

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/WRIT PETITION (PIL) NO. 9 of 2022

=====

NIPUN PRAVEEN SINGHVI

Versus

UNION OF INDIA

=====

Appearance:

MR.AVINASH PODDAR(9761) for the Applicant(s) No. 1

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

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

for the Opponent(s) No. 1

=====

CORAM: HONOURABLE THE CHIEF JUSTICE MR. JUSTICE ARAVIND KUMAR

and

HONOURABLE MR. JUSTICE NIRAL R. MEHTA

Date : 02/02/2022

ORAL ORDER

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

Issue Notice to respondent No.2. No Notice is issued for respondent No.1 for the present.

Re-list on 14.2.2022. Direct service is permitted.

(ARAVIND KUMAR,CJ)

(NIRAL R. MEHTA,J)

Bharat

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
DISTRICT: AHMEDABAD**

(EXTRAORDINARY ORIGINAL JURISDICTION)

WRIT PETITION NO. _____ OF 2022 (P.I.L.)

Nipun Praveen Singhvi

...Petitioner

Versus

Union of India

...Respondents

INDEX

Sr. No.	Annex.	Particulars	Page No.
1.	----	Synopsis	A
2.	----	Memo of Petition	1-18
3.	A	Copy of the notification dated 09.08.2021, bearing F. No. 7/1/2021 – DRT, published by the Ministry of Finance, Department of Financial Service, conferring DRT-I, PO charge to PO of DRT-II	19
4.	B	Copy of the Order dated 03.01.2022 passed by the Ld. Registrar, DRT-1, Ahmedabad	20
5.	C	Copy of the order dated 16.12.21 of the Hon'ble Supreme Court in <i>State Bar Council of Madhya Pradesh Vs Union of India</i>	21-23
6.	D	Copy of the order dated 15.12.21 of the Delhi High Court in <i>Edelweiss ARC Vs Secretary, DFS, Ministry of finance</i>	24-27
7.	--	Vakalatnama	28

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
DISTRICT: AHMEDABAD
(EXTRAORDINARY ORIGINAL JURISDICTION)**

WRIT PETITION NO. _____ OF 2022 (P.I.L.)

Nipun Praveen Singhvi	...Petitioner
Versus	
Union of India	...Respondents

SYNOPSIS

The present Writ Petition under Article 226 of the Constitution of India, 1950 is being filed by the Petitioner in public interest before this Hon'ble Court for seeking necessary directions to the Respondents for appointment of Presiding Officer in the Debt Recovery Tribunal -I, Ahmedabad.

Hence, this Petition...

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
DISTRICT: AHMEDABAD**

(EXTRAORDINARY ORIGINAL JURISDICTION)

WRIT PETITION NO. _____ OF 2022 (P.I.L.)

In Re: In the matter seeking direction in terms of Section 4 of the Recovery of the Debt and Bankruptcy Act, 1993 for filling up posts of Presiding Officer in the Debt Recovery Tribunal -I, Ahmedabad ;

And

In the matter under Article 226 of the Constitution of India, 1950;

And

In the matter under Article 14 and 19 (1)(g) of the Constitution of India, 1950;

And

In the matter of Section 4 of the Recovery of Debt and Bankruptcy Act, 1993;

And

In the matter of:-

In the matter of:-

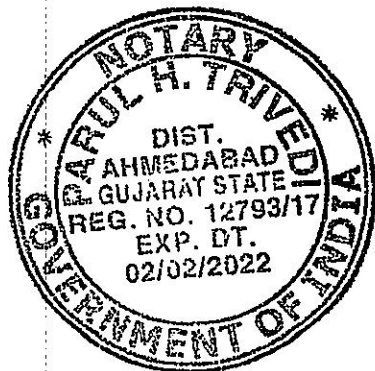
Nipun Praveen Singhvi

Age: 34 years, Male, Occupation: Advocate,

Having address at:

111-112, University Plaza,


PETITIONER



Vijay Cross Road, Navrangpura,
Ahmedabad-380 009.

...Petitioner

Versus

UNION OF INDIA
Through its Secretary to Government,
Ministry of Finance,
Department of Financial Services,
3rd floor Jeevan Deep Building
Sansad Marg, New Delhi – 110 001.
E : supportnodrrb-dfs@nic.in

...Respondent

To,
The Hon'ble Chief Justice
And the other companion judges
of the High Court of Gujarat.

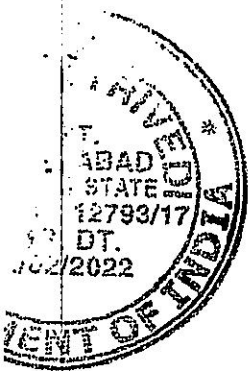
The humble Petition of the Petitioner above named;

MOST RESPECTFULLY SHOWETH THAT:-

1. The present Writ Petition under Article 226 of the Constitution of India is being filed by the Petitioner in public interest. The present Petition is filed seeking direction in terms of Section 4 of the Recovery of Debt and Bankruptcy Act, 1993 for filling up posts of Presiding Officer in the Debt Recovery Tribunal-I, Ahmedabad (herein after to be referred as "DRT-I"). The vacancy in DRT-I has led to violation of legal rights of representation to the bankers/lenders, borrowers, guarantors and other stake holders. The vacancy of


PETITIONER

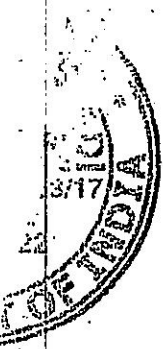




Presiding Officer is seriously impinging on the rights of litigating citizens whose cases are pending before the Debts Recovery Tribunal – I, at Ahmedabad and their right to have access to justice is being compromised. Further, it has led to overburden of Writ courts and therefore, the circumstances are standing against the spirit of law for which Tribunals were created. So far as the present Petitioner is concerned, the Petitioner is a public spirited person and a law abiding citizen and is actively involved in the issues of public importance. Hence, there is no personal interest in the litigation except for the benefit of the public at large. The Petitioner has not filed any other Public Interest litigation with regard to the present subject matter.

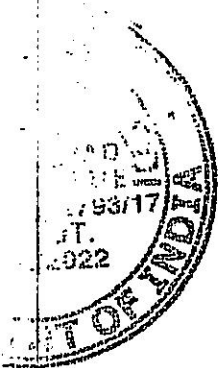
2. The Petitioner is an Advocate enrolled on the rolls of the Bar Council of Gujarat, and practicing before the Constitutional Courts, Subordinate Courts and Tribunals thereto. Apart from advocacy, the Petitioner is also a qualified Chartered Accountant (C.A.), Company Secretary (C.S.) and has also undertaken many specialized courses such as certified fraud detection and forensic accountant, International Financial reporting standards, Concurrent bank audit etc. The Petitioner


PETITIONER



being an expert as a part of resource person represented Insolvency Professional Agency (IPA) of Institute of Chartered Accountants of India (ICAI) in Insolvency and Bankruptcy Board of India (IBBI)-World Bank program of 'Training the Trainers' (2018) and has trained more than 1000 Insolvency Professional in compulsory training program conducted by Insolvency Professional Agency (IPA) of Institute of Chartered Accountants of India (ICAI), Institute of Company Secretaries of India (ICSI) and The Institute of Cost Accountants of India (ICAI). The Petitioner has also conducted and delivered more than 1000 lectures at various forums, conferences and programs conducted by the IBBI, IPA, ICAI, ICSI, financial institutions and management training institutions across India. The Petitioner has also been member of various committees of Institute of Chartered Accountants of India (ICAI) at national, regional and branch level of Corporate Law, Bank Audit and Accounting Standard Board etc. The Petitioner has been actively working for the interest of various corporate, banking and taxation laws. He is contributed and authored various books for instance "Gujarat RERA Manual" published by Taxmann, "Maharashtra RERA Manual" published by WIRC of


PETITIONER



ICAI, “Guide to Insolvency and Bankruptcy Code, 2016” published by Bloomsbury.

2.1 The Petitioner being a public spirited person and RTI activist gets an opportunity to interact with various people from different backgrounds such as businessmen, traders, Chartered Accountants, Lawyers, Students, Company Secretaries etc. The Petitioner also undertakes a rigorous analysis of legal developments, policies and institutions. No contempt proceedings are ever initiated or any appreciation or structure has been passed against the Petitioner. The Petitioner has proactively filed following petition of public importance before the Hon’ble Supreme Court and before this Hon’ble Court which is listed herein below:

Sr. No.	Particulars
1.	Intervener in W.P. (C) NO. 916/2016 titled as <i>Adil Alvi Vs. Union Of India & Anr.</i> for quashing and setting aside the Notification S.O. 3407 (E) dated 08.11.2016 as amended from time issued by the Ministry of Finance (Department of Economic Affairs), Govt. of India in the case of demonetization which is pending for adjudication before the Hon’ble Supreme Court.
2.	Writ Petition being Special Civil Application No.11996 of 2017 challenging the constitutional validity of Part XIV of the


PETITIONER

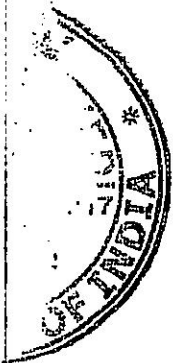
	Finance Act, 2017 and of the rules framed in consonance, which empowers the Central Government to frame rules relating to appointment and service conditions of members of various tribunals before this Hon'ble Court which is pending for adjudication. However, recently the Hon'ble Supreme Court in the case of <i>Roger Mathew Vs South Indian Bank Ltd. & Ors</i> in Civil Appeal No. 8588 of 2019 has struck down the rules.
3.	Writ Petition being <i>Special Civil Application No.18030 of 2017</i> challenge to the constitutional validity of the constitution of the Authority of Advance Ruling (AAR) and the Appellate Authority of Advance Ruling (AAAR) under the Central Goods and Services Act and State Goods and Services Act which is pending for adjudication before this Hon'ble Court.
4.	Public Interest Litigation being Writ Petition (PIL) NO. 216 of 2017 for appointment of technical member at National Company Law Tribunal, Ahmedabad bench whereby this Hon'ble Court vide its order dated 11.10.17 granted liberty to make representation before the President of National Company Law Tribunal and in the event of further difficulty, liberty was granted to the Petitioner to approach this Hon'ble Court.
5.	Public Interest Litigation being <i>Writ Petition (PIL) NO. 216 of 2017</i> seeking appropriate directions for enforcement/administration of the India-Korea Free Trade Agreement and investigation in to the Customs Duty Evasion taking place in Imports from South Korea whereby this Hon'ble Court vide order dated 19.12.18 granted permission to withdraw the petition with a view to make appropriate representation before the concerned authority/


PETITIONER



	forum etc. with regard to the subject-matter and the compilation of the present petition be treated as a representation by such authority.
6.	Public Interest Litigation being <i>Writ Petition (PIL) NO. 208 of 2019</i> seeking appropriate directions for constitution of RERA Appellate Tribunal and appointment of members in the Tribunal. The PIL was disposed of with directions to do the appointments of members at earliest and also specific office space for Tribunal was granted. Thereafter, Tribunal appointments were made with strength of 3 members.
7.	Public Interest Litigation being <i>Writ Petition (PIL) NO. 55 of 2021</i> seeking directions against RERA and RERA-Tribunal for streamlining the process of virtual hearing and restraining personal/physical hearing due to pandemic of Covid-19. The PIL has been disposed off in the light of guidelines issued for the virtual hearing.
8.	Public Interest Litigation being <i>Writ Petition (PIL) NO. 13 of 2021</i> to extend the Companies Fresh Start Scheme, 2020 to 31.3.2021 as the benefit of the Scheme could not be availed in view of long pandemic of Covid-19. The said PIL was disposed off vide order dated 28.01.21
9.	Public Interest Litigation being <i>Writ Petition (PIL) No. 128 of 2021</i> requesting appointment of Judicial and Technical members in RERA Appellate Tribunal which has been disposed off by this Hon'ble Court concluding that the appointment of members would be preferably done in 3 months.
10.	Public Interest Litigation being <i>Writ Petition (PIL) No. 131 of 2021</i> wherein terms and conditions of advertisement relating to post of Judicial Member of NCLT has been challenged

PETITIONER



	and the same is pending adjudication before this Hon'ble Court.
--	---

3. The Petitioner is filing the present petition purely in public interest on his own and not at the instance of any other person or organization. The litigation cost, including the travelling expenses and other expenses are being borne by the Petitioner himself. The Petitioner is self employed and its source of income is from its litigation practice and consultancy, so the Petitioner has not mentioned any fixed income. It is also submitted that, the learned advocates for the Petitioner are doing *pro bono* litigation for the present Petition and therefore, except some costs, there will be no further expenses to be borne by the Petitioner. The Petitioner is a law abiding citizen and there is no contempt proceedings ever initiated or pending till today against the present Petitioner.

4. That the facts of the case in brief are as follows:-

4.1 The Petitioner has preferred this litigation for direction to fill up vacancy of Presiding Officer, DRT-I, situated at Ahmedabad. It has led to denial of mandatory adjudication rights available to citizens under relevant


PETITIONER

statues. Therefore, the Petitioner submits that he has *locus standi* to maintain the present writ petition.

4.2 Debt Recovery Tribunals (DRT) are established under Section 4 of the Recovery of Debt and Bankruptcy Act, 1993 (RDBA) and are also entrusted to deal with matters under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFESI). Both the Acts were enacted to deal with the matters relating to lending transactions by banks and financial institutions with a motive to recover huge sums of public money. Further, the Acts also enable the borrowers, guarantors and other aggrieved persons to challenge the measures undertaken by creditors before the DRT's.

4.3 It is fact that there are two benches of Debt Recovery Tribunal (DRT) having jurisdiction over the State of Gujarat. The distribution of territorial jurisdiction is as follows:

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


PETITIONER



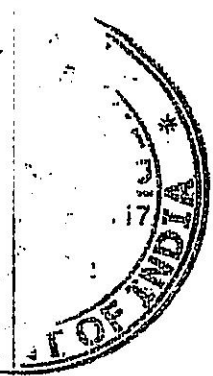
	Nagar Haveli.
--	---------------

4.4 It is pertinent to mention that due to vacancy in the DRT-I, the additional charge of DRT-I was given to the Ld. Presiding Officer of DRT-II from 10.08.2021. The notification dated 09.08.2021 issued by Ministry of Finance states that the Hon'ble Mr. Laxman Madnani, Presiding Officer, DRT-II shall be entrusted with charge of Presiding Officer, DRT-I for a period of 6 months starting from 10.08.2021 to 09.02.2022 or until further orders, whichever is earlier, in addition to his own charge as Presiding Officer, DRT-II.

(Copy of the notification dated 09.08.2021, bearing F. No. 7/1/2021 – DRT, published by the Ministry of Finance, Department of Financial Service, conferring DRT-I, PO charge to PO of DRT-II is annexed hereto and marked as “Annexure-A”)

4.5 It is matter of fact that the DRT-I, Ahmedabad has been vacant and headless from 01.01.2022. Thereafter, matters are being adjourned which can be seen from the Order dated 03.01.2022 by the Registrar, DRT-I whereby with reference to the letter issued by Ministry of finance dated 14.12.2021, it was stated that the

PETITIONER



additional charge given to the Hon'ble Mr. Laxman Madnani, Presiding Officer, DRT-II of DRT-I was restricted till 31.12.2021.

(Copy of the order dated 03.01.22 of the Ld. Registrar, DRT-II is annexed hereto and marked as "Annexure-B")

4.6 The vacancy of post of Presiding Officer, DRT-I at Ahmedabad violates Article 14 of the Constitution as the litigants before same territorial jurisdiction are treated differently as the other bench DRT-II is functional and has Presiding Officer. The litigants cannot be treated differently even when they are identically placed.

4.7 The fundamental rights of the litigants that is lenders-banks/financial institutions and borrowers are violated. The right to justice and speedy justice are enshrined under Article 19 of the Constitution of India.

4.8 It is important to mention that the Hon'ble Supreme Court in the matter of *State Bar Council of Madhya Pradesh Vs Union of India* (SLA 10911/2021 dated 16.12.21) has also recently taken cognizance of the vacancy at DRT/DRAT and requested jurisdictional High Courts to entertain the related matters.

PETITIONER



(Copy of the order of the Hon'ble Supreme Court is annexed hereto and marked as "Annexure-C")

4.9 It is submitted that an immediate and urgent need has arisen to fill up the vacancy of Presiding officer, DRT-I and therefore this petition.

5. The source of information of the facts pleaded is based on the notifications issued by the Government which are available in public domain, information obtained and legal research undertaken by the Petitioner.

6. That the Petitioner has not made a representation in this regard to the authorities as the position of Presiding Officer, DRT-I is vacant which is evident from the notifications issued by the Respondent authorities and the same is available in public domain and there is an urgent need of filling up the vacancy since time is essence for justice and, therefore, no representation has been made to the authorities.

7. That to the best of the knowledge and information of the present Petitioner, no public interest litigation raising


PETITIONER



the same issue is filed before this Hon'ble Court or before any other Court.

8. That the present petition has been filed on the following amongst other grounds:-

GROUND S

(a) It is submitted that, this Writ Petition furnishes a typical instance where the judicial system has been plagued due to inaction of the executive on-time for filling up the judicial vacancies of DRT-I.

(b) Over the last few decades, there has been a conscious move on the part of the State to tribunalize administration of justice. While the Hon'ble Supreme Court in the matter of *State Bar Council of Madhya Pradesh Vs Union of India* (SLA 10911/2021 dated 16.12.21) has accepted the issue of vacancies at DRT/DRAT and therefore, requested High courts to entertain the petitions under Article 226 to evolve stop gap arrangement via order dated 16.12.2021.

(c) It is submitted that the qualification of Presiding officer is that of the rank of District judge and therefore,


PETITIONER



vacancy for the judicial officer post has led to flooding unavoidable litigations before High Court.

(d) It is further submitted that the statutory remedy under RDBA and SARFESI cannot be availed due to non-availability of Presiding officer at DRT-I, Ahmedabad. The statutory remedy cannot be replaced by constitutional remedy as the same involves adjudication of various facts and evidence and thereby depriving the citizens is violation of Article 19 and 21.

(e) It is further submitted that litigants in the State of Gujarat are being treated differently as one bench has judicial officer while the other bench is vacant. This has led to discrimination amongst the litigants who are identically placed and therefore, violation of Article 14 of the Constitution.

(f) That vacancy of Presiding Officer in DRT-I, Ahmedabad is seriously impinging on the rights of litigating public whose cases are pending before the DRT-I, and their right to have access to justice is being compromised since approaching High Court creates an additional financial burden on the litigants.


PETITIONER



9. That the petitioner is seeking interim relief on the following grounds :

GROUND FOR INTERIM RELIEF

(a) Petitioner has a prima facie case. Balance of Convenience is in favour of the Petitioner. No irretrievable damage will be caused to the Respondents and also it is in the interest of the Respondents also, if interim relief prayed for is granted.

(b) It is submitted that, the Petitioner hereby seeks an interim stay on urgent filling up vacancy of DRT-I considering the facts of the case.

(c) Petitioner hereby seeks an interim relief that the arrangement envisaged in the notification dated 09.08.2021 shall continue to operate till the appointment of the Presiding Officer, DRT-I, at Ahmedabad is made. The petitioner places reliance on order (dated 15.12.21) passed in identical facts by Delhi High Court in the case of *Edelweiss Asset Reconstruction Company Ltd Vs The Secretary,*


PETITIONER

*Department Of Financial Services & Ors. (WP(C)
3668/2021)*

*(Copy of the order dated 15.12.21 of the Delhi High
Court is annexed hereto and marked as "Annexure-
D")*

10.The Petitioner has not filed any other appeal or application either before this Court or before the Hon'ble Supreme Court of India or before any other Courts on the same subject matter of this petition.

11.The Petitioner has no other alternative efficacious remedy but to approach this Hon'ble Court by way of this petition.

12.The Petitioner prays that this Hon'ble Court may be pleased to:-

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


PETITIONER

(b) Pending admission, hearing and final disposal of this Petitioner, Your Lordships may be pleased to pass a Writ of Mandamus or Certiorari or any other appropriate Writ, Order or direction to the Respondents that arrangement envisaged in the notification dated 09.08.2021 whereby the work of DRT-I, Ahmedabad would be managed by the Ld. Presiding Officer of DRT-II, Ahmedabad shall continue to operate till final and permanent appointment is made by the Respondent;

(c) Your Lordships may be pleased to grant any other relief or reliefs' as this Hon'ble Court may deem just, fit and expedient be granted in favour of the Petitioner;

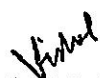
AND FOR THIS ACT OF KINDNESS AND JUSTICE THE PETITIONER SHALL AS IN DUTY BOUND SHALL FOREVER PRAY.


PETITIONER

Place:
BY
Date:

DRAWN & FILED

Advocates for the Petitioner


[Vishal J. Dave/Hiral U. Mehta/Avinash Poddar]

AFFIDAVIT

I, Nipun Praveen Singhvi, Age: 34 years, Male, Occupation: Advocate, Having address at: 111-112, University Plaza, Vijay

Cross Road, Navrangpura, Ahmedabad-380 009, the Petitioner herein do hereby state of solemn affirmation that what has been stated hereinabove in para. Nos. 1 to 9 is true to my knowledge and I believe the same to be true and correct. Para. Nos. 10 to 11 are the formal contentions. Para 12 is the prayer clause.

SOLEMNLY AFFIRMED ON THIS 25 JAN 2022 DAY OF January, 2022 AT AHMEDABAD.

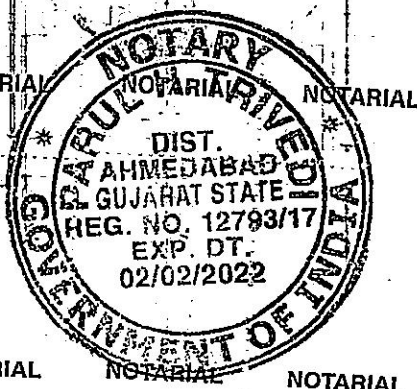
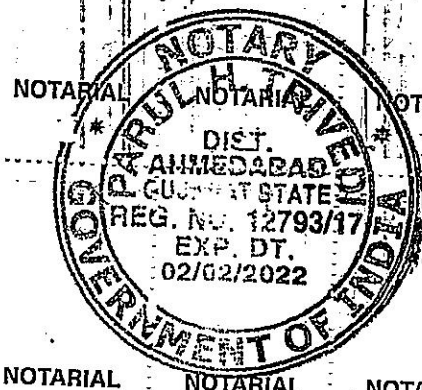
DEPONENT

Explained & Interpreted in
Vernacular language to the Deponent
& Identified by me.

Vinod
Advocate

SR. NO. B-6 /2022

Parul H. Trivedi
PARUL H. TRIVEDI
NOTARY
GOVT. OF INDIA



SOLEMNLY AFFIRMED
BEFORE ME

Parul H. Trivedi
PARUL H. TRIVEDI
NOTARY
GOVT. OF INDIA

25 JAN 2022

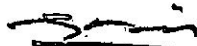
(TO BE PUBLISHED IN PART I, SECTION 2 OF THE GAZETTE OF INDIA)

F.No.7/1/2021-DRT
Government of India
Ministry of Finance
Department of Financial Service

New Delhi, dated the 9th August, 2021

NOTIFICATION

In exercise of powers conferred by Section 4 (1) of the Recovery of Debts and Bankruptcy Act, 1993 the Central Government hereby entrust the additional charge of the post of Presiding Officer, Debts Recovery Tribunal-1, Ahmedabad to Shri Laxman Madnani, Presiding Officer, Debts Recovery Tribunal-2, Ahmedabad for a period of 06 months from 10th August, 2021 to 09th February, 2022, or until further orders, whichever is earlier, in addition to his own charge.


(Subhashchandra Amin)

Under Secretary to the Government of India

To

The Manager,
Government of India Press,
Minto Road,
New Delhi-110001

Copy to:

1. Shri Laxman Madnani, Presiding Officer, Debts Recovery Tribunal -2, Ahmedabad
2. The Registrar, Debts Recovery Tribunal (DRT)-1, Ahmedabad with a request to place the notification on notice board and a copy may also be sent to respective Bar Association
3. The Registrars of all Debts Recovery Appellate Tribunals and all Debts Recovery Tribunals
4. The Pay & Accounts Officer, Ministry of Finance, Department of Economic Affairs, National Savings Organisation Building, Civil Lines, Nagpur.
5. The Pay & Accounts Officer (Banking), New Delhi.
6. Department of Personnel & Training (DoP&T) for information
7. Personal file
8. Guard file

TRUE COPY

PETITIONER

Annexure- B

Date: 03.01.2022

With reference to MOF letter dated 14.12.2021, the additional charge for the post of Presiding Officer of DRT-I, Ahmedabad assigned to Shri Laxman Madnani, Presiding Officer of DRT-II, was restricted till 31.12.2021.

In view of the above, the matters are adjourned:-

Sr. No.	Matter No.	Adjourned to date
1	S.A.No. 177/2020	04.03.2022
2	S.A.No. 56/2013	09.03.2022
3	S.A.No. 102/2021	02.03.2022
4	S.A.No. 175/2020	04.03.2022
5	S.A.No. 60/2019	05.03.2022
6	S.A.No. 96/2019	15.02.2022
7	APPEAL 23/2019	01.02.2022
8	S.A.No. 162/2019	15.02.2022
9	S.A.No. 23/2020	02.03.2022
10	RA 11/2019	02.02.2022
11	NDN 642/2021(SA)	28.01.2022
12	S.A.No. 310/2019	07.03.2022
13	NDN 958/2021 (SA)	12.01.2022
14	S.A.No. 9/2020	01.02.2022
15	S.A.No. 240/2021	04.01.2022
16	NDN 901/2021(SA)	25.01.2022
17	MA 38/2016	20.04.2022

Rakesh Kesar
Registrar
DRT-I, Ahmedabad

TRUE COPY
PETITIONER

(21)

Annexure -C

1

ITEM NO.302

COURT NO.1

SECTIONS XIV/PIL(W)

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSPetition for Special Leave to Appeal (C) No.10911/2021

(Arising out of impugned final judgment and order dated 09-07-2021 in WP(C) No. 6313/2021 passed by the High Court of Delhi at New Delhi)

STATE BAR COUNCIL OF MADHYA PRADESH

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

([ONLY CONTEMPT PETITION (C) NO. 708/2021 IN W.P.(C) NO. 502/2021 IS LISTED UNDER THIS ITEM.])

WITH

CONMT.PET.(C) No. 708/2021 in W.P.(C) No. 502/2021 (PIL-W)
(IA No. 125229/2021 - AMENDMENT OF THE PETITION)

Date : 16-12-2021 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Petitioner(s)

Mr. Mahesh Thakur, AOR
Mr. Kaushik Mishra, Adv.
Mr. Ajay Kanojiya, Adv.
Ms. Vipasha Singh, Adv.

Mr. Nidhesh Gupta, Sr. Adv.
Mr. Siddharth R. Gupta, Adv.
Mr. Mrigank Prabhakar, AOR
Ms. Sakshi Banga, Adv.
Ms. Vriti Gujral, Adv.

For Respondent(s)

Mr. K.K. Venugopal, AG
Mr. Kanu Agrawal, Adv.
Mr. Saurabh Mishra, Adv.
Ms. Vanshja Shukla, Adv.
Ms. Priyanka Das, Adv.
Mr. Chinmayee Chandra, Adv.
Mr. Ankur Talwar, Adv.

Signature Not Verified
Digitally signed by
Vishal Arora
Date: 2021.12.17
14:55:21 +05'30'
Reason:

TRUE COPY
PETITIONER

(22)

2

Mr. Zoheb Hussain, Adv.
Mr. Siddhanth Kohli, Adv.
Ms. Shraddha Deshmukh, Adv.
Ms. Suhasini Sen, Adv.
Mr. Raj Bahadur Yadav, AOR

Mr. Kush Chaturvedi, AOR
Ms. Priyashree Sharma PH, Adv.
Ms. Rushali Agarwal, Adv.
Mr. Syed Faraz Alam, Adv.

Mr. Kartik Seth, Adv.
Mr. Siddharth Seth, Adv.
Ms. Shriya Gilhotra, Adv.
Ms. Garima Saxena, Adv.
For M/s. Chambers Of Kartik Seth, AOR

UPON hearing the counsel the Court made the following
O R D E R

CONMT.PET.(C) No. 708/2021 in W.P.(C) No. 502/2021:-

Heard Mr. Mahesh Thakur, learned Advocate-on-Record appearing for the petitioners and Mr. K.K. Venugopal, learned Attorney General for India appearing for the alleged contemnors/respondents at considerable length.

Issue notice, returnable after four weeks.

The personal presence of the alleged contemnors is dispensed with for the time being.

As prayed for by the learned Attorney General for India, the name of Respondent No.1 - Mr. Rajeev Gauba, Cabinet Secretary, is deleted from the array of parties.

Let the cause title be amended accordingly.

We are informed by the learned Attorney General that 37 vacancies were advertised in the Income Tax Appellate Tribunal. The Search-cum-Selection Committee of the Supreme Court recommended 28 names, out of which 16 persons are being considered for appointment as Members - Judicial and 6 persons as Members-Technical. The learned Attorney General assures us that the appointments would be made by the end of this month.

TRUE COPY


PETITIONER

(23)

3

So far as the remaining recommended names are concerned, the learned Attorney General submits that the Government has not yet cleared the names due to certain inputs received from IB Report(s) as also Medical Report(s) which are still being examined.

In view of the same, we direct the learned Attorney General to produce the concerned file on the next date of hearing and place the same before the Bench for its perusal.

The Respondents are at liberty to file a counter affidavit in the meantime, if necessary.

Special Leave Petition (C) No.10911/2021:-

Heard Mr. Nidhesh Gupta, learned Senior counsel appearing for the petitioner and Mr. K.K. Venugopal, learned Attorney General for India.

Learned Senior counsel appearing for the petitioner has brought to our notice the difficulty being faced by parties on account of non-appointment of members in DRTs and DRATs.

He requested that the matters before DRT and DRAT can be directed to be considered by other Tribunals like Central Administrative Tribunal, Armed Forces Tribunal and Industrial Tribunal within the State.

With a view to resolve the problem being faced by the parties, for the time being and purely as a stop-gap arrangement, we request the concerned High Court(s) to entertain the matters falling within the jurisdiction of DRTs and DRATs under Article 226 of the Constitution of India, till further orders.

We make it clear that once the Tribunal(s) is/are constituted, the matters can be relegated to the Tribunals by the High Court(s).

List the matter on 21-1-2022..

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(R.S. NARAYANAN)
COURT MASTER (NSH)

TRUE COPY
PETITIONER

(24)

Annexure -D

\$~22

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 3668/2021****EDELWEISS ASSET RECONSTRUCTION COMPANY LTD**

..... Petitioners

Through: **Mr. R P Agrawal with Ms. Manisha
Agrawal & Ms. Priyal Modi, Advs**

versus

**THE SECRETARY, DEPARTMENT OF FINANCIAL SERVICES
& ORS.**

..... Respondents

Through: **Mr. Ravi Prakash, CGSC with Mr.
Farman Ali, Mr. Varun Aggarwal &
Mr. Gurtejpal Singh, Advs.
Mr. Sanjeev Bhandari with Mr.
Dhanajya Kumar, Advs. for DRT Bar,
Chandigarh.
Mr. Rajinder Wali, Adv. for DRAT
Bar Association.****CORAM:****HON'BLE MR. JUSTICE VIPIN SANGHI****HON'BLE MR. JUSTICE JASMEET SINGH****ORDER**

%

15.12.2021**W.P.(C) 3668/2021**

1. The Union of India has filed an affidavit pursuant to the hearing held on 02.12.2021. It is stated in the said affidavit that the report of the Search-cum-Selection Committee with regard to the selection of Presiding Officers for DRTs is shortly awaited.

2. The respondent No. 1 has also placed on record a copy of the notification dated 13.12.2021 bearing No. 7/1/2021-DRT issued in exercise

TRUE COPY**PETITIONER**

(25)

of powers conferred by Section 4(1) of the Recovery of Debts and Bankruptcy Act, 1993 whereby the additional charge has been entrusted to the Presiding Officers of several Debts Recovery Tribunals in respect of DRTs where the Presiding Officers are not in office. So far as three DRTs in Delhi are concerned, the work of DRT-I Delhi would be managed by Shri R.M. Khushwaha, PO, DRT-Allahabad, the work of DRT-II Delhi would be managed by Shri Vimal Gupta, PO, DRT-Aurangabad, and the work of DRT-III would be managed by Shri R.M. Khushwaha, PO, DRT-Allahabad.

3. The notification states that the said charge has been entrusted *"for a period upto 31.12.2021, or till joining of a regular incumbent, or till further orders, whichever is the earliest"*.

4. Considering the fact that we are already on 15.12.2021 and the Government is yet to receive the final list of selected Presiding Officers who would manage the three DRTs in Delhi, upon issuance of their appointment orders, it is possible that the appointment orders of the newly appointed Presiding Officers may not be issued by 31.12.2021. In case, they are issued before the said date, there would be no difficulty and they would be able to take charge and start discharging their duties. However, in case that does not happen, once again we will be faced with the same situation as we have been witnessing over the past few months till the notification dated 13.12.2021 was issued.

5. The lack of Presiding Officers in the DRTs in Delhi is seriously impinging on the rights of litigating public whose cases are pending before the DRTs, and their right to have access to justice is being compromised.

6. We, therefore, direct that, in case, the appointments of the Presiding Officers to the three DRTs in Delhi do not materialise by 31.12.2021, the

(26)

arrangement envisaged in the notification dated 13.12.2021 shall continue to operate till such appointments are being made. However, in case, the respondent No. 1 considers it appropriate, for any reason, to re-allocate the work of the three DRTs without causing any break in continuity, the Union of India may issue a fresh notification for the purpose of re-allocation of work.

7. So far as the appointment of the Chairman of the DRAT, Delhi is concerned, the affidavit discloses that in pursuance of the vacancy circular dated 14.07.2021, the Search-cum-Selection Committee is also considering the applications for the post of Chairpersons of DRAT all over the country, including Delhi, and the recommendation of the Search-cum-Selection Committee is awaited.

8. List on 19.01.2022.

CM APPL. 45197/2021

9. This application has been moved by the DRT Chandigarh Bar Association to seek impleadment in the writ petition or to act as an intervenor and to make suggestions. The suggestions have been incorporated in the application with regard to framing of rules, in respect thereof we have already passed our order dated 17.11.2021. It shall be open to the applicant to upload its suggestions on the website of the respondent No. 1, and the said suggestions shall also be examined along with the other suggestions at the time of framing of rules. Mr. Ravi Prakash states that the respondent No. 1 shall frame the rules within the time lines fixed in our order dated 17.11.2021.

10. Let a further status report be filed before the next date.

TRUE COPY


PETITIONER

11. Application stands disposed of in the aforesaid terms.

27

VIPIN SANGHI, J

JASMEET SINGH, J

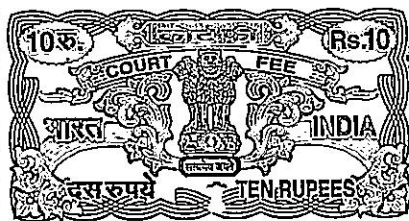
DECEMBER 15, 2021

SS

TRUE COPY
ON
PETITIONER

Signature Not Verified

Digitally Signed
By: AMIT ARORA
Signing Date: 21.12.2021
17:58:06



VAKALATNAMA

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
DISTRICT: AHMEDABAD**

(EXTRAORDINARY ORIGINAL JURISDICTION)

WRIT PETITION NO. _____ OF 2022 (P.I.L.)

Nipun Praveen Singhvi

...Petitioner

Versus

Union of India

...Respondents

I/ We undersigned do hereby appoint and retain
VISHAL.J.DAVE , HIRAL U MEHTA, AVINASH PODDAR
Advocate(s)

To, act, appear and plead in the above noted matter in this court or any other court where the same matter be tried or heard in the appellate courts.

To appoint instruct any other legal practitioner authorizing him to exercise the power and authorities hereby confirmed the advocates.

And I/We agree to ratify all acts done by aforesaid advocates in pursuance of this authority.

 Vishal J Dave (G-1121-2010), Code 6515  Hiral U Mehta (G-1400/2012) Code 7003  Avinash Poddar (G-247/2017) Code 9761	For Petitioner  Nipun Praveen Singhvi
Address : Vishal J Dave , Hiral U Mehta B 305, Hare Krishna complex, Behind City Gold Cinema Ahmedabad 380 014 M :+91 98981 54535, 99799 02930 : advocatevjdave@gmail.com	High Court Chamber: Chamber 215, Advocate building, Gujarat high Court, Sola, Ahmedabad