

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/WRIT PETITION (PIL) NO. 41 of 2022

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NIPUN PRAVEEN SINGHVI

Versus

UNION OF INDIA

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Appearance:

MR.VISHAL J DAVE(6515) for the Applicant(s) No. 1

MS. HIRAL U MEHTA(7003) for the Applicant(s) No. 1

MR SIDDHARTH DAVE for the Opponent(s) No. 1

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CORAM:**HONOURABLE THE CHIEF JUSTICE MR. JUSTICE
ARAVIND KUMAR**

and

HONOURABLE MR. JUSTICE ASHUTOSH J. SHASTRI

Date : 21/06/2022

ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE MR. JUSTICE ARAVIND
KUMAR)

1. Heard Ms. Hiral U. Mehta, learned counsel appearing for the petitioner and Mr. Siddharth Dave, learned counsel appearing for the respondent. Perused the records.

2. Petitioner has sought for the following reliefs:

“(a) Your Lordships may be pleased to pass a Writ of Mandamus or Certiorari or any other appropriate Writ, Order or direction, directing Respondent to appoint full time Presiding Officer in Debt Recovery Tribunal-I, Ahmedabad;”

3. Petitioner is seeking for a direction to fill up the post of

Presiding Officer in Debt Recovery Tribunal-I, Ahmedabad contending inter-alia such vacancy violates the legal rights of the petitioner, bankers/lenders, borrowers, guarantors and other stake holders. Petitioner, who is an advocate enrolled on the rolls of the Bar Council of Gujarat and practicing before this Court, District Courts and Tribunals contends that he is a certified Chartered Accountant, Company Secretary and has also undertaken many specialized courses such as Certified Fraud Detection and Forensic Accountant, International Financial Reporting Standards, Concurrent Bank Audit etc. Petitioner claims to be an expert as a part of resource person and represented Insolvency Professional Agency of Institute of Chartered Accountants of India in Insolvency and Bankruptcy Board of India-World Bank program of 'Training the Trainers' and claims to have trained more than 1,000 insolvency professionals in compulsory training programme conducted by Insolvency Professional Agency of Institute of Chartered Accountants of India, Institute of Company Secretaries of India and Institute of Cost Accountants of India. Petitioner also claims to have conducted more than 1,000 such lectures at various forums, conferences and programmes organised by several

financial institutions across India. Petitioner claims to have been worked in the interest of real estate laws and also contends that he has authored various books published by reputed publishers.

4. Petitioner further contends that he being a public spirited person and an RTI activist gets opportunity to interact with various people from different background such as businessmen, traders, Chartered Accountants, lawyers, students, Company Secretaries and has been following pro-actively the petitions filed which are of public importance before the Hon'ble Apex Court and this Court. Petitioner has enumerated list of cases in paragraph 2.1 of the petition in which he is espousing the cause of public.

5. Present petitioner has filed this petition for a direction being issued to the respondent to fill up the vacancy of Presiding Officer, DRT-I situated at Ahmedabad, contending that Debt Recovery Tribunals having jurisdiction over the State of Gujarat comprised of two Benches namely, DRT-I and DRT-II with territorial jurisdiction, as indicated in paragraph 4.3 which reads as under:

DRT-I	Ahmedabad – Gandhinagar - Sabarkantha (Himmatnagar), Patan, Mehsana, Banaskantha (Palanpur), Arawalli of Gujarat w.e.f. 01.06.2007.
DRT-II	Rest of districts in Gujarat and union Territory of Daman & Diu and Dadar & Nagar Haveli.

6. From 10.8.2021, charge of DRT-II and DRT-I was held by Shri Laxman Madnani. The notification dated 9.8.2021 issued by Ministry of Finance indicates that Mr. Laxman Madnani, Presiding Officer, DRT-II being entrusted with the charge as Presiding Officer, DRT-I for a period of six months starting from 10.8.2021 to 9.2.2022 or until further orders, whichever is earlier, in addition to his own charge as Presiding Officer, DRT-II vide Annexure-A, by virtue of Presiding Officer of DRT-I as said post was vacant.

7. As there was no Presiding Officer posted to DRT-I, petitioner herein had filed a Writ Petition (PIL) No.9 of 2022 contending that not only the litigant public but also the advocates are facing utmost difficulty. It was also brought to the notice of this Court that initially Presiding Officer, DRT-II was given additional charge of matters relating to DRT-I upto 31.12.2021. During the pendency of said writ petition, Ministry

of Finance, Department of Financial Service, issued a notification extending such charge of DRT-II to hold the charge of DRT-I. Consequent to said notification and also in view of submission made on behalf of Union of India of reasonable steps being taken to fill up the posts expeditiously, Writ Petition (PIL) No.9 of 2022 came to be disposed of vide order dated 4.2.2022. In fact, this Court had noticed that additional in-charge arrangement, as aforesaid, had been extended upto 31.3.2022.

8. Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training Secretariat of the Appointments Committee of the Cabinet issued a notification dated 20.2.2022, whereby decision in respect of appointments approved by the Committee of Cabinet for filling up the posts of Presiding Officers in various Debt Recovery Tribunals including DRT-I at Ahmedabad came to be circulated. Said notification has not crystallized by way of appointment being made to DRT-I, Ahmedabad. Subsequent to expiry of in-charge arrangement on 31.3.2022, no further notification came to be issued by the respondent extending the in-charge arrangement. In other words, the post of Presiding Officer, DRT-I became vacant with effect from 1.4.2022. By virtue of the same, matters pertaining

to DRT-I are being adjourned without any proceedings taking place, as is evident from order sheets produced by the petitioner along with present petition at Annexure-E collectively.

9. Right to speedy justice is enshrined under Article 21 of the Constitution of India as held by Hon'ble Apex Court in **Supreme Court Advocates-on-Record Association Vs. Union of India** reported in **AIR 1994 SC 268**. Non-adherence to the same would impinge upon the rights of citizens under Article 14 of the Constitution of India, inasmuch as the litigants are differently treated though placed on the same pedestal or being on par. To put it differently, litigants whose matters are before DRT-II would be able to get the relief at the hands of DRT-II, whereas litigants who are similarly placed and seeking reliefs by filing the petition, which is pending before DRT-I, are not able to get the relief namely, their applications or petitions are getting adjourned from time to time for want of Presiding Officer and thereby depriving them of their legitimate right to speedy justice. Since learned Additional Solicitor General of India, Mr. Devang Vyas made a statement before this Court on 13.6.2022 that process for filling up the vacancy of the Presiding Officer, DRT-I is under way and shortly it is coming to

an end and if necessary, steps would be taken to issue office orders for making in-charge arrangement. Hence, this Court adjourned this matter to enable the respondent to take such steps. Though this matter has seen two subsequent dates i.e. 17.6.2022 and 20.6.2022, till date, the assurance given to this Court has not crystallized by way of any such steps having been taken or order having been issued. Hence, even today, when it is pointed out to learned counsel appearing for the respondent as to whether the respondent is ready and willing to pass an order or issue office memorandum making in-charge arrangement, he is unable to give any concrete or positive answer as to what steps the respondent would take to address this issue in a time bound manner. In that view of the matter, we proceed to pass the following

ORDER

- (i) Writ Petition (PIL) No.41 of 2022 is allowed.
- (ii) A Writ of Mandamus is issued directing the respondent to conclude the process for appointment of the Presiding Officer in DRT-I,

Ahmedabad, expeditiously and at any rate within an outer limit of two months from today.

(iii) Till such time, the respondent shall issue appropriate notification for placing Presiding Officer, DRT-II, Ahmedabad, with additional charge of Presiding Officer, DRT-I, Ahmedabad, forthwith.

(iv) No order as to costs.

(ARAVIND KUMAR,CJ)

RADHAKRISHNAN K.V.

(ASHUTOSH J. SHASTRI, J)

THE HIGH COURT
OF GUJARAT

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