelihood. The nature of the service rendered by the lawyers was private till the Government and the public bodies started engaging them to conduct cases on their behalf. The Government and the public bodies engaged the services of the lawyers purely on a contractual basis either for a specified case or for a specified or an unspecified period. Although the contract in some cases prohibited the lawyers from accepting private briefs, the nature of the contract did not alter from one of professional engagement to that of employment. The lawyer of the Government or a public body was not its employee but was a professional practitioner engaged to do the specified work. This is so even today, though the lawyers on the full-time rolls of the Government and the public bodies are described as their Law Officers. It is precisely for this reason that in the case of such Law Officers, the saving clause of Rule 49 of the Bar Council of India Rules waives the prohibition imposed by the said rule against the acceptance by a lawyer of a full-time employment.

The relationship between the lawyer and his client is one of trust and confidence. The client engages a lawyer for personal reasons and is at liberty to leave him also, for the same reasons. He is under no obligation to give reasons for withdrawing his brief from his lawyer. The lawyer in turn is not an agent of his client but his dignified, responsible spokesman. He is not bound to tell the Court every fact or urge every proposition of law which his client wants him to do, however irrelevant it may be. He is essentially an adviser to his client and is rightly called a Counsel in some jurisdictions. Once acquainted with the facts of the case, it is the lawyer's discretion to choose the facts and the points of law which he would advance. Being a responsible Officer of the Court and an important adjunct of the administration of justice, the lawyer also owes a duty to the Court as well as to the opposite side. He has to be fair to ensure that justice is done. He demeans himself if he acts merely as a mouthpiece of his client. This

relationship between the lawyer and the private client is equally valid between him and the public bodies." (Emphasis is of ours)

24. In *Vilas Rao v. State of A.P.* 1993 ALT Supp. (1) 588, Sivaraman Nair, J., held:

".....it is necessary that there shall be some play in the joints in the matter of Government choosing its Counsel just as in the case of a private individual. There may be public employment element involved in the appointment of Government Counsel. The play in the joints may be lesser in the case of choosing Government Counsel because of that element. I am of the opinion that the Government order under which the petitioner was appointed as a Government Pleader had put him on notice of the possibility of termination of service at any time by giving one month's notice. In the special nature of the relationship between the Government and its Counsel, I am of the opinion that this provision under which advance notice is contemplated is a wholesome provision which gives either party some amount of freedom of action to continue or terminate the engagement which is so essential in such relationships. Petitioners cannot be heard to say that the above provision is arbitrary or discriminatory."

Explaining the ratio of the decision of the Supreme Court in *Kumari Shrilekha Vidyarthi* (supra), the learned Judge observed:

"It is true that in *Kumari Shrilekha Vidyarthi* (supra) the Supreme Court has laid down in very general terms that in case where instances of public employment is involved, the employer is bound to act within reasonable limits. It appears to me that the above case is an extreme one on facts. What happened in that case was that consequent on the change of the party in power, the Government issued a general instruction that all Law Officers of the State Government shall immediately demit office. The situation that came up for consideration before the Supreme Court was-

"by one stroke, seemingly resorting to the Spoils System" alien to our constitutional scheme, the Government of State of Uttar Pradesh has terminated by a general order the appointments of all Government Counsel (Civil, Criminal, Revenue) in all the districts of the State of U.P. with effect from 28-2-1990 and directed preparation of fresh panels to make appointments in place of the existing incumbents. This has been done by Circular G.O.No.D-282 -Seven - Law Ministry dated 6-2-1990, terminating all the existing appointments with effect from 28-2-1990, irrespective of the fact whether the term of the incumbent had expired or was subsisting."

It was the validity of that general action -slaughter, if I may call it - which was the question for consideration by the Supreme Court. A situation like the present one whereby appointment or engagement of individual was terminated in accordance with the provisions contained in the conditions governing the orders of his appointment did not arise in that decision. The Supreme Court took care to observe that if there were reasons in existence, even if they were not disclosed, there would be no occasion for the Court to interfere with the order terminating

engagement of the Government Counsel. It was a wholesale termination of engagement of all Government Pleaders all over the State by one stroke of the pen on one day entirely due to the political reasons and justified if at all, only by the Spoils System which was unknown to our constitutional scheme which the Supreme Court frowned upon. No such situation arises in the present case, though it is suggested that it was only the fact that the petitioner had submitted his nomination for election as a Member of Parliament on behalf of Bharathiya Janatha Party, subsequent to his initial appointment, that provoked the order dated 1-7-1991 and the impugned order."

25. In the instant case, we have already noticed that no advance notice was given to the writ petitioner as provided in Clause 9 of the Instructions, but the appellants sent a cheque to the writ petitioner towards one month's honorarium in lieu of one month's notice, which the writ petitioner declined to accept and returned the cheque. The appellants have scrupulously followed the prescribed procedure and in such a situation the principles of natural justice cannot be pressed into service to invalidate the order.

26. We are not impressed by the submission made by the learned Senior Counsel appearing on behalf of the writ petitioner that the executive instructions contained in the Government Order themselves are arbitrary and capricious enabling the Government to exercise the power in a discriminatory manner. Be it noted that the writ petitioner obtained the order of appointment under the very same instructions and now seeks to challenge the same instructions, which cannot be countenanced. The writ petitioner with the eyes wide open accepted the appointment subject to various terms and conditions incorporated therein, which inter alia provides for termination of the engagement by giving one month's notice or payment of one month's emoluments in lieu of notice. The writ petitioner having accepted the appointment subject to such terms and conditions cannot have any legitimate grievance when her engagement as Government Pleader has been terminated in accordance with the terms and conditions of the order of appointment itself.

27. The next question that falls for consideration is as to whether the impugned order of termination of engagement of the writ petitioner as Government Pleader causes any stigma on her professional abilities?

28. It is no doubt true that the Advocate-General, Andhra Pradesh made available a copy of the letter received by him from the Chairman of the Andhra Pradesh Administrative Tribunal and accordingly required the writ petitioner to offer her own comments, to which she offered her comments. It is required to notice that the State Government never intended to make any enquiry into the conduct of the writ petitioner and her professional abilities in discharge of her functions as Government Pleader in the Andhra Pradesh Administrative Tribunal. The Advocate-General did not express any opinion whatsoever about the observations made in the letter addressed to him by the Andhra Pradesh Administrative Tribunal and as well as to the Chief Secretary to Government of

Andhra Pradesh. The Government in its discretion thought it fit to terminate the engagement of the writ petitioner as Government Pleader, Andhra Pradesh Administrative Tribunal without assigning any reason by invoking Clause 9 of the Instructions by paying one month's honorarium in lieu of one month's notice. Clause 9, which deals with the termination of the engagement, specifically provides that notwithstanding anything contained in the Instructions either the Government or the Law Officer may terminate the engagement with one month's notice and the Government may terminate the engagement by paying one month's honorarium in lieu of one month's notice. There are no adverse remarks as such made by the Government or the Advocate-General against the writ petitioner.

29. As has been observed in *U.P. State Law Officers Association* (supra), the relationship between the lawyer and his client is one of trust and confidence. The client engages a lawyer for personal reasons and is at liberty to leave him also, for the same reasons. The lawyer of the Government or a public body was not its employee but was a professional practitioner engaged to do the specified work. Even the lawyers on the full-time rolls of the Government or the public bodies cannot be compelled to continue their assignment even if one does not intend to serve the Government as its Counsel merely because a particular term is stipulated. A lawyer, whose services have been engaged by the Government, can at any time withdraw from a particular case and may even refuse to serve as Government Pleader in case of any crisis of confidence. Even though the contract between the Government and the lawyer prohibits the lawyer from accepting private briefs, the nature of the contract did not alter from one of professional engagement to that of employment. There is no employer or employee relationship between the lawyer and the Government even if he is appointed for a particular term as Government Counsel.

30. In the instant case, the Government merely expressed its intention not to continue the client and Counsel relationship with the writ petitioner. It is under those circumstances, the Government having invoked Clause 9 of the Instructions sent one month's honorarium to the writ petitioner in lieu of one month's notice and accordingly terminated the professional engagement, which, in our considered opinion, does not suffer from any legal infirmities. The order of termination, in no manner, casts any aspersion or stigma on the professional abilities and integrity of the writ petitioner.

31. We consider it necessary to observe that the order of termination of engagement of the writ petitioner as Government Pleader, in no manner, shall operate to her disadvantage for whatever purposes. The order, in no manner, reflects upon the professional abilities, character and integrity of the writ petitioner and her performance as Government Pleader in the Andhra Pradesh Administrative Tribunal.

32. In the result, we hold that the impugned order of termination is an order simpliciter terminating the engagement of the writ petitioner as Government

Pleader, Andhra Pradesh Administrative Tribunal and the same, in no manner, casts any stigma as against the writ petitioner. It is a case of simple termination of client and Counsel relationship.

A word about certain observations made in the order under appeal:

33. The learned Additional Advocate-General submitted that the order under appeal contains certain unwarranted observations against those who are in no way involved in the impugned decision making process without any basis whatsoever. The learned Additional Advocate-General submitted that the comment made in the order under challenge to the effect that the learned Additional Advocate-General should have properly advised the Government to implement the interim order passed by the Court so as to uphold the majesty of law and dignity of the Courts is totally unwarranted. It was submitted that it is not as if the Additional Advocate-General who appeared in the matter was put on notice to verify as to what advise was tendered by him in the matter of implementation of the interim order passed by the Court.

34. We have perused the records. There is nothing on record suggesting that the learned Additional Advocate-General advised the Government not to implement the orders passed by the Court.

35. The advise tendered by the Advocate-General or Additional Advocates-General in discharge of their duties and constitutional obligations itself cannot be judicially reviewed by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. On the other hand, any such review may hamper the independent and autonomous functioning of the Advocate-General and the Additional Advocates-General resulting in prejudice to public interest. It would be in public interest not to raise and create controversies regarding the protected communications between the State and its Counsel.

36. There is nothing on record in the instant case suggesting that the learned Additional Advocate-General acted in any manner not befitting the status of the office or in a manner adversely affecting the majesty of law and dignity of the Courts warranting any comment by the Court. We wish to remind ourselves the caution administered by the Supreme Court in *A.M. Mathur Vs. Pramod Kumar Gupta*, .

"Judicial restraint and discipline are as necessary to the orderly administration of justice as they are to the effectiveness of the army. The duty of restraint, this humility of function should be constant theme of our Judges. This quality in decision making is as much necessary for Judges to command respect as to protect the independence of the judiciary. Judicial restraint in this regard might better be called judicial respect, that is, respect by the judiciary. Respect to those who come before the Court as well to other co-ordinate branches of the State, the executive and the Legislature. There must be mutual respect. When these qualities fail or when litigants and public believe that the Judge has failed in these qualities, it will be neither good for the Judge nor for the judicial process.

The Judge's Bench is a seat of power. Not only do Judges have power to make binding decision, their decisions legitimate the use of power by other Officials. The Judges have the absolute and unchallengeable control of the Court domain. But they cannot misuse their authority by intemperate comments, undignified banter or scathing criticism of Counsel, parties or witnesses. We concede that the Court has the inherent power to act freely upon its own conviction on any matter coming before it for adjudication, but it is a general principle of the highest importance to the proper administration of justice that derogatory remarks ought not to be made against persons or authorities whose conduct comes into consideration unless it is absolutely necessary for the decision of the case to animadvert on their conduct. [See (i) R.K. Lakshmanan Vs. A.K. Srinivasan and Another, ; (ii) Niranjan Patnaik Vs. Sashibhusan Kar and Another,].

Learned Judge having held that the High Court has no jurisdiction to entertain the review petition ought not to have commented on the professional conduct of the appellant and that too without an opportunity for him. We regret to note that the observations made and aspersions cast on the professional conduct of the appellant are not only without jurisdiction, but also they are wholly and utterly unjustified and unwarranted,"" (Emphasis is of ours).

37. The Advocate-General is the highest Law Officer in the State and leader of the Bar by virtue of his official position. He represents public interest as well, as interests of the legal profession of which he is the formal head in the State. Courts must maintain the dignity of the judicial institutions. At the same time, the prestige and position of the office of the Advocate-General must be equally dear to the Courts. Nothing should be done and said which affects the dignity of the office of the Advocate-General. (See: Bar Council of Maharashtra Vs. M.V. Dabholkar and Others, ; Mohd. Iqbal Khanday Vs. Abdul Majid Rather, and Advocate-general of Bihar Vs. High Court Judicature at Patna, .

38. It is heartening to note that Sri S. Ramachander Rao, learned Senior Counsel appearing on behalf of the writ petitioner, submitted that neither the writ petitioner nor himself raised any issue in this case with regard to the role played and the advise, if any, given by the learned Additional Advocate-General in the matter; they, therefore, do not subscribe to the observations made in the order.

39. It is unnecessary to further dilate on this issue except to observe that the comments made in the order under challenge shall not form part of the record.

40. It is equally well settled that the primary purpose of pronouncing a verdict is to dispose of the matter in controversy between the parties before the Court. It is a settled law that a question which did not form part of the pleadings or in respect of which the parties are not at variance and which was not the subject-matter of issue could not be decided by the Court. The decision of the Court should be confined to the narrow points directly raised before it. There should not be any exposition of the law at large and outside the range of facts of the case. There should not be even obiter observations in regard to questions not

directly involved in the case. (See for the proposition: Bhagwan Dass and Others Vs. State of Haryana and Others, ; Kehar Singh and Others Vs. State (Delhi Administration), , Union of India Vs. E.I.D. Parry (India) Ltd., , and "K", A Judicial Officer, In Re (2001) 3 SCC 54.)

41. In the light of the settled legal position, in our considered opinion, it was wholly unnecessary for this Court to go into the question whether Clause 13 of the Instructions, which requires a Government Pleader or Assistant Government, Pleader, Public Prosecutor or Additional Public Prosecutor before assuming charge as such shall relinquish his assignment, if any, such as Standing Counsel for any Statutory Corporation or Local Authority etc., is being followed and observed more in breach. The question whether the said restriction is being implemented or not did not arise for consideration in the case on hand. There are no pleadings in this regard and the parties were not at issue requiring this Court to express its opinion in the matter. Therefore, the question of this Court issuing any writ of mandamus directing the appellants to implement Clause 13 of G.O. Ms. No. 187, Law (L) Department, dated 6-12-2000 in true letter and spirit does not arise. The question may perhaps be gone into as and when such an occasion arises but it is wholly unnecessary to express any view in that regard for the purpose of disposal of the case in hand.

42. For all the aforesaid reasons, we do not find any merit in the writ petition.

43. In the result, the order under appeal is set aside. The writ appeal is allowed.

44. Consequently, the writ petition shall stand dismissed.

45. There shall be no order as to costs.