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IN THE HIGH COURT OF JUDICATURE AT: HYDERABAD  
FOR THE STATE OF TELANGANA &  
FOR THE STATE OF ANDHRA PRADESH

W.P.NO. 31033 OF 2016

BETWEEN:

Arepalli Naga Babu, S/o. Arepalli Srinivasa Rao,  
Aged 23 years, Occ: Advocate,

[REDACTED]  
Telangana State.

...Petitioner

AND

1. Hon'ble High Court of Judicature at Hyderabad,  
for the State of Andhra Pradesh and for the  
State of Telangana,  
Hyderabad.  
Rep., by its Registrar (*Recruitment* General).
2. State of Andhra Pradesh,  
Law (LA & J - SC.F) Department,  
Rep., by its Secretary,  
Secretariat Buildings, Hyderabad.
3. State of Telangana,  
Law (LA & J - SC.F) Department,  
Rep., by its Secretary,  
Secretariat Buildings, Hyderabad.

...Respondents

**AFFIDAVIT**

I, Arepalli Naga Babu, S/o. Arepalli Srinivasa Rao, aged 23 years, Occ: Advocate,

[REDACTED]  
[REDACTED] Telangana State, do hereby solemnly and sincerely affirm  
and state on oath as follows:

1. That I am the Petitioner herein and as such well acquainted with the facts of  
the case and swear the contents of this affidavit.
2. I am filing the present Writ Petition challenging the constitutional validity  
of the Rule 7 of the Andhra Pradesh State Judicial Service Rules, 2007  
(hereinafter "Judicial Service Rules") (**Annexure P-1**) on the grounds that:

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(a) it is violative of Article 14 and Article 21 of the Constitution of India as it specifically excludes reservation for Visually Challenged Persons.

(b) it is ultra vires the Persons with Disabilities (Equal, Opportunities, Protection of Rights and Full Participation) Act, 1995, (hereinafter "Disabilities Act").

I am also challenging the consequent Notification No. 36/2016-RC dated 16.08.2016 issued by Respondent No.1 (Annexure P-2) under the said Judicial Service Rules, which do not contemplate any reservation for Visually Challenged Persons for the posts of Civil Judge (Junior Division) to be held in September, 2016.

3. I state that I am Visually Challenged Person. I was born in Ramarajupallem Village, Gudur Mandal, Krishna District. My parents are agricultural farmers. I also state that I am a member of backward class community falling under BC-B category. After clearing my Intermediate Exam (12<sup>th</sup> Standard) in Hyderabad, I applied for Entrance Examination for the National Law University, Odisha. I was trained for CLAT (Common Law Admission Test) by Increasing Diversity by Increasing Access to Legal Education (IDIA), a registered charitable trust that aims to foster access to premier legal education for underprivileged communities. I secured all India 4<sup>th</sup> Rank in the persons with disability category. I was admitted to the National Law University, Odisha in the year 2011. As an IDIA scholar, all my fees were paid for by IDIA through their various donors. I graduated from the National Law University, Odisha in the year

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2016 with degree in B.A. LL.B. (Hons.). I state that I obtained the highest grade (outstanding) in various courses.

4. After graduation from National Law University, Odisha, I enrolled myself as an Advocate in the Bar Council of Andhra Pradesh in July, 2016. Copies of the Certificates viz., Secondary School Certificate; Board of Intermediate Education; Community, Residence and Date of Birth Certificate; Certificate for Person with Disability; B.A. LL.B. (Hons.) Certificate of National Law University, Odisha; Provisional Certificate for Enrolment as Advocate in the Bar Council of the State of Andhra Pradesh, Hyderabad and my civil Judge exam application, are filed herewith as (**Annexures P3 to P8**).
5. After enrolling myself, I have been practicing in the High Court of Andhra Pradesh. I am currently working in the office of an Advocate practicing in the High Court of Hyderabad for the State of Andhra Pradesh and the State of Telangana. I assist him in legal research and the preparation of briefs. I am well equipped to do legal research on Manupatra and SCC Online.
6. I state that the High Court of Hyderabad for the State of Andhra Pradesh and the State of Telangana – Respondent No.1 issued Notification No. 36/2016-RC dated 16.08.2016 for appointment to the posts of Civil Judge (Junior Division). The said notification states that the recruitment shall be subject to the Rule of reservation in favour of candidates belonging to S.C., S.T., B.C., Women and Physically Handicapped (Orthopedically Handicapped) as per Rule 7 of the Judicial Service Rules.
7. I state that Rule 7 of the Judicial Service Rules provides for reservation and the same is extracted hereunder for ready reference:

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**“7. Reservation:**

*Rules 22 and 22-A of the Andhra Pradesh State and Subordinate Service Rules, 1996 in so far as they relate to Scheduled Castes, Scheduled Tribes, Backward Classes, Women and one percent for Physically handicapped (Orthopedically Handicapped (lower portion of the body) persons shall apply to the appointments to be made by direct recruitment”.*

8. I state that under the said Judicial Service Rules, one percent reservation is given for physically handicapped persons who are orthopedically handicapped. Under the said Judicial Service Rules, there is no reservation for Visually Challenged persons like me.
9. It is submitted that under Section 32 of the Disabilities Act, the appropriate Government has been obligated to identify posts which could be reserved for persons with disabilities. Under Section 33 of the Disabilities Act, every establishment wherein such posts are identified is required to reserve not less than 3% of the vacancies for persons with disabilities. Of the 3% reservation 1% each shall be reserved for persons with
- (a) Blindness or low vision;
  - (b) Hearing impairment;
  - (c) Loco motor disability or cerebral palsy.
10. I submit that pursuant to Section 32 of the Disabilities Act, the Ministry of Social Justice and Empowerment constituted an expert committee to conduct an in-depth study on various jobs that can be performed by persons with disabilities. The said Expert Committee identified detailed list of jobs which can be performed by persons with disabilities. The list was accepted by the Central Government and published on 29.07.2013. In this said list,



the post of Judges / Magistrates Subordinate in Lower Judiciaries (Item No. 466 in the list) has been identified as being suitable for persons who are blind. (**Annexure P-9**). The said list also sets out the physical requirements for the post of Judges/Magistrate Subordinate in Lower Judiciaries. The requirements are Sitting, Standing, Reading and Writing, Communication. I state that I am perfectly capable of performing the aforesaid requirements with the aid of assistive technology.

11. I state that pursuant to the said report, the High Court of Delhi in its Notification for "The Delhi Judicial Service Examination- 2015" specifically provided reservation for visually impaired (blind) candidates for a position in the judicial service in Delhi High Court. The said notification is annexed herewith as (**Annexure P-10**). The relevant Portion of the said Notification is extracted below:

*Note 1: Out of aforesaid 100 vacancies, 02 vacancies (backlog) for Physically Handicapped (Blind/Low Vision) and 02 vacancies (including 01 backlog vacancy) for Physically Handicapped (Ortho.) candidates are reserved.*

12. It is submitted that the Rajasthan High Court has provided reservation for Visually Challenged Persons (**Annexure P-11**). The relevant portion of the said rule is extracted below:

**Rule 10 (4) of the Rajasthan Judicial Service Rules, 2010 states as follows:**

*"Reservation of posts for Persons with Disabilities as defined in the Rajasthan Employment of Disabled Persons Rules, 2000, shall be*



*3% category-wise which shall be horizontal and shall be available only at the time of initial recruitment. In the event of non availability of eligible and suitable persons with disabilities in a particular year, the vacancy so reserved for them shall be filled in accordance with the normal procedure and such vacancies shall not be carried forward to the subsequent year:*

13. It is submitted that Rule 36 of the Rajasthan Employment of Disabled Person Rules, 2000 states as follows: **(Annexure P-12).**

*Provided that the total number of posts reserved for all such categories in a direct recruitment shall not exceed 50% of the total vacancies”*

*“Reservation for Persons with Disabilities: In every establishment three per cent of the vacancies shall be reserved for persons or class of Persons with Disabilities of which one percent each shall be reserved for persons suffering from:*

- (i) blindness or low vision;*
- (ii) hearing impairment;*
- (iii) Locomotor disability or cerebral palsy*

*In the posts identified for each disability by the Government of India under section 32 and such reservation shall be treated as horizontal reservation.....”*

14. It is submitted that other High Courts have also provided reservation for Visually Challenged Persons and I am in the process of obtaining the said Rules.



15. It is submitted that the said Rules reflect the objective assessment made by the said High Courts that persons who are Visually Challenged Persons are perfectly capable of discharging the various judicial functions of a Magistrate/judge.
16. It is submitted that the Respondent No.1 has not taken into account the report of the Central Government under Section 32 of the Disability Act. Instead the Respondent No.1 continues to go by the Judicial Service Rules issued in August, 2008 which confine the benefit of reservation only to the Orthopedically Handicapped and not to the Visually Challenged Persons. Even the reservations provided are only upto 1% and not the statutorily mandated 3%. I submit that no cogent justification has been provided for excluding reservation for Visually Challenged Persons.
17. I submit that exclusion of Visually Challenged Persons from Rule 7 is illegal and violative of the right to equality guaranteed under Article 14 of the Constitution of India. I state that the failure to include Visually Challenged Persons in the said notification is also violative of equality of opportunity guaranteed under Article 16(1) of the Constitution of India.
18. I state that pursuant to the said Judicial Service Rules, and the impugned Notification No. 36/2016-RC dated 16.08.2016, I went to the City Civil Court, Hyderabad to submit my application. Upon receipt of the application, I was told that my application would be rejected as I am not even entitled to write the exam. It was further clarified to me that I am also not entitled for reservation. I state that the last date for submitting the application is 16.09.2016. The date of the examination has not been stated anywhere in the notification.



19. I state that merely by virtue of my disability, I am being disentitled from even participating in the selection process for Civil Judge (Junior Division) in the State Judicial Service. I state that the Rule 7 of the Judicial Service Rules is also ultra vires Section 33 of the Disabilities Act. This is because Section 33 mandates the appropriate Government to establish at least 1% of vacancies for people who are blind and 3% overall for persons with disabilities in total. The failure of the State Government to establish the said vacancies is contrary to the stipulation in Section 33 of the Disabilities Act.

20. I further state that any identical matter with respect to Visually Challenged Person is pending before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court by its Order dated 10.07.2015 in S.L.P (C) No. 17223 of 2015 directed that during the pendency of the petition one post must be kept vacant. **(Annexure P-13)**

21. I also state that there are several eminent judges across the world who have been discharging judicial functions even though they are visually challenged. Such as Justice Zak Mohammed Yacoob who served as a Judge on the South African Constitutional Court for 15 years and Judge David S Tatel of the United States Court of Appeals, District of Columbia Circuit, often referred to as the second most important court in the United States of America. The said judges had been discharging their duties with the help of assistive technology and Braille computers. The advancement in technology has helped in uplifting the handicapped and in meeting the current needs. I state that the experience of the said Judges have been documented on the IDIA website/blog and more than amply demonstrates



that being blind is not an impediment for discharging the functions of Judicial Magistrate. (Annexure P-14)

22. I also state that for me to write an exam and to attend viva voce, I would require special facilities like a scribe / writer who will enable me to write the exam effectively. I further state that the impugned Notification does not provide for extended time period for people with Visually Challenged Persons. I state that the failure to provide scribe or extending the time period would deny me the equality of opportunity to participate in the employment. I state that the said facility is provided when persons with disabilities write exams. I also state that the said facilities should be in accordance with the Office Memorandum issued by the Ministry of Social Justice and Empowerment, Department of Disability Affairs Guidelines (dated 26 February 2013) which sets out in detail the guidelines for conducting written examination of persons with disabilities. (Annexure P-15)

23. The Petitioner has no other alternative remedy, except to approach this Hon'ble Court under Article 226 of the Constitution of India for the redressal of its grievances.

24. The Petitioner has not filed any writ petition, suit or any other proceeding for the relief or reliefs sought in this writ petition.

25. The Petitioner reserves its right to file better or additional affidavit, if any, if the circumstances so warrant.

26. The material papers filed herein may be read as part and parcel of this affidavit.



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PRAYER

In view of the above, it is prayed that, pending the disposal of the above writ petition, this Hon'ble Court may be pleased to suspend Rule 7 of the Andhra Pradesh State Judicial Service Rules, 2007 and also the Notification No. 36/2016-RC dated 16.08.2016 by the Respondent No.1 and consider the Petitioner for reservation under the disability category and pass such other order (s) as this Hon'ble Court deems fit and proper in the circumstances of the case.

In view of the above, it is prayed that, pending the disposal of the above writ petition, this Hon'ble Court may be pleased to permit the Petitioner to write the exam, viva voce and participate in the selection process for the posts of Civil Judge (Junior Division) issued vide Notification No. 36/2016-RC dated 16.08.2016 by the Respondent No.1 and pass such other order (s) as this Hon'ble Court deems fit and proper in the circumstances of the case.

In view of the above, it is prayed that, pending the disposal of the above writ petition, this Hon'ble Court may be pleased to permit the Petitioner to appear for the exam and to provide him with a competent scribe / writer of his choice to enable him to effectively write the exam for the posts of Civil Judge (Junior Division) issued vide Notification No. 36/2016-RC dated 16.08.2016 by the Respondent No.1 and pass such other order (s) as this Hon'ble Court deems fit and proper in the circumstances of the case.

In view of the above, it is prayed that, pending the disposal of the above writ petition, this Hon'ble Court may be pleased to direct the Respondent No.1 to give additional 20 minutes time for every one hour to write the exam for the posts of



Civil Judge (Junior Division) issued vide Notification No. 36/2016-RC dated 16.08.2016 by the Respondent No.1 and pass such other order (s) as this Hon'ble Court deems fit and proper in the circumstances of the case.

For the reasons aforesaid, it is humbly prayed that this Hon'ble Court may be pleased to issue an appropriate Writ, Direction or Order more in the nature of Writ of Mandamus,

- a. Declare Rule 7 of the Andhra Pradesh State Judicial Service Rules, 2007 as illegal, arbitrary, unconstitutional and ultra vires the provisions of Persons with Disabilities (Equal, Opportunities, Protection of Rights and Full Participation) Act, 1995, and
- b. Consequently, declare the Notification No. 36/2016-RC dated 16.08.2016 by the Respondent No.1 for appointment to the post of Civil Judge (Junior Division) as ultra vires
- c. Direct Respondent Nos. 1 to 3 to provide effective opportunity to the Petitioner to participate in the selection process including provision of scribe / writer and extension of time limit.
- d. To keep one post vacant of Civil Judge (Junior Division)
- e. and pass such other order(s) as this Hon'ble Court deems fit and proper in the extraordinary circumstances of the case in the interests of justice.

Solemnly affirmed and signed  
on this the 9<sup>th</sup> day of September,  
2016, before me at Hyderabad.

  
DEPARTMENT  
A. Nagababu

ADVOCATE:: HYDERABAD

VERIFICATION

I, Arepalli Naga Babu, S/o. Arepalli Srinivasa Rao, aged 23 years, Occ: Advocate,

