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**BEFORE THE HON'BLE HIGH COURT OF KERALA AT
ERNAKULAM**

(Special Original Jurisdiction)

W.P. (C) No. of 2018

Petitioner

Adv.Ravikrishnan, N.R.
(K/368/1997) aged 44 years, S/o. Rajakrishnan,
House No. 101, NSP Nagar, Pattom
Thiruvananthapuram-695004

-Vs-

Respondents

- 1. High Court of Kerala,**
represented by its Registrar,
High Court of Kerala, Ernakulam – 682031.
- 2. State of Kerala,**
represented by Secretary to the Government of
Kerala, Department of Home Affairs, Government
Secretariat, Thiruvananthapuram, PIN-695001.
- 3. Anju Meera Birla,**
aged 38 years, D/o.Abraham Birla,Munsiff,
Alathur, Permanent residence at 32/1962 E
Parackal House, New Kalavathu Road,
Palarivattom P.O., Ernakulam- 682025.
- 4. Rejitha R.R.**
Aged 36 years, D/o. M. Raghu Nathan, Additional
Munsiff, Alappuzha Permanent residence at
Anugraha House, BOFC Road, Perumbavoor,
Ernakulam.

(A) Notices and processes to the petitioner may be served on
his counsel **M/s C.S. Manu, S.K.Premraj, Saritha Premraj, T.B.
Sivaprasad & Vijay Kumar C.Y,** Advocates, e-attorneys, T-7, III
Floor, Empire Building., Old Railway Station Road, Near High Court
of Kerala, Ernakulam.

(B) Notices and processes to the respondents may be served on them in the addresses shown above.

**MEMORANDUM OF WRIT PETITION FILED UNDER
ARTICLE 226 OF THE CONSTITUTION OF INDIA**

STATEMENT OF FACTS

The above mentioned petitioner begs to submit as follows:-

1. The petitioner is an Advocate practicing at Thiruvananthapuram. The petitioner enrolled as Advocate with the Bar Council of Kerala on 26-10-1997 and since then he has been practicing as Advocate in courts in Thiruvananthapuram. His roll number is K/368/1997.

2. The petitioner has applied for appointment to the post of District and Sessions Judge in the Kerala State Higher Judicial Service by direct recruitment from the Bar in terms of the notification bearing No.RCC4-75832/2017 dated 21-11-2017 issued by the 1st respondent. A true copy of the notification bearing No.RCC4-75832/2017 dated 21-11-2017 issued by the 1st respondent is produced herewith and marked as **Exhibit P-1**.

3. Clause 6 of Ext.P-1 deals with the qualifications required for the candidate. Clause 6(f) of Ext.P-1 provides that the candidate shall be a practicing Advocate having standing of not less than 7 (seven) years of practice as on the 1st day of January, 2017. Ext.P-1 notification has been issued for appointment as District & Sessions Judge by direct recruitment “**from the Bar**” against the NCA

and regular vacancies. The petitioner is duly qualified for appointment as District & Sessions Judge in terms of Ext.P-1 notification.

4. The 1st respondent has published a list of eligible candidates for the Kerala State Higher Judicial Service (preliminary) Examination, 2017. The preliminary examination was scheduled to be held on 29-7-2018. The total number of 770 candidates figured as eligible candidates in the said list. Apart from the 770 candidates, 111 candidates were separately listed, who are supposed to cure the defects in case they clear the preliminary examination. In the said list published by the 1st respondent it is stated that the candidates whose names are indicated with two stars against their names are permitted to appear for the preliminary examination provisionally in the light of the judgment of the Hon'ble Supreme Court of India dated 9-8-16 in Civil Appeal No.7358 of 2016, subject to final order of the Apex Court in SLP (C) No.14156 of 2015. It is further stated in the application of the candidates whose names are indicated with three stars as against their names in the list are accepted in view of the interim order dated 9-3-2018 of the Hon'ble High Court of Kerala in W.A.No.406 of 2018 . True copy of the relevant pages of the list of eligible candidates for the Kerala State Higher Judicial Service (preliminary) examination 2017 published by the 1st respondent is produced herewith and marked as **Exhibit P-2.**

5. The judgment of the Hon'ble Supreme Court dated 9-8-2016 in Civil Appeal No.7358 of 2016 deals with the eligibility of the candidates who applied for the post of District & Sessions Judge

while practicing as advocate and at the same time applied for the post of Judicial Officers for appointment in the Subordinate Judicial Services and whether they are bound to resign from the post before appearing for the interview for the post. The appellants in the said appeal were having 7 (seven) years experience as advocate at the time of submitting applications and they were practicing as advocate at that time. They subsequently joined the Subordinate Judicial Services. The Hon'ble Supreme Court held that the text of article 233 (2) of the Constitution of India only prohibits the appointment of a person as District Judge , if such a person is already in the service of either the Union or the State and that it does not prohibit consideration of the candidature of a person who is in the service of the Union or State. The person who is in the service of either of the Union or the State would still have an option, if selected to join the service as a District Judge or continue with the existing employment. The Hon'ble Supreme Court however held that compelling a person to resign his job even after assessing suitability for appointment as District Judge is not permitted by Article 233 (2) neither contemplated under the scheme of Constitution. A true copy of the said judgment is produced herewith and marked as **Exhibit P-3**.

6. Ext.P-3 judgment does not approve the candidature of a candidate who does not have minimum 7 (seven) years experience as advocate and those who ceased to be advocate at the time of applying for the post of District Judge by direct recruitment.

7. SLP (C) No.14156 of 2015 referred to in the Ext.P-2 deals with the eligibility of the candidates who had already secured 7 years experience as Advocate and is in service of the Judicial Officers in Delhi Subordinate Judicial Services, for appointment as District and Sessions Judge in the Delhi State Judicial Services. Rule 9 of the Delhi State Higher Judicial Service Rules provides that the direct recruit **must have practiced** as an Advocate for not less than seven years. It is true that as per the interim order dated 24-7-2018 in SLP (C) No.14156 of 2016 the Hon'ble Supreme Court has permitted the persons who are in the service as Judicial Officers in the Subordinate Judicial Services who have already completed 7(seven) years in Bar, to appear for the examination. A true copy of the said order is produced herewith and marked as **Exhibit P-4**.

8. But the Ext.P-4 order is in conflict with the judgment of the bench having strength of three Judges in All India Judges Association Vs. Union of India and others reported in AIR 2002 SC 1752. As per the said judgment of the Hon'ble Supreme Court after considering the Shetty Commission Report took the view that the recruitment to the Higher Judicial Services to the post of the District Judge Cadre from amongst the advocates should be 25% and the process of recruitment is to be by a competent examination, both written and viva voce, and there should be objective method of testing the suitability of the Subordinate Judicial Officers for promotion to the Higher Judicial Services. The Hon'ble Supreme Court further held that there should be an incentive amongst relatively junior and other Officers to

improve and to compete with each other so as to exceed and get quicker promotion. The Hon'ble Supreme Court observed that thus the caliber of the members of the Higher Judicial Services will further improve. The Hon'ble Supreme Court fixed 25% of the cadre strength to be filled up by direct recruitment from the Bar and the remaining 75% by way of promotion. The Supreme Court also held that promotion should be based on two methods. It is based on this judgment the rules were amended in the year 2008.

9. The Kerala State Higher Judicial Service Special Rules 1961 was amended on 9-6-2008 in tune with the aforesaid judgment of the Hon'ble Supreme Court reported in AIR 2002 SC 1752. Subsequently the Governor of Kerala amended the said rules as per the Kerala State Higher Judicial Service (Amendment) Special Rules, 2017 in consultation with the respondent. The said amendment was issued as per the notification in GO.(P) No.128/2017/Home dated 20-9-2017. A true copy of the said amendment in GO.(P) No.128/2017/Home dated 20-9-2017 is produced herewith and marked as **Exhibit P-5**. As per the said amended rules the Kerala State Higher Judicial Service shall consist of a single cadre namely, District and Sessions Judge. Rule 1 of the amended rule says that the strength of the service shall be such as may be determined from time to time by the Government in consultation with the High Court. Rule (1)(3) says that 10% of the posts in the service shall be in Supertime Scale and 25% of the posts in the service shall be in Selection Grade. Rule 2 says that 65% of the posts in the service shall be filled up by appointment by

promotion from amongst the Subordinate Judges and Chief Judicial Magistrates in the Kerala State Judicial Service on the basis of merit-cum-seniority and a suitability test based on an interview to be conducted in such a manner as may be specified by the High Court. 10% of the posts in the service shall be filled up by appointment by promotion strictly on the basis of merit through Limited Competitive Examination Of Subordinate Judges and Chief Judicial Magistrates. Rule 2 (1)(c) says 25% of the in the service shall be filled up by direct recruitment **from the members of the Bar**. The said amendment rule has been framed in tune with the directions of the Hon'ble Supreme Court in its judgment reported in AIR 2002 SC 1752.

10. So the 25% of the cadre strength of District and Sessions Judges including Additional District Judge shall be filled up only from the Bar, i.e, only a candidate who has been practicing as advocate for not less than 7 years are eligible to be appointed as District and Sessions Judges. The candidate should be a practicing advocate. He should be on the rolls of Advocate. He must have not less that 7 year's experience as advocate. A person who is not only on the rolls of the Advocate and who has 7 years experience as advocate alone are entitled to be appointed under Rule 2(1)(c). The Rule 2 (1) (c) of the Kerala State Higher Judicial Services Special Rules, 1961 prescribes the qualification in terms of article 233(2) of the Constitution of India. When 75% of the cadre strength of the posts was earmarked for appointment by promotion from Subordinate Judges/Chief Judicial Magistrates, they are not entitled to apply for the post of District and

Sessions Judge under Rule 2(1)(c), earmarked for direct recruitment from the Bar . Rule 2 (1)(c) is in tune with Article 233(2) of the Constitution of India.

11. The interim order dated 9-3-2018 of this Hon'ble Court in W.A./No.406 of 2018 referred to in Ext.P-2 is not at all practical. The petitioner is taking up appropriate steps for impleadment in the said W.A and for vacating the said order. In W.A.No.406 of 2018, some of the candidates are not having 7 years experience as Advocate. They are also not practicing advocates. They are already in Judicial Service, even before applying for direct recruitment as District and Sessions Judge under Rule 2 (1)(c). The said order is not in tune with the judgment of the Hon'ble Supreme Court in AIR 2002 SC 1752.

12. The respondents 3 and 4 are members of Kerala State Judicial Service who have applied for the appointment on District and Sessions Judge under the Ext.P-1 notification. They are impleaded in this writ petition not only in their personal capacity but also in representative capacity representing the similarly situated members of the Kerala State Judicial Service who have applied for direct recruitment as District and Sessions Judge under Ext.P-1. They will be adversely affected if the reliefs sought for in this writ petition is granted. Such persons are numerous in numbers and the petitioner can not practically identify their address and particulars to make them party to the writ petition. The petitioner is seeking the leave of this Hon'ble Court to implead them in the representative capacity for which appropriate prayers are sought for in the relief portion.

13. The petitioner is highly aggrieved by the permission granted to the Judicial Officers in service to apply for direct recruitment under Rule 2 (1)(c) earmarked for appointment from the Bar. Such permission granted to the Judicial Officers affect the chance of the petitioner and similarly situated persons for appointment as District and Sessions Judges by direct recruitment from the Bar. The 1st respondent ought not have permitted the persons who have not been practicing as advocates for applying for the post of District & Sessions Judges under category 3. No appointment can be made contrary to the provisions contained under the Kerala State Higher Judicial Service Rules, 1961. Rule 2(c) has not been amended or nullified by this Hon'ble Court or the Supreme Court. So long as Rule 2 (1)(c) stands as such direct recruitment to the post of District & Sessions Judge under the said Rule can not be made otherwise than by direct recruitment from bar. At any rate the permission granted by the 1st respondent to ineligible candidates to apply for and participate in the selection for direct recruitment as District and Sessions Judge under Rule 2(1) (c) of the Kerala State Higher Judicial Services Special Rules, 1961 is illegal.

In the circumstances above mentioned, the petitioner has no other remedy of a speedy or efficacious nature except to approach this Hon'ble Court seeking appropriate reliefs under Article 226 of the Constitution of India.

Petitioner is entitled to the reliefs prayed for herein below on the following among other ;

G R O U N D S

(A) Exhibit P-2 to the extent of permitting candidature of any person other than from the bar as per Rule 2 (1)(c) of the Kerala State Higher Judicial Service Special Rules, 1961 is patently illegal, *ultra vires* and without jurisdiction.

(B) Exhibit P-2 to the extent of permitting the candidature of persons other than from the bar as per Section 2 (1)(c) is unconstitutional, being violative of Article 233 of the Constitution of India.

(C) The Kerala State Higher Judicial Service Special Rules, 1961 was framed by the 2nd respondent in terms of the provisions contained in the Article 233 of the Constitution of India. As per the Rule 3 of the Kerala State Higher Judicial Service Special Rules, 1961 says that 10% of the posts shall be in the Supertime Scale and 25% shall be in Selection Grade. Of the total cadre of District and Sessions Judge, 10% of the posts is ear-marked for appointment as Supertime Scale District and Sessions Judge and 25% is ear-makred for Selection Grade District and Sessions Judge. Appointment to the post of District and Sessions Judge is as per Rule 2 of the amended Rules. As per Rule 2 (1)(a) 65% of the posts of Distrcet and Sessions Judges shall be filled up by promotion from amongst the Subordinate Judges and Chief Judicial Magistrates in the Kerala StateJudicial Service on the basis of merit-cum-seniority and a suitability test. Rule 2(b) says 10% of the posts in the service shall be filled up by promotion strictly on the basis of merit through Limited Competitive Examination of Subordinate

Judges and Chief Judicial Magistrates In the Kerala State Judicial Service having not less than five years of substantive service. Rule 2 (c) says 25% of the posts shall be filled up by direct recruitment from the members of the bar. Thus, 75% of the posts in the service are earmarked for promotion from among Subordinate judges / Chief Judicial Magistrates. Only 25% of posts in the service is earmarked for direct recruitment from the bar. As per Article 233, only a practicing advocate having seven years experience at the bar alone is qualified to be appointed as District Judge. Exhibit P-1 notification has been issued to fill up 25% of the posts in the service by direct recruitment from the bar. Therefore, Exhibit P-2 to the extent of permitting candidature of any person other than from the bar is *ultra vires* the statute and Article 233 of the Constitution of India.

(D) It is highly unreasonable, unjust and irrational to permit persons in the Kerala State Judicial Services to apply for appointment as District and Sessions Judge for filling up 25% of the posts in the service earmarked for direct recruitment from the bar.

(E) Rule 2(1) (c) of the Kerala State Higher Judicial Services Special Rules, 1961 is perfectly valid and constitutional. Nobody has challenged Rule 2 (1)(c) of the said rules. What is challenged in the writ appeal No.406 of 2018 is only the validity of Rule 3(f) of the rules and Clause 6(f) of Exhibit P-1 notification. The learned Single Judge dismissed the writ petition. Interim order granted by the Division Bench in the said writ appeal is only provisional and it is not in tune

with the judgment of the Hon'ble Supreme Court in All India Judges' Association Vs Union of India reported in AIR 2002 SC 1752.

(F) Rules 1 to 3 of the Kerala State Higher Judicial Service Special Rules, 1961 have been amended with effect from 9-6-2008 as per SRO No.610 of 2008 and subsequently as per notification under G.O.(P) No.128/2017/Home dated 20-9-2017 on the basis of the judgment of the Hon'ble Supreme Court reported in AIR 2000 SC 175. There is no illegality in the said rules.

(G) Notification for recruitment was issued as early as on 21-11-2017 in tune with the Kerala State Higher Judicial Services Special Rules, 1961. During the selection process the Rules of the selection can not be altered. After issuance of Ext.P-1 notification, the rules for selection can not be changed. In the present case, as per Ext.P-2, the 1st respondent has changed the rules without any authority. The Hon'ble Supreme Court has not permitted the 1st respondent to permit the candidates other than from the Bar to apply for the post of District and Sessions Judges under the service.

(H) The scheme of the Kerala State Higher Judicial Services Special Rules, 1961 as amended in the year 2008 and 2017 in tune with the All India Judges Association's case reported in AIR 2002 SC 1752 provides for two streams for recruitment/appointment to the post of District and Sessions Judges. One is by appointment by promotion from among Subordinate Judge/Chief Judicial Magistrate and the other is by appointment by direct recruitment from the Bar. 75% of the total cadre strength of the post is earmarked for the appointment by

promotion and the remaining 25% is only earmarked for appointment by direct recruitment from the Bar. The 25% quota is thus set apart for direct recruitment from the members of the Bar. Members of the Kerala State Judicial Service are not members of the Bar. Therefore the 1st respondent cannot permit members of the Kerala State Judicial Service to apply for appointment as against the quota reserved for direct recruitment from the members of the Bar. The 1st respondent has wrongfully and without any authority of law tinkered with the 25% quota earmarked for the member of the Bar for appointment as District and Sessions Judge.

(I) The Kerala State Higher Judicial Services Special Rules, 1961 deals with the provisions contained in the Delhi Higher Judicial Services Rules in material aspects. As per the Delhi Rules, the candidate **must have practiced** as an advocate for seven years. On the other hand, the Kerala rules provides that the candidate **shall be a practicing advocate having not less than seven years practice**. The Kerala Rules is very specific in prescribing the qualification as the candidate shall be a practicing advocate having a standing of not less than seven years of practice. The judgment of the Hon'ble Supreme Court is with respect to the Delhi Rules.

For these and other reasons to be submitted at the time of hearing, it is humbly submitted that this Hon'ble Court may be pleased to grant the following reliefs:

- (i) Issue a writ of certiorari or any other appropriate writ, order or direction calling for the records leading to

Exhibits P-1 and P-2 and quash Ext. P-2 to the extent of permitting candidature of any person other than from the Bar as per Rule 2 (1)(c) of the Kerala State Higher Judicial Service Special Rules, 1961.

- (ii) Issue a writ of declaration declaring that the persons who are not practicing advocates are not qualified to be appointed as District and Sessions Judges by way of direct recruitment under the service as per Rule 2(1)(c) of the Kerala State Higher Judicial Service Special Rules, 1961 and that Ext.P-2 to the extent of permitting candidature of persons other than from the bar is illegal and *ultra vires*.
- (iii) Issue a writ of Mandamus or any other appropriate writ, order or direction directing the 1st respondent not to permit the candidature of any person who are already in Kerala State Judicial Services for appointment as District and Sessions Judges under the quota of 25% of the posts earmarked for direct recruitment from the bar in terms of Rule 2 (1)(c) of the Kerala State Higher Judicial Services Special Rules, 1961 pursuant to Ext.P-1 notification.
- (iv) Allow cost of the petition to the petitioner.
- (v) Grant such other and further reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case.

INTERIM RELIEF SOUGHT FOR

This Hon'ble Court may be pleased to direct the 1st respondent not to permit any persons who applied for direct recruitment as District and Sessions Judge as per Ext.P-1 otherwise than from the Bar to participate in the selection process for recruitment as District and Sessions Judges including Additional District and Sessions Judge under the Kerala State Higher Judicial Services, pending disposal of the writ petition.

Dated this the 8th day of October, 2018

Petitioner

**C.S. Manu
Counsel for the Petitioner**

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BEFORE THE HON'BLE HIGH COURT OF KERALA, ERNAKULAM

W.P. (C) No. of 2018

Adv.Ravikrishnan N.R : Petitioner

-Vs-

High Court of Kerala & another : Respondents

A F F I D A V I T

I, Adv.Ravikrishnan, N.R., (K/368/1997) aged 44 years, S/o. Rajakrishnan, House No. 101, NSP Nagar, Pattom Thiruvananthapuram-695004, do hereby solemnly swear and state as follows :-

1. I am the petitioner in the above writ petition (C). I know the facts of the case.

2. I have given instructions for the preparation of the writ petition (C). The statement of facts and the grounds raised in the writ petition (C) are true and correct to the best of my knowledge, information and belief.

3. The reliefs prayed for in the writ petition (C) and the interim relief sought for therein are very urgent and essential and they may be allowed, or else I will be put to irreparable loss, injury and hardship.

4. I have not moved this Hon'ble Court or any other courts seeking similar reliefs on earlier occasions.

5. All facts stated above are true and correct to the best of my knowledge, information and belief.

6. All the documents referred to and produced along with the writ petition are the true photostat of the original documents.

Dated this the 8th day of October,2018

Deponent

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 8th day of October, 2018 in my office at Ernakulam.

**C.S.Manu
Advocate**

Presented on : 08-10-2018

Sub: Service- Kerala State Higher Judicial Service Special Rules, 1961 - Recruitment to the post of District and Sessions Judges as Judges by way of direct recruitment under the quota earmarked for direct recruitment from the bar as per Rule 2(1)(c) of the said rule – Permission of candidature of persons other than from the bar – challenge of.

**BEFORE THE HON'BLE HIGH COURT OF KERALA AT
ERNAKULAM
(Special Original Jurisdiction)**

W.P.(C) No. **of 2018**

Adv.Ravikrishnan N.R. : **Petitioner**

-VS-

High Court of Kerala & another : Respondents

MEMORANDUM OF WRIT PETITION FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Court Fee Rs. 100/- (paid)

M/s C.S. MANU (M-85) / (K-344/1992)
S.K. PREMRAJ (P-231) / (K-190/1994)
T.B.SIVA PRASAD (S-2180) / (K-17/2007)
&
VIJAY KUMAR C.Y. (V-639) / (K-152/2014)
COUNSEL FOR THE PETITIONER

**BEFORE THE HON'BLE HIGH COURT OF KERALA AT
ERNAKULAM**

(Special Original Jurisdiction)

W.P.(C) No. of 2018

Adv.Ravikrishnan N.R. : Petitioner

-Vs-

High Court of Kerala & another : Respondents

I N D E X

Sl.No.	Particulars	Page Nos.
(1)	Synopsis	A to C
(2)	Memorandum of Writ Petition	1 to 15
(3)	Affidavit	15(a)
(4)	<u>Exhibit P-1</u> True copy of the notification bearing No.RCC4-75832/2017 dated 21-11-2017 issued by the 1 st respondent	16-22
(5)	<u>Exhibit P-2</u> True copy of the relevant pages of the list of eligible candidates for the Kerala State Higher Judicial Service (preliminary) examination 2017 published by the 1 st respondent.	23 & 24
(6)	<u>Exhibit P-3</u> True copy of the judgment of the Hon'ble Supreme Court dated 9-8-2016 in Civil Appeal No.7358 of 2016.	25-40
(7)	<u>Exhibit P-4</u> True copy of the of the interim order dated 24-8-2018 in SLP (C) No.14156 of 2016 passed by the Hon'ble Supreme Court	41-43

(7)	<u>Exhibit P-5</u> True copy of the G.O. (P) No.128/ 2017/ Home dated 20-9-2017	44 to 48
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Dated this the 8th day of October,2018

C.S.Manu
Counsel for the Petitioner

(Special Original Jurisdiction)

Adv.Ravikrishnan N.R. : **Petitioner**

-VS-

High Court of Kerala & another : Respondents

1. The petitioner is an Advocate practicing at Thiruvananthapuram. He enrolled as Advocate with the Bar Council of Kerala on 26-10-1997 and since then he has been practicing as Advocate in courts in Thiruvananthapuram. The petitioner has applied to the post of District and Sessions Judge under the Kerala State Higher Judicial Services by direct recruitment **from the bar** in terms of Ext.P-1 notification dated 21-11-2017. The said notification is issued for the purpose of direct recruitment from the bar only, in terms of Rule 2(1)(c) of the Kerala State Higher Judicial Services Special Rules, 1961. However the 1st respondent issued Ext.P-2 of eligible candidates permitting candidature of persons other than from the bar, to appear for the preliminary examination. It is stated that the said permission is granted in the light of the judgment of the Hon'ble Supreme Court dated 9-8-2016 in Civil Appeal No.7358 of 2016, subject to the final order of the Apex Court

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in SLP No.14156 of 2015. The said judgment and order are not applicable to the facts of the case. It is also stated in the Ext.P-2 list , eligible candidates with an application are accepted in view of the interim order dated 9-3-2018 of this Hon'ble Court in W.A.No.406 of 2016. The said interim order is only provisional in nature and more over the same is in conflict with the judgment of the Hon'ble Supreme Court in All India Judges Association Vs.Union of India reported in AIR 2002 SC 1752.

2 Rule 2 (1) (c) of the Kerala State Higher Judicial Services Special Rules, 1961 is constitutionally valid and nobody has challenged the validity of the same so far in any Court. The aforesaid order of this Hon'ble Court in W.A.No.406 of 2016 also does not deal with the Rule 2 (1) (c) of the said rules. When 25% of the total strength of service i.e., District and Sessions Judge is **ear marked for direct recruitment from the bar**, the candidature of any person from the Kerala State Judicial Services or any other service should not be permitted . It is exclusively reserved for direct recruitment from the bar. It is to be noticed that 75% of the cadre strength of the post of District and Sessions Judges under service has been reserved for appointment by promotion among the Subordinate Judges/Chief Judicial Magistrates. It is only highly reasonable, just and proper to earmark **25% of the posts for direct recruitment from the bar**. Rules 1 to 3 of the Kerala State Higher Judicial Services Special Rules, 1961 have been amended in 2008 and 2017 in tune

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with the directions of the Hon'ble Supreme Court of India in All India Judges Association Vs.Union of India reported in AIR 2002 SC 1752. Hence the candidature of any person other than from the bar can not be permitted for direct recruitment of District and Sessions Judge as per Rule 2 (1)(c) of the said Rules. Therefore Ext.P-2 is patently illegal, ultravires and without jurisdiction to the extent of permitting candidature of persons other than from the bar for direct recruitment as District and Sessions Judge as per Ext.P-1 notification. Hence, this writ petition.

Dated this the 8th day of October,2018

C.S.Manu
Counsel for the Petitioner

W.P.(C)No.....of 2018

APPENDIX

PETITIONER'S EXHIBITS

<u>Exhibit P-1</u> True copy of the notification bearing No.RCC4-75832/2017 dated 21-11-2017 issued by the 1 st respondent
<u>Exhibit P-2</u> True copy of the relevant pages of the list of eligible candidates for the Kerala State Higher Judicial Service (preliminary) examination 2017 published by the 1 st respondent.
<u>Exhibit P-3</u> True copy of the judgment of the Hon'ble Supreme Court dated 9-8-2016 in Civil Appeal No.7358 of 2016.
<u>Exhibit P-4</u> True copy of the of the interim order dated 24-8-2018 in SLP (C) No.14156 of 2016 passed by the Hon'ble Supreme Court
<u>Exhibit P-5</u> True copy of the G.O. (P) No.128/ 2017/ Home dated 20-9-2017