Madras High Court
P.Senthil Kumaran vs The Registrar General on 11 March, 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.03.2011

CORAM:

THE HON'BLE MR.JUSTICE P.JYOTHIMANI
and
THE HON'BLE MR.JUSTICE N.PAUL VASANTHAKUMAR

WRIT PETITION NOS.3087, 1403, 1480 OF 2011
AND WRIT PETITION (MD) NOS.1135 AND 1691 OF 2011
AS WELL AS CONNECTED MISCELLANEOUS PETITIONS.
..

P.Senthil Kumaran .. Petitioner in WP.3087 of 2011 M.Sadiq Basha .. Petitioner in WP.1403 of 2011 S.Karthikeyan .. Petitioner in WP.1480 of 2011 V.Gunasekaran .. Petitioner in WP(MD)No.1135/11 M.Ponniah .. Petitioner in WP(MD)No.1691/11 vs.

1.The Registrar General High Court, Madras.

2.The Government of Tamil Nadu rep. By Secretary to Government Public (Special-A) Department Fort St.George, Chennai 600 009.

3.The Principal Secretary to Government Social Welfare and Noon Meal Project (SW4) Department Government of Tamil Nadu Secretariat, Chennai 600 009.

4.The District Disabled Rehabilitation Officer Sivagangai District.

5.R.Sakthivel

6.A.Kanthakumar

7.T.S.Nand Kumar

8.S.Pandiarajan

9.A.Nazeema Banu

10.R.Anburaj

11.S.Subadevi

12.R.Poornima

13.P.Dhanabal

14.C.Kuumarappan

15.M.Jothiraman

16.M.D.Sumathi

17.P.Murugan

18.M.Suresh Viswanath

19.A.K.A.Rahmman

20.K.Rajasekar

21.K.H.Elvazhagan .. Respondents in W.P.3087 of 2011

1.The Registrar General High Court, Madras.

2.The Government of Tamil Nadu rep. By Secretary to Government Public (Special-A) Department Fort St.George, Chennai 600 009.

3.R.Sakthivel

4.A.Kanthakumar

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14.M.D.Sumathi

15.P.Murugan

16.M.Suresh Viswanath

17.A.K.A.Rahmman

18.K.Rajasekar

19.K.H.Elvazhagan .. Respondents in W.P.1403 of 2011

1.State of Tamil Nadu rep. By its Chief Secretary Public (Special-A) Department Secretariat, Chennai 600 009.

2.The Registrar General Madras High Court High Court Buildings Chennai 104.

3.R.Sakthivel

4.A.Kanthakumar

5.T.S.Nand Kumar

6.S.Pandiarajan

7.A.Nazeema Banu

8.R.Anburaj

9.S.Subadevi

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14.M.D.Sumathi

15.P.Murugan

16.M.Suresh Viswanath

17.A.K.A.Rahmman

18.K.Rajasekar

19.K.H.Elvazhagan .. Respondents in W.P.1480 of 2011

1.The Chief Secretary to Government Government of Tamil Nadu Secretariat, Chennai.

2.The Secretary to Government Government of Tamil Nadu Public (Special-A) Department Secretariat, Chennai 600 009.

3.The Registrar General Madras High Court Chennai 600 014.

4.R.Sakthivel

5.A.Kanthakumar

6.T.S.Nand Kumar

7.S.Pandiarajan

8.A.Nazeema Banu

9.R.Anburaj

10.S.Subadevi

11.R.Poornima

12.P.Dhanabal

13.C.Kuumarappan

14.M.Jothiraman

15.M.D.Sumathi

16.P.Murugan

17.M.Suresh Viswanath

18.A.K.A.Rahmman

19.K.Rajasekar

20.K.H.Elvazhagan .. Respondents in WP(MD).Nos.1135 and 1691 of 2011.

Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus as stated therein.

For petitioner in : Mr.R.Gandhi,Sr.Counsel WP.No.3087 of 2011 for Mr.S.Vadivel Murugan For petitioner in : Mr.V.Raghavachari WP.No.1403 of 2011 for Mr.S.S.Manian For petitioner in : Mr.P.N.Prakash WP.No.1408 of 2011 For petitioners in : Mr.G.R.Swaminathan WP(MD)Nos.1135 & 1691 of 2011 For R.1 in WP.No. : Mr.R.Muthukumarasamy,Sr.Counsel 3087 of 2011 for Mr.V.Ayyadurai For R.2 to R.4 in : Mr.K.Balasubramanian WP.No.3087 of 2011 Spl.Govt. Pleader For R.5 to R.15 and : Not ready in notice R.17 to R.21 in WP.No.3087 of 2011 For R.16 in WP.No. : Mr.R.Ramesh Kumar 3087 of 2011 For R.1 in WP.No. : Mr.R.Muthukumarasamy,Sr.Counsel 1403 of 2011 for Mr.V.Ayyadurai For R.2 in WP.No. : Mr.K.Balasubramanian 1403 of 2011 Spl.Govt. Pleader For R.3 & R.11 in : Mr.Mohamed Shafi WP.Nos.1403&1480/11 For R.4 in WP.Nos. : Mr.A.Karthikeyan 1403&1480/11 For R.5 & R.8 in : Not ready in notice WP.Nos.1403&1480/11 For R.6 in WP.Nos. : Mr.P.Murugan 1403&1480/11 For R.7 in WP.Nos. : Mr.M.Santhanaraman 1403&1480/11 For R.9 in WP.Nos. : Ms.R.Manimekalai 1403&1480/11 For R.10 in WP.Nos. : Mr.B.Soundarapandian 1403&1480/11 For R.12 in WP.Nos. : Mr.V.Manokaran 1403&1480/11 For R.13 & R.15 in : Mr.V.P.Rajendran WP.Nos.1403&1480/11 For R.14 in WP.Nos. : Mr.S.Rameshkumar 1403&1480/11 For R.16 & R.18 in : Mr.M.Devaraj WP.Nos.1403&1480/11 For R.17 in WP.Nos. : Mr.C.Prasanna Venkatesh 1403&1480/11 For R.19 in WP.Nos. : Mr.K.Shanmugakani 1403&1480/11 For R.1 in WP.No. : Mr.K.Balasubramanian 1480 of 2011 Spl.Govt. Pleader For R.2 in WP.No. : Mr.R.Muthukumarasamy,Sr.Counsel 1480 of 2011 for Mr.V.Ayyadurai For R.1&2 in WP.(MD): Mr.K.Balasubramanian Nos.1135&1691/11 Spl.Govt. Pleader For R.3 in WP.(MD) : Mr.R.Muthukumarasamy,Sr.Counsel Nos.1135&1691/11 for Mr.V.Ayyadurai For R.4&12 in WP. : Mr.Mohamed Shafi (MD)Nos.1135&1691/11 For R.5 in WP. : Mr.A.Karthikeyan (MD)Nos.1135&1691/11 For R.6 in WP. : Mr.I.Jayaseelan (MD)Nos.1135&1691/11 For R.11 in WP. : Mr.Periyasamy (MD)Nos.1135&1691/11 For R.13 in WP. : Mr.V.Manoharan (MD)Nos.1135&1691/11 For R.15 in WP. : Mr.S.Ramesh Kumar (MD)Nos.1135&1691/11 For R.16 in WP. : Mr.P.Gnanasekar (MD)Nos.1135&1691/11 For R.17&19 in WP. : Mr.M.Devaraj (MD)Nos.1135&1691/11 For R.18 in WP. : Mr.C.Prasanna Venkatesh (MD)Nos.1135&1691/11 ..

COMMON ORDER In all these writ petitions, the petitioners have assailed the same notification issued by the Government, appointing 17 District Judges (Entry Level) on various grounds and hence, they are heard together and disposed of by this common order.

2. This is another round of writ petitions filed, of course, now challenging the Government Order issued under Rule 5 of the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules, 2007,

by the Government in consultation with the High Court.

3. Originally, in a batch of writ petitions, the notification issued by the Government on 01.07.2010, calling for applications for the posts of District Judges (Entry Level) in respect of 17 vacancies was challenged on various grounds including that, the distribution of 17 vacancies against each category does not include the disabled persons, since as per Section 33 read with Section 2(k) of the Persons with Disabilities (Equal opportunities, Protection of rights and Full Participation) Act,1995, they are entitled for 3% reservation; that for short-listing the candidates for viva-voce examination, the manner in which the length of Bar experience was to be taken into consideration was not clearly explained; that the viva-voce marks should not exceed 12.5% as per the judgment of the Supreme Court; that the person already in service of the Union or State is disqualified from applying unless he has seven years of experience as Advocate or Pleader, with the result the Assistant Public Prosecutors Grade I and Grade II, who were employed by the State Government drawing salary from the Government exchequer are not eligible, apart from other grounds. The batch of writ petitions was dismissed by the Hon ble First Bench of this Court on 26.08.2010 reported in K.Appadurai vs. Secretary to Government, Public (Special A) Department, Government of Tamil Nadu, Chennai-9 and another (2010 (5) CTC 1).

4. The selection process for the said posts as per the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules,2007 consisted of the written examination and viva-voce. The maximum marks allotted for written examination and viva-voce as per the Rules are 75% and 25% respectively and total marks obtained by the candidates in the written examination and viva-voce are taken together subject to the rule of reservation for appointment. Accordingly, the written examinations were conducted by the High Court on 30.10.2010, in which 2047 candidates have appeared, from whom a list of candidates for viva-voce was short listed. Considering the number of vacancies to be filled up and following the distribution pattern as per the notification, from among the merit list of the candidates prepared based on the marks secured in the written examination, 103 candidates were short listed by taking into consideration the rule of reservation and merit. Thereafter, viva-voce was conducted by the Six Senior Most Judges of this Court, including the Hon ble the Chief Justice between 11.11.2010 and 13.11.2010 and based on the performance in the viva-voce along with the marks obtained by the candidates in the written examination, a select list was drawn and sent to the Government by the High Court on 13.11.2010.

5. It was, at that stage, another batch of writ petitions came to be filed in W.P.Nos.25778 of 2010 etc., by the persons whose names did not find a place in the short-list mainly on the ground that while short-listing, in addition to the marks obtained in the written examination, weightage marks should have been given for the length of practice of the candidates in the Bar; that while in respect of 12 posts meant for men candidates 92 men candidates have been short-listed and on the other hand in respect of 5 vacancies reserved for women candidates, only 11 were short-listed and therefore, the zone of consideration was not arrived at in a proper proportion, and that the selection process should not have been conducted by the High Court, and that when an application was made for revaluation of answer papers, it was not considered. The said writ petitions came to be dismissed by this Court on 01.12.2010 in V.Yamuna Devi vs. The Registrar General, High Court, Madras and others (2011 (1) CTC 469), upholding the process of short-listing of candidates for viva-voce test. We

are now informed that the SLP filed against the above said judgment was also dismissed by the Hon ble Apex Court in S.L.P.(Civil) No.621 of 2011 on 21.01.2011.

6. Subsequently, a list of selected candidates was prepared by the High Court, based on the marks obtained by the candidates in the written examination and viva-voce conducted by the Senior Judges of this Court and the said list was accepted by the Government by issuing the impugned order. In these writ petitions, the final selection made by the Government is challenged by the petitioners, who were among the said 103 short-listed candidates participated in the viva-voce conducted. Two of the writ petitioners, viz., writ petitioner in W.P.No.3087 of 2011 and writ petitioner in W.P.(MD)No.1691 of 2011, who are at 103 and 78 in the rank list respectively and belonging to M.B.C., and General Turn respectively, are physically challenged persons with orthopedic disability and their main challenge is that the Government, having constituted 200 Point Roster System on the policy of reservation, ought to have granted 3% of seats to physically challenged persons as per the Persons with Disabilities (Equal opportunities, Protection of rights and Full Participation) Act,1995 and not even one person has been appointed out of 17, even though candidates like the petitioners were available.

7. The writ petitioner in W.P.No.1403 of 2011, who belongs to Muslim Backward Class is found at rank No.11 in the rank list, he having obtained 53 marks in the written examination out of 75, while Mr.A.K.A.Rahman, 17th respondent, obtained 40.68 marks in the written examination and found at Serial No.68 in the rank list.

8. Likewise, the writ petitioner in W.P.No.1480 of 2011 stands at 15th rank in the rank list and he has not been selected and he has made a representation to the Governor on 31.12.2010, bringing out certain alleged irregularities in selection and his case is mainly that the consultation process as contemplated under the Constitution of India has not been exercised by the Governor properly.

9. W.P.(MD)No.1135 of 2011, has been filed by a candidate, who belongs to Backward Class Community, stood at 18 in the rank list and he has not been selected.

10. Apart from the above said specific grounds raised by the petitioners, they have raised broadly various points to assail the impugned order, viz., that,

(i) Marks in the viva-voce ought to have been published since as per the notification and also the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules,2007, the selection has to be made based on the results of the written examination and viva-voce, that means on the basis of the total marks obtained by the candidates in the written examination and viva-voce taken together and therefore when the marks obtained in the written examinations have been published, the non-publication of the marks obtained by the candidates in the viva-voce, is in violation of the Rules as well as the notification;

(ii)It has been the case of the petitioners that the nature of interview conducted shows that there has been no fair selection. It is their case that while on the first two days, viva-voce was conducted for 25 candidates on each day, the third day, remaining candidates were examined hurriedly and few of the

candidates who got less marks in the written examination got selected during the said third day. According to them, there should have been a proper method or guidelines followed by the Committee of Judges in conducting the interview and in the absence of such guidelines, the selection should stand vitiated;

(iii) Short-listing of candidates for interview itself is bad and in the absence of any yardstick for the purpose of short-listing, the very aspect of calling 103 candidates for viva-voce test is bad in law. Even though the validity of the short-listing of candidates was already upheld by this Court in Yamuna Devi s case (2011 (1) CTC 469), Mr.P.N.Prakash, learned counsel specifically contents that the question of short-listing is on the manner of yardstick, viz., a different ground and not on the basis of the requirement of Bar experience as raised in the Yamuna Devi s case;

(iv)The selection should have been approved by the Full Court of all Judges and constitution of a Committee for conducting interview which amounts to delegation of power by Full Court is not permissible as per the construction of Article 233 of the Constitution of India.

In addition to the above said challenge, the point relating to physically challenged persons and the legal necessity of providing 3% to the physically challenged persons and even not one, out of 17 has not been selected in this category has been emphasised.

11. In the common counter affidavit filed by the Registrar General, Madras High Court in these cases, while narrating about the notification issued by the Government on 24.6.2010, calling for applications for appointment to 17 posts of District Judges (Entry Level) and also as to the distribution of 17 vacancies based on reservation, it is stated that the maximum marks allotted for the written examination was 75 marks and for viva-voce 25 marks and the selection was to be made based on the total marks obtained by the candidates in the written examination and viva-voce put together.

(a) It is stated that 2541 applicants were permitted to appear for the written examination on 3.10.2010 and the answer sheets were valued by the Hon ble Judges of the High Court and the marks obtained by the candidates were published and hosted in the High Court website. Thereafter, 103 candidates in the order of merit in the written examination were short-listed and the short-listing was done having regard to the merit, vacancies read with rules of reservation.

(b) The viva-voce-interview was conducted from 11.11.2010 to 13.11.2010 and the same was conducted by the Hon ble senior Judges of this Court headed by the Hon ble the Chief Justice. It is stated that on 11.11.2010, 25 candidates were interviewed and on 12.11.2010 and 13.11.2010 78 candidates were interviewed at the rate of 39 candidates per day. The viva-voce was conducted to ascertain the merit, ability and aptitude of the candidates, which are the paramount criteria for selection. After viva-voce, marks in the written examination and viva-voce were put together and select list was drawn and forwarded to the Government by the High Court.

(c) In the counter affidavit, the filing of earlier writ petitions has also been mentioned and it is stated that the Government passed G.O.Ms.No.16 Public (Special A) Department, dated 5.1.2011

appointing 17 persons as District Judges and the same is impugned in these writ petitions. It is also denied that viva-voce was conducted arbitrarily and in violation of Articles 21 and 14 of the Constitution of India. It is stated that inasmuch as the Hon ble the Chief Justice and five senior most Hon ble Judges conducted the interview, reliability of the procedure and principles adopted cannot be questioned. It is also stated that none of the candidates at the time of interview raised any objection about the manner of conducting the viva-voce.

(d) The purpose of viva-voce was to assess the qualities like, alertness, ability to take decision and tactness which were assessed by the experienced Judges of this Court. It is stated that while written examination is conducted involving objective test, viva-voce is subjective assessment and therefore, it cannot be true that a person who scores high marks in the entrance examination will always fair well in viva-voce. Since the Committee which conducted the viva-voce consisted of senior Hon ble Judges, it is improper to probe into the genuineness of the same and their eminence, integrity, caliber and mobility cannot be questioned. It is stated that viva-voce marks formed part of the process of selection and the non-publication of marks in viva-voce would not vitiate the selection process. It is stated that the allegation of the petitioners that no marks were allotted for viva-voce test is based on surmises.

(e) It is stated that viva-voce which forms part of the selection process is to identify the candidates in terms of technical competence, aptitude, etc. which are personal to the candidates and such reasons cannot be disclosed since, according to the Registrar General, they are fiduciary in nature exempted under section 8(1)(e) and (j) of the Right to Information Act,2005 and the disclosure of such marks also does not go to serve any public interest. It is also stated that insofar as the short listing of candidates is concerned, inasmuch as the Division Bench of this Court has already rendered judgment as reported in V.Yamuna Devi vs. The Registrar General, High Court, Madras and others [2011 (1) CTC 469], upholding the validity of the said short list of candidates, it is not open to the petitioners to reagitate the same.

(f) In respect of the claim of the writ petitioners regarding appointment of physically handicapped persons as per G.O.Ms.No.87, Social Welfare Department dated 17.07.2008 and Section 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act,1995, it is stated that the same was considered earlier in the batch of writ petitions and even though there were some observations made, it is the case of the second respondent, the Registrar General that inasmuch as the appointment of District Judges is as per Article 233 of the Constitution of India, neither the State nor the Government has any role to play controlling the appointment of District Judges and therefore, the percentage to differently abled persons cannot be claimed as a matter of right. It is also stated that even otherwise, such claim of 3% reservation as per the Act cannot be made until the requisite identification of posts is made in terms of section 32 of the Act. Inasmuch as the identification of the posts has not been done as per the Act by the State Government, according to the second respondent, the Registrar General, the writ petitions in that regard are liable to be dismissed.

(g) It is also stated that in respect of selected candidates, they were directed to furnish physical fitness certificate and the same was verified and the Government was addressed for supernumerary

posts to impart training to the selected candidates as per the Rules.

12. The Government of Tamil Nadu through its Secretary, Public and Rehabilitation Department filed an affidavit dated 24.2.2011, adopting the counter affidavit filed by the Registrar General of High Court insofar as it concerns with the Government.

13. Mr.R.Gandhi, learned senior counsel appearing for the petitioner in W.P.No.3087 of 2011, who is a physically challenged candidate placed at 103 in the rank list with 60% orthopaedic physical disability would submit that, in G.O.Ms.No.87, Social Welfare Department dated 17.7.2008 in the 200 Point Roster drawn by the Government, it is clearly stated that out of 200 points, 6 posts are to be filled up from among the physically challenged persons viz., blind, deaf and orthopaedically disabled persons at the ratio 1:1:1 equally, one out of 33 vacancies, that is to say, it is to be filled up between 1 to 33, 34 to 66, 67 to 100, 101 to 133, 134 to 166, 167 to 200 in the communal roster. His contention is that within 33 vacancies if an eligible candidate from physically handicapped person is available, he has a right of selection and in the present case, the petitioner who has come within the zone of consideration viz., he has come within the rank list of 103 candidates, in all fairness, he should have been selected by implementing the social beneficial legislation viz., Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act,1995 which has been agreed to be implemented by the Government in the Government Order.

(a) He would also specifically rely upon the undertaking given in the first round of writ petitions reported in K.Appadurai vs. The Secretary to Government, Public (Special A) Department, Government of Tamil Nadu, Secretariat, Chennai 9 and another [2010 (5) CTC 1], wherein it was clearly stated that the obligation of filling up of 3% vacancies would be carried out at the time of appointment by appointing one individual belonging to differently abled category in each of the six blocks of 200 point Communal Roster and submit that in spite of such undertaking and also specific incorporation of providing 3% reservation to physically challenged persons in the notification issued by the Government calling for applications for appointment to the posts of District Judges (Entry Level), the non-consideration of the case of the petitioner in the selection process is against the undertaking.

(b) He would also submit that inasmuch as viva-voce marks have not been disclosed, there is lack of transparency in the process of selection. It is his further submission that even under the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules, 2007, Rule 10 specifically enables 3% vacancies to be given to physically handicapped persons and in spite of the categorical stand of the Government as well as in the Rules and notification, the legitimate rights of the physically handicapped persons are denied in the selection process.

(c) It is his submission that mere non-ascertainment of vacancies would not take away the right of physically challenged persons which has been given statutorily. In respect of the claim of disclosure of viva-voce marks, it is his submission that the provisions of Section 8(1)(e) and (j) of the Right to Information Act,2005 are not applicable since what the petitioner required is the disclosure of his marks. He would rely upon the judgments in Government of India through Secretary and another vs. Ravi Prakash Gupta and another [(2010) 7 SCC 626], Syed Bashir-ud-din Qadri vs. Nazir Ahmed

Shah and others [(2010) 3 SCC 603] and Prof.I.Elangovan,Vellore vs. Government of Tamil Nadu rep. by its Chief Secretary, Chennai and others [(2008) 3 MLJ 481 (DB)].

14. Mr.G.R.Swaminathan, learned counsel appearing for another physically handicapped petitioner in W.P.(MD) No.1691 of 2011, who is placed at 78 in general turn in the rank list would adopt the arguments of Mr.R.Gandhi, learned senior counsel.

15. Mr.V.Raghavachari, learned counsel for the petitioner in W.P.No.1403 of 2011 would mainly focus on the following points:

(i) The selection has not been done by the Full Court of the High Court and the Full Court has not been consulted and therefore, as per Article 233 of the Constitution of India, unless the Full Court is consulted for the selection, the selection would not be valid and the Government in consulting process, has failed to take note of the same.

(ii) In the selection process, there is lack of transparency.

(iii) Under Article 233 of the Constitution of India, the consultation by the Government is not a blind acceptance and the Government should apply its mind to the ground realities and the Governor should ascertain as to whether the decision for appointment has been taken by the Court or Committee of Judges and if so, whether the High Court as a whole has taken the decision.

(a) While contending that the selection is not fair, it is his submission that the petitioner who belongs to Muslim Backward Class community secured 53 marks in the written examination and he has been ranked at 11 in the rank list, while another Muslim Backward Class Community candidate by name, A.K.A.Rahmman who has secured 40.68 marks in the written examination who has been placed at 68 in the rank list, got selected and unless the full 25 marks has been awarded to him in viva-voce test, there would not have been any possibility for him to get selected and therefore, there is an obligation to inform the viva-voce marks and the manner in which the interview was conducted.

(b) It is his submission that in respect of disclosure of marks, there is no confidentiality when the relevant Rules contemplating that the marks in the written test and viva-voce are to be put together, thereby impliedly requiring that both the marks should be disclosed. To substantiate his submission in respect of confidentiality, he would rely upon the judgment in Ajay Hasia vs. Khalid Mujib Sehravardi [(1981) 1 SCC 722].

(c) To drive home the point about the meaning of consultation , he would rely upon the judgment in Mani Subrat Jain and others vs. State of Haryana and others [(1977) 1 SCC 486] and contend that it is the constitutional obligation of the Governor to verify as to whether the Full Court was consulted and according to him, a Committee of Judges is not the High Court and the reasons for rejection should be in writing. He would also rely upon the judgment in State of Jammu & Kashmir vs. A.R.Zakki and others [(1992)Supp. (1) SCC 548], apart from the judgments in State of Uttar Pradesh vs. Batuk Deo Pati Tripathi and another [(1978) 1 SCC 102] and High Court of Judicature

for Rajasthan vs. P.P.Singh and another [(2003) 4 SCC 239] in support of his contention about the meaning of Full Court and Committee .

(d) About the scope of judicial review, it is his contention that the power of judicial review cannot be taken away because the decision has been taken administratively by the Judges. He would rely upon the judgment in Surat Municipal Corporation vs. Rameshchandra Shantilal Parikh and others [AIR 1986 Gujarat 50]. He would also place reliance on the judgments of the Supreme Court in K.Manjusree vs. State of Andhra Pradesh and another [(2008) 3 SCC 512] and Atul Khullar vs. State of J & K and others [(1986) Supp. SCC 225].

16. Mr.P.N.Prakash, learned counsel appearing for the writ petitioner in W.P.No.1480 of 2011 would submit that immediately after viva-voce was over, the petitioner made a representation to the Governor on 31.12.2010 and the Governor without taking any decision on the representation, issued the impugned order of selection. He would also reiterate about the term consultation that finds a place in Article 233 of the Constitution of India. The said petitioner also filed M.P.No.4 of 2011 seeking for disclosure of his viva-voce marks.

(a) Learned counsel would refer to the Tamil Nadu State Judicial Service (Cadre and Recruitment)Rules,2007 especially Annexure-I to the said Rules, which contemplates written examination and viva-voce and submit that the candidates have got every right to know their viva-voce marks, particularly when the marks on written examination were published.

(b) He would submit that there is no fiduciary relationship in the matter of disclosure of marks and the interviewer cannot be treated as a trustee and there cannot be any exemption under the Right to Information Act,2005. He would rely upon the judgment in N.Rajachandrasekaran vs. The Secretary to Government, Public (Special-A) Department, State of Tamil Nadu, Fort St.George, Chennai 9 and others [(2009) 5 CTC 828] and submit that the failure on the part of the respondents in publishing the results of viva-voce would vitiate the entire selection process.

(c) It is his submission that in all other High Courts like, Chhattisgarh and Delhi, when such selection process was made in respect of Judicial Officers, the marks obtained both in the written examination and viva-voce were published.

(d) He would also reiterate that he is questioning the short-listing of 103 candidates for undergoing viva-voce test, even though in V.Yamuna Devi vs. The Registrar General, High Court, Madras and others [2011 (1) CTC 469] this Court considered the same, but his contention is that the short-listing is questioned on the basis of yardstick followed which was not correct and the yardstick so followed, according to him, is violative of Article 14 of the Constitution of India. He would rely upon the judgments in Hemani Malhotra vs. High Court of Delhi [2008 AIR SCW 3205] and Ashok Kumar Yadav vs. State of Haryana [(1985) 4 SCC 417] to the effect that 1:6 ratio adopted for the purpose of short-listing of candidates who appeared in the written examination to undergo viva-voce test is in violation of Article 14 of the Constitution of India.

(e) For the purpose of supporting his view on the point of Full Court , as found in Articles 233 and 235 of the Constitution of India, he would rely upon the judgments in Chandra Mohan vs. State of U.P. [AIR 1966 SC 1987] and Prem Nath vs. State of Rajasthan [AIR 1967 SC 1599].

(f) It is his submission that the petitioner has specifically stated in the affidavit that viva-voce was not conducted properly and on the last day everything was rushed through within few hours and the same has not been replied and the petitioner is entitled to know what was the qualifying mark in viva-voce. He would rely upon the judgments in M.M.Gupta and others vs. State of J & K and others [(1982) 3 SCC 412] and Chandramouleshwar Prasad vs. The Patna High Court and others [(1969) 3 SCC 56] apart from the judgment reported in Hemani Malhotra vs. High Court of Delhi [2008 AIR SCW 3205].

(g) It is his submission that he is not estopped from raising about the validity of short-listing of candidates on the basis of acquiescence, by relying upon the judgment in Madan Lal and others vs. State of J & K and others [(1995) 3 SCC 486], since, according to him, his claim is factually different. He would also rely upon the judgment in Ramesh Kumar vs. High Court of Delhi and another [2010 (3) MLJ 332 (SC)].

17. Mr.G.R.Swaminathan, learned counsel appearing for the petitioner in WP (MD) No.1135 of 2011, who is a Backward Class candidate ranked 18 in the short-list of candidates, would submit that the claim of privilege or immunity from disclosure of viva-voce marks is not acceptable even as per the Indian Evidence Act and it is the duty of the respondents to disclose the entire records when the Rule NISI is issued and it is not stated as to how the public interest is involved in disclosing the marks obtained by the candidates in viva-voce. He would rely upon the judgment in People s Union for Civil Liberties and another vs. Union of India and others [(2004) 2 SCC 476] apart from the judgment in Satpal and others vs. State of Haryana and others [(1995) 1 SCC 206]. It is his submission that even though no mala fide has been alleged, arbitrariness can be proved by substantiating factually. He would also rely upon the judgment in UCO Bank vs. Hem Chandra Sarkar [(1990) 3 SCC 389] to contend about the fair defence in questioning the validity of the selection process and questioning the decision of the Committee of Judges. He would rely upon the judgment in Yoginath D.Bagde vs. State of Maharastra [(1999) 7 SCC 739].

18. Replying to the above said arguments, Mr.R.Muthukumarasamy, learned senior counsel appearing for the Registrar General of High Court, by handing over a cover containing the particulars of marks of the candidates in viva-voce examination, has made his submission broadly on six heads, controverting each and everyone of the arguments made by the learned counsel for the respective petitioners.

I.(a) At the foremost, by replying about reservation for physically handicapped persons, it is his submission that even though it is mandatory under the Central Act - Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act,1995 that 3% has to be spared and the State Government has also given notification in this regard, so long as the physically handicapped vacancies have not been earmarked, there is no vested right on the part of the petitioners, who are handicapped to claim that they should be considered for appointment under

this category. He would also go to the extent of contending that the Central Act may not apply in the present context due to the reason that the High Court will not come under the expression appropriate Government or establishment under section 2(a) and (k) respectively of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act,1995.

(b) It is his submission that even otherwise the physically challenged persons who are entitled for horizontal reservation cannot, as a matter of right claim till 33rd vacancy arises. It is only 17 vacancies which were sought to be filled up by the High Court. It is his submission that even in the previous selection which was made after the Central Act came into existence, 11 vacancies were filled up and hence, totally 28 persons (11 + 17) were selected for appointment to the posts of District Judge (Entry Level) after the Central Act came into effect and still there is scope for appointment of a person from physically handicapped category. It is his submission that these points have been raised at the earliest point of time and they were dismissed when the question of reservation of 3% was raised in the earlier writ proceedings as reported in K.Appadurai vs. The Secretary to Government, Public (Special A) Department, Government of Tamil Nadu, Secretariat, Chennai 9 and another [2010 (5) CTC 1]. It is his submission that the non-selection of a person from physically handicapped category would not vitiate the selection.

II. (a) While dealing with the non-publication of marks in viva-voce, he submitted that the High Court has never said that there were no marks given in viva-voce and marks were given by the Committee of Judges during the time of viva-voce and there was interaction between the High Court and the candidates and in fact, the candidates were assessed on that basis and marks were awarded. It is his submission that the non-disclosure of marks in viva-voce would not vitiate the selection since either the notification or the Rules do not stipulate such duty of disclosure and therefore, according to him, the disclosure of marks in viva-voce is not required in law.

(b) He would submit that the Rules no where stipulate that viva-voce marks are to be displayed and there is no mandate for the same and for oral test, there are no cut-off marks and the performance of candidates in oral interview cannot be disclosed since it is an interaction by which senior most Judges of the High Court have assessed the suitability of candidates for the post of District Judge. He would also rely upon the judgment in V.Yamuna Devi vs. The Registrar General, High Court, Madras and others [(2011) 1 CTC 469]. It is his submission that even if the reasons are recorded for non-selection, they need not be disclosed, by relying upon the judgment in B.C.Mylarappa vs. Dr.R.Venkatasubbaiah [(2008) 14 SCC 306]. In the absence of any mala fide attributed to any of the members of the Selection Committee by any of the petitioners, it is his submission that the non-disclosure of viva-voce marks will not vitiate the selection.

III. (a) While considering the nature of interview, it is his submission that in the absence of any allegation made against any of the members of the Committee, including bias or mala fide, when the senior most Judges of the High Court have decided to select the suitable candidates, the process of selection cannot be probed into and there is no scope for judicial review. He would rely upon the judgment in K.H.Siraj vs. High Court of Kerala and others [2006 (6) SCC 395].

(b) He would also submit that the petitioners having participated in the interview cannot be expected to make any allegation even otherwise. He would rely upon the judgment in Delhi Bar Assn. Vs. Union of India [(2002) 10 SCC 159]. It is his submission that the written examination was objective in nature and the marks were ascertainable, and therefore, they were disclosed, but in viva-voce examination there was interaction between the Judges sitting in the Committee and the decision was purely subjective and there is no question of explaining the reason for either selection or non-selection.

(c) In any event, he would submit that as per the records, the members of the Selection Committee, who are the Hon ble Judges, including the Hon ble the Chief Justice have subjectively selected the candidates by giving marks on proper assessment, it is not open to the petitioners to question the manner in which the interview was conducted.

IV. (a) While answering the contention raised by Mr.P.N.Prakash, learned counsel regarding short-listing, he would submit that when the entire issue has been decided by the Division Bench in V.Yamuna Devi vs. The Registrar General, High Court, Madras and others [2011 (1) CTC 469], it is certainly not open to the said petitioner to raise it once again and that would be an abuse of process of law.

(b) He would submit that the practice of challenging the selection process continuously in various stages is depreciable and according to him, not only at the stage of notification, it was challenged, but when the short-listing was done that was also challenged and now when the selection was completed, the same is being challenged on various new grounds.

(c) It is his submission that for the purpose of short-listing of candidates, there is no rule and therefore, the High Court prescribed the rule by itself and inasmuch as the fairness cannot be questioned, it is not open to the petitioners to once again raise the said issue. He would also rely upon the judgment in M.Palanisamy vs. The Tamil Nadu Public Service Commission, rep. By its Secretary, Government Estate, Anna Salai, Madras-2 [1997 (3) CTC 698].

V. (a) While meeting the submission made by all the learned counsel regarding the expression Full Court , as per Article 233 of the Constitution of India, it is his submission that inasmuch as the High Court has authorized the Chief Justice to constitute Committee by general authorization, by virtue of a Full Court resolution, if the Chief Justice constitutes a Committee, the members of the Committee are to be treated as High Court and they cannot be treated as Judges who are delegated with the powers.

(b) The High Court is governed by the Rules framed either under Article 225 of the Constitution of India and in the absence of any such Rule, it is, by resolution of the Full Court, the administration is carried on. Therefore, according to him, Article 225 is not a sole depository of rule making power and the resolution authorizing the Chief Justice to appoint Committees is well within the powers of the High Court. As long as the Committee of Judges appointed by the Chief Justice does not contain an outsider, the Committee of Judges is deemed to be the High Court and its decision is deemed to be the decision of the Full Court .

(c) He would distinguish the judgment in Chandra Mohan vs. State of U.P. [AIR 1966 SC 1987], which relates to a case where the Committee consisted of two Judges and the Secretary to Government and in those circumstances, while construing Article 233 of the Constitution of India, the Supreme Court held that the decision cannot be held to be that of the High Court. He would submit that the Rules framed under Article 309 of the Constitution of India cannot be the guiding factor and even under Article 233 of the Constitution of India, the guidelines can be framed by the High Court.

(d) He would distinguish the judgment in Prem Nath and others vs. State of Rajasthan and others [AIR 1967 SC 1599], where the rules framed under Article 309 of the Constitution of India came to be set aside by the Supreme Court. He would rely upon the judgment of the Supreme Court which was relied upon by Mr.V.Raghavachari, in State of U.P. vs. Batuk Deo Pati Tripathi [(1978) 2 SCC 102], wherein the Supreme Court held that Committee of Judges constituted by the High Court cannot be said as a delegates.

(e) He would also distinguish the judgment in High Court of Judicature for Rajasthan vs. P.P.Singh and another [(2003) 4 SCC 239] to insist the point that the functioning of the Committee is deemed to be High Court function and he would rely upon the judgment in High Court of Judicature at Bombay vs. Shirishkumar Rangrao Patil [(1997) 6 SCC 339].

VI. (a) While dealing with the role of Governor, it is his submission that inasmuch as it is the power of the Government to raise any objection in the process of consultation, the non-consideration of any representation by the Governor is irrelevant. When the Government which is entitled in the consultation process to participate has accepted the decision of the High Court, it is not open to the petitioners to dictate that the Government should raise objection.

(b) The Governor s role has already been discussed by the Division Bench in V.Yamuna Devi vs. The Registrar General, High Court, Madras and others [2011 (1) CTC 469]. It is his submission that when once the Government filed an affidavit adopting the counter affidavit filed by the Registrar General, it means that the Government accepted the decision of the High Court and there is nothing more for the Government to consult.

(c) It is his submission that the scope of judicial review in this case is limited and regarding the question of eligibility or suitability, it is for the High Court to decide because, only the High Court knows as to the requirements of the judicial system. He would rely upon the judgment in Mahesh Chandra Gupta vs. Union of India [(2009) 8 SCC 273].

(d) He has also submitted that after notification was issued, out of 17 selected candidates, 16 have taken charge and in respect of one candidate, there is some enquiry pending on the basis of some complaint.

19. The learned Special Government Pleader submitted that after 45 days of viva-voce, the petitioner in W.P.No.1408 of 2011, sent a representation i.e., on 30.12.2010, which was received by the Government only on 06.01.2011 and the impugned Government Order was passed on 05.01.2011

and therefore, consideration of the said representation cannot be raised as a ground to challenge the order.

20. We have heard the learned senior counsel and other counsel appearing for the petitioners and the learned senior counsel appearing for the Registrar General of Madras High Court and the learned Special Government Pleader and given our anxious thoughts to the issues involved in these cases. We have also carefully gone through the marks and other particulars given by Mr.R.Muthukumarasamy, learned senior counsel in the cover, relating to viva-voce conducted.

21. After hearing the arguments, we propose to deal with these cases by formulating certain issues which are raised in the writ petitions, which are as follows:

1. Whether the selection and appointment of 17 candidates should be held invalid on the ground that no physically handicapped person has been selected among the 17 and therefore, there is violation of the Central Act, the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act,1995 apart from G.O.Ms.No.87 Social Welfare Department dated 17.7.2008 and Rule 10 of the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules,2007?

2. Whether non-publication of viva-voce marks obtained by the candidates vitiates the entire selection process, including the point relating to the transparency and the nature of interview conducted?

3. Whether the petitioners are entitled to re-agitate on the point of short listing of candidates who have participated in the written examinations eligible to appear for viva-voce in the light of the decision of the Division Bench of this Court reported in V.Yamuna Devi vs. The Registrar General, High Court, Madras and others (2011 (1) CTC 469)?

4. What is the scope of the term High Court in relation to the appointment of District Judges in the context of Article 233 of the Constitution of India, which includes the role of the Governor of the State as per the said Article to consult with the High Court?

22. I. Relating to the reservation of 3% under the Persons with Disabilities (Equal opportunities, protection of rights and Full participation) Act, 1995:

(a) The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (Act 1/96) (hereinafter called as, "the Act"), which was enacted as a comprehensive legislation by the Government of India for safeguarding the rights of persons with disabilities came into existence from 7.2.1996, the date on which the Central Government notified it. Section 33 of the Act which contemplates 3% of reservation to the disabled persons is as follows:

" Section 33. Reservation of posts.- Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent for persons or class of persons with disability of which one per cent 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:

Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section."

(b) Under section 32, appropriate Government shall identify the posts in the establishment in which the persons with disabilities can be appointed and the said section is as follows:

" Section 32.Identification of posts which can be reserved for persons with disabilities.- Appropriate Governments shall-

(a) identify posts, in the establishments, which can be reserved for the persons with disability;

(b) at periodical intervals not exceeding three years, review the list of posts identified and up-date the list taking into consideration the developments in technology."

(c) Section 36 of the Act provides to carry forward the vacancies not filled up to the succeeding recruitment year and in the succeeding year, if suitable person with disability is not available, steps must be taken first by filling up the disabled candidates by inter-changing among the three categories mentioned under Section 33 of the Act, and it is only thereafter, the question of filling up of other persons would arise. In this regard, it is relevant to extract Section 36 of the Act, which is as follows:

" Section 36. Vacancies not filled up to be carried forward.-

Where in any recruitment year any vacancy under section 33 cannot be filled up due to non-availability of a suitable person with disability or, for any other sufficient reason, such vacancy shall be carried forward in the succeeding recruitment year and if in the succeeding recruitment year also suitable person with disability is not available, it may first be filled by interchange among the three categories and only when there is no person with disability available for the post in that year, the employer shall fill up the vacancy by appointment of a person, other than a person with disability:

Provided that if the nature of vacancies in an establishment is such that a given category of person cannot be employed, the vacancies may be interchanged among the three categories with the prior approval of the appropriate Government."

(d) The term appropriate Government which is defined in section 2(a) of the Act, is as follows:

" Section 2(a). "appropriate Government" means,-

in relation to the Central Government or any establishment wholly or substantially financed by that Government, or a Cantonment Board constituted under the Cantonment Act,1924 (2 of 1924), the Central Government;

in relation to a State Government or any establishment wholly or substantially financed by that Government, or any local authority, other than a Cantonment Board, the State Government;

in respect of the Central Co.ordination Committee and the Central Executive Committee, the Central Government;

in respect of the State Co.ordination Committee and the State Executive Committee, the State Government;"

Therefore, in relation to the State Government, it applies to the establishment, local authority, etc.

(e) Section 2(k) of the Act, which defines the term establishment is as follows:

" Section 2(k) "establishment" means a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined in Section 617 of the Companies Act,1956 (1 of 1956) and includes Departments of a Government."

(f) The contention of Mr.R.Muthukumarasamy, learned senior counsel appearing for the Registrar General of the Madras High Court in this regard is that, the High Court would not be brought well within the ambit of any of the definitions in the Act and therefore, in strict sense, the Act may not have application. The said contention, in our considered view, has to be rejected outright.

(g) Article 233 of the Constitution of India relating to the appointment of District Judges makes it abundantly clear that it is the Government which is the appointing authority. In this regard, it is relevant to extract the said Article 233 as follows:

" Article 233.Appointment of district judges.-

(1)Appointments of persons to be, and the posting and promotion of, district judges in any State shall be made by the Governor of the State in consultation with the High Court exercising jurisdiction in relation to such State.

(2) A person not already in the service of the Union or of the State shall only be eligible to be appointed a district judge if he has been for not less than seven years an advocate or a pleader and is recommended by the High Court for appointment."

It is true that it has been held by established judicial precedents that in respect of Articles 233 and 235 regarding selection of District Judges and control of the Subordinate Courts, the High Court is the best person to know everything and therefore, the views of the High Court even in consultation process by the State have to be necessarily taken into consideration as a mandate, but still, the power of appointment of District Judges is with the Government.

(h) The Government of Tamil Nadu has also admittedly adopted the tenor of the said Act in the State Government Service subject to the Communal Roster System which is being followed. The Communal Roster System which was originally 100 point roster, has become 200 point roster and by G.O.Ms.No.87, Social Welfare Department dated 17.7.2008, the Government divided the said 200 point Communal Roster into six parts and in respect of allotment to disabled persons, the ratio is fixed at 1:1:1 as adumbrated under section 33 of the Central Act by categorically stating that the allocation must be equally given at the rate of 1 out of 33 seats. That has been made specifically clear in the said G.O. The portion of the G.O. which is relevant for the purpose of this case is as follows:

VERNACULAR (TAMIL) PORTION DELETED (Translated version :

Order has been issued by the Government with regard to the selection procedure in the Government Department, Corporations and Boards in this State, that the 200 Point Roster shall be classified into six categories (out of 3 categories among the physically handicapped person viz., deaf, dumb and orthopaedically handicapped persons, shall be given in the equal ratio of 1:1:1 to the extent possible) and one physically handicapped person shall be selected in 33 vacancies in each category (Eg.:- 1-33, 34-66, 67-100, 101-133, 134-166 and 167-200) and the selection shall be indicated against his/her community in the Communal Roster.")

(i) The relevant rules applicable to the facts and circumstances of the present case are the Rules framed in exercise of powers conferred under Articles 233, 233A, 234 and 235 and proviso to Article 309 of the Constitution of India, viz., Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules, 2007, (in short, "the Rules") published in the Government Gazette on 19.1.2007. Under rule 10, reservation of appointments is explained, which is as follows:

" Rule10. Reservation of Appointments.- Rules 21(b) and 22 of the General Rules for the Tamil Nadu State and Subordinate Service relating to reservation of appointment shall apply to the selection for appointment to the posts of District Judge (Entry Level) and Civil Judge (Junior Division) by direct recruitment.

(2) Candidates with the following disabilities, namely, blind deaf/orthopaedically handicapped can seek for recruitment for the post of Civil Judge (Junior Division).

(i) 3 percent of the vacancies in the post of Civil Judge (Junior Division) in direct recruitment has to be filled by physically handicapped, namely, blind deaf/orthopaedically handicapped. In the event of only one vacancy the rule of reservation for physically handicapped shall not apply:

Provided that the candidate must produce a certificate from the Medical Board to the effect that the disability will not affect the performance of the job, namely, Civil Judge (Junior Division) before appointment."

(j) While 3% reservation to the physically handicapped persons has been expressly ensured in respect of appointment of Civil Judges (Junior Division), it is made clear that rule 22 (aa) of the General Rules for Tamil Nadu State and Subordinate Services Rules will apply in respect of appointment of District Judges (Entry Level) by direct recruitment. The said rule is as follows:

Rule 22.Reservation of Appointments.- Where the Special Rules lay down that the Principle of reservation of appointments shall apply to any service, class or category, selection for appointment thereto shall with effect on and from 22.06.1990, be made on the following basis:

(a) xxxx (aa) Out of the total number of appointments reserved in the categories referred to in clause (a), in the case of appointment made by direct recruitment, one percent in each such category shall be separately reserved for the blind, deaf and orthopaedically handicapped candidates and the appointment shall be made in turn and in the order of rotation as specified in Schedule III-A to this part:

Provided that the appointment of physically handicapped candidates, against the reserved turns shall be subject to availability of such candidates:

Provided further that if no qualified and suitable candidate is available from a particular category of handicapped, namely the blind, the deaf or the orthopaedically handicapped, the vacancy can be filled up by candidates belonging to any of the other two categories: @ This shall, however, be subject to the third proviso to this clause.

@ Provided also that in the teaching posts of School Education Department, Adi Dravidar and Tribal Welfare Department, Social Welfare Department and Backward Classes and Most Backward Classes Department, other than orthopaedically physically handicapped, the reservation for the blind shall be two percent, and there shall be no reservation for the deaf. In the non-teaching posts in the above Departments, other than orthopaedically physically handicapped, the reservation for the deaf shall be two percent, and there shall be no reservation for the blind: .

@ Inserted vide G.O.Ms.No.169 P&AR(S) Dept. dt. 25.9.2006 w.e.f. 25.9.2006 Provided also that if no qualified and suitable physically handicapped candidate belonging to Scheduled Caste or Scheduled Tribe or Most Backward Class/Denotified Community is available for selection for appointment against the reserved turn, such turn shall be filled up by a candidate other than physically handicapped belonging to that category and if no such candidate is available in that category for selection for appointment against the reserved turn, such turn shall be carried forward as provided in clause (d):

Provided also that in the case of appointment of candidates belonging to Backward Classes (other than Most Backward Classes/Denotified Communities) Backward Class Muslims or in the case of

appointment of candidates on the basis of merit, if no qualified and suitable physically handicapped candidate is available for selection for appointment against the reserved turn, such turn shall be filled up by a candidate other than physically handicapped belonging to that category and if no such candidate is available in that category for selection for appointment against the reserved turn, such turn shall be allowed to lapse;

$Provided also that in so far as the Executive Posts are concerned, the reservation for physically handicapped candidates shall be made applicable in respect of suitable posts in Groups A and B as identified in the list approved by the State Government and to all posts in Groups C and D , subject to condition that the physically handicapped candidate shall, before appointment, produce a certificate of physical fitness from the Medical Board to the effect that his handicap will not affect the performance of the job to which he has been selected.

$Provided also that if the vacancies notified are identified suitable for only any two of the three categories of the physically handicapped, namely; blind and deaf or deaf and orthopeadically handicapped or blind and orthopeadically handicapped and if the total number of vacancies meant for the ineligible category of the physically handicapped is even, it shall be distributed equally between the other two eligible categories, or if the said total number of vacancies is odd, the extra vacancy shall be allotted to either of the two eligible category of physically handicapped, which has higher population as per the latest census.

$Provided also that if the vacancies notified or identified suitable for only one category of physically handicapped then all the 3 per cent vacancies shall be allotted to that particular category of physically handicapped.

$Inserted in G.O.Ms No.76, P&AR (S) Department, dated.19.06.09 w.e.f.11.04.2005 Provided also that the recruiting or appointing authorities are permitted to continue recruitment from the last point at which the selection was made prior to the 22nd June 1990 with reference to the then existing 50 point roster. Where recruitment has already been made for a few posts only not involving the 51st Point (which has been reserved for Scheduled Tribe from the 22nd June 1990) the recruiting or appointing authorities are to continue the 100 point roster. However, where recruitment has been made after the 22nd June 1990 in large numbers involving 51st point, the selection has to be refitted from the 51st Point onwards with reference to the revised 100 point roster and the backlog of vacancy for Scheduled Tribes be filled up in view of the ban on dereservation of vacancy reserved for Scheduled Castes/Scheduled Tribes with effect from the 1st April 1989.

Provided also that nothing contained in this rule shall adversely affect the notifications of the Tamil Nadu Public Service Commission already issued, inviting applications and selections or appointments made following the fifty point roster on and from the 22nd June 1990 till the 21st January 1993. Therefore, the Government Service Rules ensure the reservation of 3% vacancies for physically handicapped persons. In fact, there is also one proviso to that rule which says, Provided also that if the vacancies notified or identified suitable for only one category of physically handicapped, then all the 3% vacancies shall be allotted to that particular category of physically

handicapped .

(k) Even in the notification issued by the Government dated 24.6.2010, calling for applications for appointment of 17 posts of District Judges (Entry Level), the Government has made it clear therein that the reservation to the differently abled persons will be followed as per G.O.Ms.No.87 dated 17.7.2008 in the following terms:

" The reservation in recruitment in respect of differently abled persons is governed by the orders issued in G.O.Ms.No.87, SW&NMP(SW-4) Department, Dated 17.7.2008."

It is based on the above said express terms only, the recruitment process was commenced and completed and therefore, it is too late for the respondents now to raise such technical ground.

(l) That apart, in the first batch of writ petitions challenging the said notification issued by the Government in K.Appadurai vs. Secretary to Government, Public (Special A) Department, Government of Tamil Nadu, Chennai-9 and another [2010 (5) CTC 1], it was the specific stand of the Government as well as the High Court in the counter affidavit, as explained by the Hon ble First Bench in the judgment in paragraphs 28 and 29, that " 28. As against that the respondent Government, in its counter affidavit filed in W.P.No.16383 of 2010, stated that the reservation in recruitments in respect of disabled persons is governed by the G.O.Ms.No.87 dated 17.07.2008. As per the said G.O., orders were issued to adhere to the system of 200 point roster dividing into 6 classifications granting an equal ratio of 1:1:1 to the disabled category viz., blind, deaf and orthopaedically challenged. It is stated in the impugned notification that the reservation roster applicable to 17 vacancies are earmarked, and in the notification itself there is a mention that the reservation in respect of differently abled persons is governed by G.O.Ms.No.87 dated 17.7.2008. It is further stated that the 3% reservation will be ensured by each Appointing Authority by appointing one individual belonging to differently abled category in each of the 6 blocks of 200 point communal roster. It is further stated in the counter that the entire notification is given for the Vertical Reservation i.e., for communities, whereas the differently abled persons comes under Horizontal Reservation, hence, the petitioner will be accommodated if he comes on merit and will be absorbed under his respective communal quota. It is further stated that the State Government is giving utmost importance for providing employment opportunities to the differently abled persons. It is also submitted that the impugned notification is crystal clear about the reservation meant for differently abled persons and facilitates them to apply for the same as per the existing rules, and there is no arbitrariness on the part of the State Government, and hence, the impugned notification does not violate the fundamental rights guaranteed under Articles 14, 15 and 21 of the Constitution of India. The obligation of filling up of the vacancies as per 3% reservation will be carried out by the Appointing Authority at the time of appointment by appointing one individual belonging to differently abled category in each of the 6 blocks of 200 point Communal Roaster.

29. The Registrar General, High Court, Madras, in her counter affidavit filed in W.P.(MD)No.9119 of 2010 reiterated the stand taken by the State Government. It is stated that the Government of Tamil Nadu in G.O.Ms.No.87 dated 17.07.2008 issued orders to adhere to the system of 200 point roaster dividing into 6 classifications granting an equal ratio of 1:1:1 to the disabled category i.e., Blind, Deaf

and Orthopaedically challenged as far as possible, and to select differently abled persons among the 33 vacant posts in each division, and follow the method of making selection against their respective community in the communal roaster. It is further stated that inner rotation for all eligible categories including the differently abled persons are provided in the 200 point roaster, which is going to be adopted for the present selection on the basis of G.O.Ms.No.87 dated 17.07.2008. It is further stated that though the nature of duties and responsibilities attributed to the post of District Judge (Entry Level) required persons free from certain disabilities like blindness, total deafness, etc., so as to discharge his official duties, every possible steps have been taken to give equal opportunities to the eligible disabled persons, and hence, the operation of the relevant Governmental Order viz., G.O.Ms.No.87 dated 17.07.2008 in respect of differently abled persons in the present selection process was notified in the impugned notification itself. Therefore, it is submitted that the impugned notification is transparent and strictly adhering to the rules of reservation in force.

(m) Based on the said stand of the Government as well as the High Court, the Hon ble First Bench ultimately held in that regard as follows:

" 30. After hearing the learned counsel appearing for the parties, we are of the view that the stand taken by the respondents in their respective counter affidavit is fully justified inasmuch as the system of 200 point roaster dividing into 6 classifications granting an equal ratio of 1:1:1 to the disabled category has been followed. It has been categorically stated that the obligation of filling up of vacancies as per 3% reservation would be carried out by the Appointing Authority at the time of appointment as per the roaster. In that view of the matter, we find that the impugned notification is transparent and is strictly adhering to the rules of reservation in force. Hence, the contention made by the petitioners in these two writ petitions are misconceived and devoid of any substance. We, therefore, do not find any merit in this writ petition also."

Therefore, the respondents 1 to 3 cannot contend that the Act is not applicable.

(n) The constitutional mandate regarding vertical and horizontal reservation in terms of Article 16 of the Constitution of India was best explained by the Supreme Court in Mahesh Gupta vs. Yashwant Kumar Ahirwar [(2007) 8 SCC 621] to the effect that the handicapped persons when available, must be filled up on horizontal basis as a special category. By relying upon the said judgment of the Apex Court, a Division Bench of this Court in R.Parthiban vs. State of Tamil Nadu and another [2009 WLR 1065], while observing as follows:

" 8. In spite of the Persons with Disabilities Act and the Rules framed by the State, there seems to be some difficulty in implementing the provisions of the Act fully either because of lack of awareness or perhaps lack of will. The State is duty bound to implement the Act fully since the Act uses the word "shall" while giving protection to the Disability Rights. It does not give any escape route to the employer from accommodating the persons with disability whenever a vacancy arises."

and extracted the notification of Government of India issued by the Ministry of Personnel, P.G. and Pensions Department of Personnel & Training dated 29.12.2005, which earmarks reservation for physically handicapped which is as follows:

15. EFFECTING RESERVATION MAINTENANCE OF ROSTERS:

(a) All establishments shall maintain separate 100 point reservation roster registers in the format given in Annexure II for determining /effecting reservation for the disabled one each for Group "A" posts filled by direct recruitment, Group "B" posts filled by direct recruitment. Group "C" posts filled by direct recruitment, Group "C" posts filed by promotion, Group "D" posts filled by direct recruitment and Group "D" posts filled by promotion.

(b) Each register shall have cycles of 100 points and each cycle of 100 points shall be divided into three blocks, comprising the following points:

1st Block - Point No.1 to Point No.33 2nd Block - Point No.34 to Point No.66 3rd Block - Point NO.67 to Point No.100

(c) Points 1, 34 and 67 of the roster shall be earmarked reserved for persons with disabilities one point for each of the three categories of disabilities. The head of the establishment shall decide the categories of disabilities for which the points 1,34 and 67 will be reserved keeping in view all relevant facts.

(d) All the vacancies in Group C posts falling in direct recruitment quota arising in the establishment shall be entered in the relevant roster register. If the post falling at point No.1 is not identified for the disabled or the head of the establishment considers it desirable not to fill it up by a disabled person or it is not possible to fill up that post by the disabled for any other reason, one of the vacancies falling at any of the points from 2 to 33 shall be treated as reserved for the disabled and filled as such. Likewise a vacancy falling at any of the points from 34 to 66 or from 67 to 100 shall be filled by the disabled. The purpose of keeping points 1, 34 and 67 as reserved is to fill up the first available suitable vacancy from 1 to 33, first available suitable vacancy from 34 to 66 and first available suitable vacancy from 67 to 100 by persons with disabilities. and ultimately held as follows:

" 20. We have therefore no hesitation to hold that the provisions of Sec.33 read with Section 2(k) of the Act would prevail over the Tamil Nadu State and Subordinate Service Rules and the respondents are duty bound to provide reservation of not less than 3% in every establishment i.e., department for persons with disabilities in accordance with Sec.33 of the Act."

(o) Even though on a reading of the Division Bench Judgment, it gives an impression that there is Government of India notification in respect of Central Government service, which shows that at least in one group posts first appointment out of 33 should come to the physically handicapped and the rest should continue like that, viz., 34th appointment, 67th appointment, etc., yet, such identification has not been made by the State Government. However, the non-identification itself cannot in fact take away the right of the disabled persons to be considered for appointment, which is a constitutional mandate as on date.

(p) In Government of India through Secretary and another vs. Ravi Prakash Gupta and another [(2010) 7 SCC 626], it was held by the Supreme Court that the non-identification of posts to be filled up with the physically challenged persons due to bureaucratic inaction cannot make section 33 of the Act in a suspended animation. In that regard the Supreme Court has held as follows:

27. It is only logical that, as provided in Section 32 of the aforesaid Act, posts have to be identified for reservation for the purposes of Section 33, but such identification was meant to be simultaneously undertaken with the coming into operation of the Act, to give effect to the provisions of Section 33. The legislature never intended the provisions of Section 32 of the Act to be used as a tool to deny the benefits of Section 33 to these categories of disabled persons indicated therein. Such a submission strikes at the foundation of the provisions relating to the duty cast upon the appropriate Government to make appointments in every establishment (emphasis added).

28. xxxx 29. While it cannot be denied that unless posts are identified for the purposes of Section 33 of the aforesaid Act, no appointments from the reserved categories contained therein can be made, and that to such extent the provisions of Section 33 are dependent on Section 32 of the Act, as submitted by the learned ASG, but the extent of such dependence would be for the purpose of making appointments and not for the purpose of making reservation. In other words, reservation under Section 33 of the Act is not dependent on identification, as urged on behalf of the Union of India, though a duty has been cast upon the appropriate Government to make appointments in the number of posts reserved for the three categories mentioned in Section 33 of the Act in respect of persons suffering from the disabilities spelt out therein. In fact, a situation has also been noticed where on account of non-availability of candidates some of the reserved posts could remain vacant in a given year. For meeting such eventualities, provision was made to carry forward such vacancies for two years after which they would lapse. Since in the instant case such a situation did not arise and posts were not reserved under Section 33 of the Disabilities Act, 1995, the question of carrying forward of vacancies or lapse thereof, does not arise. Therefore, we have to strike a balance of the situation wherein the State Government has not identified the posts meant for reservation to physically challenged persons. But, at the same time, till the turn comes for physically challenged persons viz., from 1 to 33, simply because a person from the said category is not appointed, it cannot be said that the entire selection should be affected by the same.

(q) In the absence of identification of the post to be filled up, even though there is a statutory right on the part of the physically challenged person to claim to be appointed as one among 33, that right has not yet got crystallized. We are also informed that after the Persons with Disabilities (Equal opportunities, Protection of rights and Full Participation) Act,1995, has come into existence in 1996, the present recruitment is the second one and there were already 11 District Judges (Entry Level) appointed earlier and if put together, both would come to 28 posts (11 + 17) of District Judges, out of whom no one has been appointed from and out of the physically challenged persons. The mandate is that such appointment should be made before 33, which means that there should be one appointment between 1 to 33, of course, subject to the availability of candidates. In this situation, we are not impressed by the contention raised by the learned counsel for the petitioners that the selection has to be set aside on that ground. On the other hand, we are informed that out of 17 selected candidates, only 16 have been appointed. If the said one vacancy is going to arise for any

reason and by any chance, or in the absence of such a situation, in the next immediate appointment to the post of District Judges, the respondents shall preferably appoint a person under physically challenged category, of course, subject to other requirements like, qualifications etc.

(r) As enumerated above, even by applying the yardstick under Section 36 of the Act, this being the succeeding recruitment, if the High Court found no suitable person with disability, it is in the next recruitment, the appointment has to be made by interchanging category in which case, the person with locomotor disability will have a right to consider.

(s) In view of our above said findings, we are of the view that the present instance cannot be taken as changing the rules of the game during selection process, as held by the Hon ble Apex Court in Hemani Malhotra vs. High Court of Delhi [(2008) 7 SCC 11].

We answer the said issue accordingly.

II. Regarding viva-voce:

(a) The selection process as per the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules, 2007 consist of the marks obtained by the candidates in the written examination and viva-voce. In the instant case, the maximum marks allotted for written examination was 75 and for viva-voce it was 25. It is not in dispute that the marks obtained by the candidates in the written examination and viva-voce were put together for the purpose of completing the selection process. The High Court published the marks obtained by the candidates in the written examination in its website. The complaint is that the marks obtained in viva-voce by 103 candidates who were called for interview/viva-voce have not been revealed. The method of appointment, qualifications, etc. are explained in Rule 5 of the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules, 2007. As per the said rule, 50% of District Judges (Entry Level) is filled up by promotion from among the Civil Judges (Senior Division) / Chief Judicial Magistrates, etc. on the basis of evaluation of judgments, annual confidential reports, workdone statements and so on. The next 25% of posts is filled up by promotion from among Civil Judges (Senior Division) / Chief Judicial Magistrates strictly on the basis of merit through limited competitive examination and viva-voce test conducted by the High Court. The remaining 25% is filled up by direct recruitment among the eligible advocates, with which we are concerned in this batch of cases.

(b) Annexure-I to the said Rules deal with appointment of District Judges (Entry Level) by direct recruitment, which is as follows:

"Annexure I (under Rule 5) DISTRICT JUDGE (ENTRY LEVEL) BY DIRECT RECRUITMENT (1) The Government, in consultation with the Madras High Court shall invite applications for filling up the post of District Judge (Entry Level) by Direct Recruitment.

The High Court shall conduct the written examination and viva-voce as specified below for selection of District Judge (Entry Level) by Direct Recruitment.

(2) A Candidate shall, along with his application-

(a) If he/she is an Advocate or pleader, produce from the Presiding Officer of the Court in which he/she is actually practicing, a certificate indicating the length of his/her practice.

(b) If he/she is an Assistant Public Prosecutor, Grade I or an Assistant Public Prosecutor, Grade II, produce from the Collector of the District concerned a certificate indicating the length of his/her service.

(c) Produce a certificate of good character from a Senior Advocate/counsel and another from a responsible person, not being a relative but who is well acquainted with him/her in private life.

The Selection shall be made based on the results of written examination and viva-voce i.e., the selection will be made on the basis of the total marks obtained by the candidates in the written examination and viva-voce taken together subject to the rule of reservation of appointment. The maximum marks allotted for the written examination and viva-voce shall be 75% and 25% respectively.

The Notification enlisting the successful candidates prepared under these rules shall be published in the Tamil Nadu Government Official Gazette and it shall cease to be operative as from the date of Publication of the next list of successful candidates prepared under these rules, in the Tamil Nadu Government Official Gazette.

(c) A reading of the entire rules make it abundantly clear that there are no obligation imposed by the rules on the respondents to publish the marks obtained by the candidates either in the written examination or in viva-voce. On the other hand, the rule which is mentioned in Annexure-II in respect of appointment of Civil Judge (Junior Division) by direct recruitment specifically contemplates the minimum marks for pass in the written examination. It also makes it clear that no candidate who has secured less than the minimum marks in the written examination is eligible for viva-voce and to pass in viva-voce a person should necessarily obtain the minimum marks of 18. In fact, the said Annexure-II is in clear terms with regard to the marks to be obtained in the written examination and viva-voce for selection process of Civil Judge (Junior Division) which has been consciously omitted to be mentioned in detail in respect of appointment of District Judges (Entry Level) by direct recruitment and in such circumstances, it cannot be said that there is any legal duty on the part of the respondents to reveal marks obtained by the candidates. In the written examination stage, the marks obtained by the candidates were revealed for the purpose of calling the candidates for viva-voce test by preparing a mark list and thereafter, when viva-voce was conducted by six Senior Judges of this Court including the Hon ble the Chief Justice, it is not as if no assessment was made by the Judges by giving marks to the candidates.

(d) At the same time, the contention raised by the learned senior counsel appearing on behalf of the Registrar General, High Court, Madras, by claiming exemption from disclosure under Section 8(1)(e) and (j) of the Right to Information Act,2005, as if it is of fiduciary relationship or no public activities involved, cannot be accepted. In fact, a Division Bench of this Court while considering the

scope of Section 8 of the Right to Information Act,2005 in N.Rajachandrasekaran vs. The Secretary to Government, Public (Special A) Department, State of Tamil Nadu, Fort St.George, Chennai 9 and others (2009 (5) CTC 828) in respect of appointment of District Judges, when a similar point was raised, has observed as follows:

" 9. ..... Admittedly, the present case in hand do not fall within the purview of any of the exemption clause from disclosure of information.

10. The matter relates to appointment in the State Judicial Service made by the State Government on the recommendation of the High Court. Apart from the fact that the State Government is a public authority, administrative side of the High Court having recommended the name, is also required to promote transparency and accountability. Therefore, the 2nd respondent, instead of asking the petitioner to move the State Government for information, should have supplied the information to the petitioner as brought to the notice of the Court."

In any event, now that the entire particulars, including the marks obtained by the candidates in the viva-voce has been furnished, there is no necessity to consider the said issue.

(e) Even though the publication of such marks in the viva-voce is not a mandatory requirement on the part of the respondents, the list has been handed over to us by the learned senior counsel appearing for the Registrar General of Madras High Court. We have perused the entire list and found that in fact all the Judges who have participated in the interview have together awarded marks to the candidates and there is no reason to come to a conclusion that the marks awarded are incorrect. What transpired in the interview by way of viva-voce is not for this Court to probe into, since the assessment made on the spot is subjective, which cannot have any cut-off marks. It is only in objective type of test like, the written test, marks can be identified since the subjects are also identified in the form of questions, but in viva-voce test which is predominantly subjective in nature, there can be no yardstick for the purpose of disclosing as to what has happened in the interview regarding the performance of the candidates.

(f) It is not the case of any of the petitioners imputing mala fide or bias against any one of the Members of the Committee, who have conducted the interview. Inasmuch as the Members of the Committee of Judges have awarded marks to individual candidates who have participated in the viva-voce test and in the absence of any requirement in law to disclose the marks in viva-voce of the participants, we are of the view that the same cannot be a ground for setting aside the selection.

(g) In the absence of anything to substantiate the allegations, there is no reason to doubt about the correctness of the decision taken in the viva-voce. It is also relevant to point out that for the purpose of non-selection of a candidate, no reason need to be disclosed. In this regard, it is relevant to extract some portions of the judgment of the Supreme Court in B.C.Mylarappa @ Dr.Chikkamylarappa vs. Dr.R.Venkatasubbaiah and others [(2008) 14 SCC 306].

26. Admittedly, there is nothing on record to show any mala fides attributed against the members of the expert body of the University. The University Authorities had also before the High Court in

their objections to the writ petition taken a stand that the appellant had fully satisfied the requirement for appointment. In this view of the matter and in the absence of any mala fides either of the expert body of the University or of the University Authorities and in view of the discussions made hereinabove, it would be difficult to sustain the orders of the High Court as the opinion expressed by the Board and its recommendations cannot be said to be illegal, invalid and without jurisdiction.

27. Again in M.V. Thimmaiah v. Union Public Service Commission(2008) 2 SCC 119, this Court clearly held that in the absence of any mala fides attributed to the expert body, such plea is usually raised by an interested party (in this case the unsuccessful candidate) and, therefore, the court should not draw any conclusion on the recommendation of the expert body unless allegations are substantiated beyond doubt. That apart, the challenge to the selection made by the expert body and approved by the University Authorities was made by Respondents 1 and 2 who were unsuccessful candidates and were not selected for appointment to the post of Professor in the Department of Sociology.

28. In National Institute of Mental Health and Neuro Sciences v. Dr. K. Kalyana Raman 1992 Supp.(2) SCC 481, this Court considered in detail the role of an expert body in deciding the candidature for selection to a particular post. While doing so, this Court at SCC pp. 484-85, para 7 of the said decision observed as follows:

. In the first place, it must be noted that the function of the Selection Committee is neither judicial nor adjudicatory. It is purely administrative. The High Court seems to be in error in stating that the Selection Committee ought to have given some reasons for preferring Dr. Gauri Devi as against the other candidate. The selection has been made by the assessment of relative merits of rival candidates determined in the course of the interview of candidates possessing the required eligibility. There is no rule or regulation brought to our notice requiring the Selection Committee to record reasons. In the absence of any such legal requirement the selection made without recording reasons cannot be found fault with. The High Court in support of its reasoning has, however, referred to the decision of this Court in Union of India v. Mohan Lal Capoor (1973) 2 SCC 836. That decision proceeded on a statutory requirement. Regulation 5(5) which was considered in that case required the Selection Committee to record its reasons for superseding a senior member in the State Civil Service. The decision in Capoor case (1973) 2 SCC 836 was rendered on 26-9-1973. In June 1977, Regulation 5(5) was amended deleting the requirement of recording reasons for the supersession of senior officers of the State Civil Services. Capoor case (1973) 2 SCC 836 cannot, therefore, be construed as an authority for the proposition that there should be reason formulation for administrative decision. Administrative authority is under no legal obligation to record reasons in support of its decision. Indeed, even the principles of natural justice do not require an administrative authority or a Selection Committee or an examiner to record reasons for the selection or non-selection of a person in the absence of statutory requirement. This principle has been stated by this Court in R.S. Dass v. Union of India 1986 Supp. SCC 617 in which Capoor case (1973) 2 SCC 836 was also distinguished. Keeping this observation in our mind and considering the facts and circumstances of the present case, we find that there was no dispute in this case that the selection was made by the assessment of relative merit of rival candidates determined in the course of the

interview of the candidates and after thoroughly verifying the experience and service of the respective candidates selected the appellant to the post of the Professor in the said Department.

29. It is not in dispute that there is no rule or regulation requiring the Board to record reasons. Therefore, in our view, the High Court was not justified in making the observation that from the resolution of the Board selecting the appellant for appointment, no reason was recorded by the Board. In our view, in the absence of any rule or regulation requiring the Board to record reasons and in the absence of mala fides attributed against the members of the Board, the selection made by the Board without recording reasons cannot be faulted with."

(h) The mere fact that the rule contemplates that the selection should consists of the marks obtained by the candidates in the written examination and viva-voce does not itself mean that there is an implied duty of disclosure. A reference was made to the judgment in Ajay Hasi and others vs. Khalid Mujib Sehravardi and others [(1981) 1 S.C.C. 722], especially where it relates to the marks allotted to oral interview. It was in the factual context that while allotting 100 marks for the written test, 50 marks was allotted for oral interview, and considering that 50% of the written test marks has been allotted to the oral interview, it was held by the Supreme Court that allocation of more than 15% of marks to oral interview was arbitrary and unreasonable.

(i) Moreover, that was relating to admission in Engineering Colleges and the interview was conducted by the authority entitled to admit students and selection was challenged on the grounds that the society which conducted the examinations had acted arbitrarily by ignoring the marks obtained by the candidates at the qualifying examination, that the viva-voce examination is a test for determining the merit of the candidates that allocating 50 marks for the viva-voce examination would be arbitrary and liable to be struck down as constitutionally invalid and lastly by holding superficial interview which lasted for only 2 to 3 minutes on an average by asking questions which were not relevant for the assessment and suitability of the candidates. While dealing with the allegations made therein that irrelevant questions were asked, the Apex Court considered granting of 15% marks for oral interview and ultimately observed as follows:

" 20. ....We may point out that, in our opinion, if the marks allocated for the oral interview do not exceed 15 per cent of the total marks and the candidates are properly interviewed and relevant questions are asked with a view to assessing their suitability with reference to the factors required to be taken into consideration, the oral interview test would satisfy the criterion of reasonableness and non-arbitrariness. ..."

(j) On the facts of the present case, some of the petitioners have made self-styled statement that on the third day of the interview it has been done hurriedly. But in the counter affidavit filed by the Registrar General it is stated that marks were awarded in the viva-voce and the allotment of marks was on evaluation of the candidates. Even though it is stated in the counter affidavit that it is a confidential activity, it is also stated that non-publication of the marks in the viva-voce would not amount to any arbitrary action. Even though we do not agree with the contention of the learned senior counsel for the High Court that the marks obtained by the candidates in the viva-voce examination is fiduciary in character and therefore cannot be revealed by applying the exemption

under Sections 8(1)(e) and (j) of the Right to Information Act,2005, one has to necessarily accept the contention that the viva-voce including rescheduling the scheme of evaluation and the criteria adopted in the viva-voce marks awarded in such oral interview are all relating to the process of selection to identify the candidates in terms of technical competence, aptitude, etc., for the post of District Judge.

(k) At the risk of repetition, it has to be reiterated that viva-voce interview being subjective in nature, it is for the Committee to decide on the spot about the suitability of the candidates, especially when the High Court is performing its constitutional function in selecting the District Judges. While the written examination is objective in nature, there are subjects which are formulated, in the viva-voce, the questions are formulated by the Members of the Committee on the spot, which cannot be said to be invalid, unless it is patently unfair, especially when the Rules do not contemplate such procedure.

(l) The importance of interview has been very aptly recognized as a method to bring out the quality and talent, as has been made out clearly by the Hon ble Apex Court while dealing with the Kerala Judicial Service Rules,1991 and appointment of the Munsifs/Magistrates in Kerala. That was in K.H.Siraj vs. High Court of Kerala (2006 (6) SCC 395) and the following observation is relevant:

54. In our opinion, the interview is the best mode of assessing the suitability of a candidate for a particular position. While the written examination will testify the candidate s academic knowledge, the oral test alone can bring out or disclose his overall intellectual and personal qualities like alertness, resourcefulness, dependability, capacity for discussion, ability to take decisions, qualities of leadership, etc. which are also essential for a judicial officer. It was in that judgment, while considering the interview conducted by the Chief Justice along with four Senior Most Judges, and dealing with Rule 7 of the Kerala Judicial Service Rules,1991, it was held as follows:

7. Preparation of lists of approved candidates and reservation of appointments. (1) The High Court of Kerala shall, from time to time, hold examinations, written and oral, after notifying the probable number of vacancies likely to be filled up and prepare a list of candidates considered suitable for appointment to Category 2. The list shall be prepared after following such procedure as the High Court deems fit and by following the rules relating to reservation of appointments contained in Rules 14 to 17 of Part II of the Kerala State and Subordinate Services Rules, 1958.

(2) The list consisting of not more than double the number of probable vacancies notified shall be forwarded for the approval of the Governor. The list approved by the Governor shall come into force from the date of the approval and shall remain in force for a period of two years or until a fresh approved list is prepared, whichever is earlier. While considering the contention raised about the validity of selection on the basis that the minimum marks for oral examination followed by the Committee of Judges who had selected the candidates was not authorized under Rule 7, it was held, by approving the power of the High Court in following the said procedure of awarding marks in the said oral examination, as follows:

" 49. So far as the first submission is concerned, we have already extracted Rule 7 in paragraph supra. Rule 7 has to be read in this background and the High Court s power conferred under Rule 7 has to be adjudged on this basis. The said rule requires the High Court firstly to hold examinations written and oral. Secondly, the mandate is to prepare a select list of candidates suitable for appointment as Munsif/ Magistrates. The very use of the word suitable gives the nature and extent of the power conferred upon the High Court and the duty that it has to perform in the matter of selection of candidates. The High Court alone knows what are the requirements of the subordinate judiciary, what qualities the judicial officer should possess both on the judicial side and on the administrative side since the performance of duties as a Munsif or in the higher categories of Subordinate Judge, Chief Judicial Magistrate or District Judge to which the candidates may get promoted require administrative abilities as well. Since the High Court is the best judge of what should be the proper mode of selection, Rule 7 has left it to the High Court to follow such procedure as it deems fit. The High Court has to exercise its powers in the light of the constitutional scheme so that the best available talent, suitable for manning the judiciary may get selected.

50. What the High Court has done by the notification dated 26-3-2011 is to evolve a procedure to choose the best available talent. It cannot for a moment be stated that prescription of minimum pass marks for the written examination or for the oral examination is in any manner irrelevant or not having any nexus to the object sought to be achieved. The merit of a candidate and his suitability are always assessed with reference to his performance at the examination and it is a well-accepted norm to adjudge the merit and suitability of any candidate for any service, whether it be the Public Service Commission (IAS, IFS, etc.) or any other. Therefore, the powers conferred by Rule 7 fully justified the prescription of the minimum eligibility condition in Rule 10 of the notification dated 26-3-2011. The very concept of examination envisaged by Rule 7 is a concept justifying prescription of a minimum as benchmark for passing the same. In addition, further requirements are necessary for assessment of suitability of the candidate and that is why power is vested in a high-powered body like the High Court to evolve its own procedure as it is the best judge in the matter. It will not be proper in any other authority to confine the High Court within any limits and it is, therefore, that the evolution of the procedure has been left to the High Court itself. When a high-powered constitutional authority is left with such power and it has evolved the procedure which is germane and best suited to achieve the object, it is not proper to scuttle the same as beyond its powers. Reference in this connection may be made to the decision of this Court in Union of India v. Kali Dass Batish (2006) 1 SCC 779 herein an action of the Chief Justice of India was sought to be questioned before the High Court and it was held to be improper."

Observing that the decision of five experienced Judges of the High Court need not be doubted, it was held as follows:

" 57. The qualities which a judicial officer would possess are delineated by this Court in Delhi Bar Assn. v. Union of India (2002) 10 SCC 159. A judicial officer must, apart from academic knowledge, have the capacity to communicate his thoughts, he must be tactful, he must be diplomatic, he must have a sense of humor, he must have the ability to defuse situations, to control the examination of witnesses and also lengthy irrelevant arguments and the like. Existence of such capacities can be brought out only in an oral interview. It is imperative that only persons with a minimum of such

capacities should be selected for the judiciary as otherwise the standards would get diluted and substandard stuff may be getting into the judiciary. Acceptance of the contention of the appellant-petitioners can even lead to a postulate that a candidate who scores high in the written examination but is totally inadequate for the job as evident from the oral interview and gets zero marks may still find a place in the judiciary. It will spell disaster to the standards to be maintained by the subordinate judiciary. It is, therefore, the High Court has set a benchmark for the oral interview, a benchmark which is actually low as it requires 30% for a pass. The total marks for the interview are only 50 out of a total of 450. The prescription is, therefore, kept to the bare minimum and if a candidate fails to secure even this bare minimum, it cannot be postulated that he is suitable for the job of Munsif Magistrate, as assessed by five experienced Judges of the High Court."

The Supreme Court has also considered the issue that a person who has participated in the interview cannot turn around after failing in the interview and question the selection process and held as follows:

" 73. The appellant-petitioners having participated in the interview in this background, it is not open to the appellant-petitioners to turn round thereafter when they failed at the interview and contend that the provision of a minimum mark for the interview was not proper. It was so held by this Court in para 9 of Madan Lal v. State of J&K (1995) 3 SCC 486 as under: (SCC p.493) 9. Before dealing with this contention, we must keep in view the salient fact that the petitioners as well as the contesting successful candidates being respondents concerned herein, were all found eligible in the light of marks obtained in the written test, to be eligible to be called for oral interview. Up to this stage there is no dispute between the parties. The petitioners also appeared at the oral interview conducted by the members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned. Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted. In Om Prakash Shukla v. Akhilesh Kumar Shukla 1986 Supp SCC 285, it has been clearly laid down by a Bench of three learned Judges of this Court that when the petitioner appeared at the examination without protest and when he found that he would not succeed in examination he filed a petition challenging the said examination, the High Court should not have granted any relief to such a petitioner.

(m) In this regard it is relevant to note that the Apex Court in Delhi Bar Association vs. Union of India [(2002 (10) SCC 159], held that what has to be seen is the attributes of candidate of becoming a good judicial officer, viz., integrity, honesty and basic knowledge of law and robust common sense and the candidate need not be academically very brilliant and the relevant portion of the judgment is as under:

" While making appointment of judges, what has to be seen is the potentional in the candidate; whether a person is intelligent and will in due course of time become a good judge. It may not be

necessary for him to be academically brilliant or knowing all the law at the time when the process of selection is undertaken. What has to be seen is, whether the candidate has the attributes of becoming a good Judicial Officer, namely, integrity, honesty, basic knowledge of law and robust common sense."

(n) In a case covered by the Orissa Judicial Service Rules,1964, for appointment of Munsifs, a similar method of written and viva-voce tests were prescribed and in the absence of specific rule prescribing minimum qualifying marks for viva-voce test, Public Service Commission fixed the minimum qualifying marks for viva-voce in order to exclude the candidates and while holding such prescription by the Service Commission as unconstitutional in the light of Article 234 of the Constitution of India, it was held in Shri Durgacharan Misra vs. State of Orissa and others (AIR 1987 SC 2267) that the Commission cannot prescribe minimum standard at viva-voce test for determining the suitability of candidates for appointment of candidates as Munsif.

(o) The legal position has been established in Madan Lal v. State of J&K [1995 (3) SCC 486] holding that the candidate having taken a chance to appear in an interview and after becoming unsuccessful cannot turn around to challenge the method of selection or he is estopped to do so, as it has been reiterated in K.H.Sirah vs. High Court of Kerala & Others (AIR 2006 SC 2339). Para 73 referred to above in Sirah's case came to be distinguished by the Supreme Court, on fact, in Raj Kumar and others vs. Shakti Raj and others (1997 (9) SCC 527). That was a case, where the Government had not taken the posts from the purview of the Selection Board, but after examinations were concluded and after the results were announced, the Government took the same from the purview of Selection Board and thereafter, the Selection Committee was constituted and it was found that the entire procedure became illegal. In those circumstances it was held that the same cannot be a bar for the candidate to question the nature of selection. It is relevant to extract the following paragraph:

" 16. Yet another circumstance is that the Government had not taken out the posts from the purview of the Board, but after the examinations were conducted under the 1955 Rules and after the results were announced, it exercised the power under the proviso to para 6 of 1970 Notification and the posts were taken out from the purview thereof. Thereafter the Selection Committee was constituted for selection of the candidates. The entire procedure is also obviously illegal. It is true, as contended by Shri Madhava Reddy, that this Court in Madan Lal v. State of J&K (1995) 3 SCC 486 and other decisions referred therein had held that a candidate having taken a chance to appear in an interview and having remained unsuccessful, cannot turn round and challenge either the constitution of the Selection Board or the method of selection as being illegal; he is estopped to question the correctness of the selection. But in his case, the Government has committed glaring illegalities in the procedure to get the candidates for examination under the 1955 Rules, so also in the method of selection and exercise of the power in taking out from the purview of the Board and also conduct of the selection in accordance with the Rules. Therefore, the principle of estoppel by conduct or acquiescence has no application to the facts in this case. Thus, we consider that the procedure offered under the 1955 Rules adopted by the Government or the Committee as well as the action taken by the Government is not correct in law."

Therefore, reliance placed on by Mr.P.N.Prakash in the said judgment has no relevance to the facts of the present case.

(p) Again, in Ramesh Kumar vs. High Court of Delhi and another (2010 (3) MLJ 332 (SC)), the Apex Court has dealt with Delhi Higher Judiciary Service Rules,1970. While explaining about the concept of written examination and interview, it was observed, 13. Thus, law on the issue can be summarised to the effect that in case the statutory rules prescribe a particular mode of selection, it has to be given strict adherence accordingly. In case, no procedure is prescribed by the rules and there is no other impediment in law, the competent authority while laying down the norms for selection may prescribe for the tests and further specify the minimum Bench Marks for written test as well as for viva-voce.

(q) Further it was clarified that in the absence of specific rules providing for a particular procedure or criterion for holding the tests, the directions issued by the Court will have a binding effect, and the relevant portion of the judgment is as follows:

14. In the instant case, the Rules do not provide for any particular procedure/criteria for holding the tests rather it enables the High Court to prescribe the criteria. This Court in All India Judges' Association & Ors.v Union of India & Ors. AIR 2002 SC 1752 accepted Justice Shetty Commission's Report in this regard which had prescribed for not having minimum marks for interview. The Court further explained that to give effect to the said judgment, the existing statutory rules may be amended."

(r) On the facts of the present case, when the relevant rules are silent about the method of examinations, the only factor required to be considered is, whether the procedure followed is fair. The constitutional functionaries are deemed to discharge their duties without bias and independently, as held by a Full Bench of this Court in High Court of Judicature at Madras vs. T.S.Sankaranayaranan (FB) [1997 (3) CTC 1] and there are catena of judgments in that regard including Hari Datt Kainthla vs. State of Himachal Pradesh (1980 (3) SCC 189) and Chandramouleshwar Prasad vs. The Patna High Court and others (1969 (3) SCC 56). We have held in V.Yamuna Devi vs. The Registrar General, High Court Madras (2011 (1) CTC 469), that conducting of written test and viva-voce by the High Court is absolutely as per the constitutional provisions and based on the settled legal principles.

(s) What was held by the Full Bench of the Apex Court in Ashok Kumar Yadav and others vs. State of Haryana and others (1985 (4) SCC 417), relied upon by Mr.P.N.Prakash, learned counsel was that the viva-voce plays a predominant role in the selection process. While dealing with the concept of bias, it was held that a Member in the Committee should not take part in interviewing their relations but such Member need not withdraw from the entire process of interview and selection. That was a case of allegation of nepotism against the Chairman and Members of the Public Service Commission and in that context, the Hon ble Apex Court has held that, while viva-voce is holding a predominant role in the selection process, any

proved bias will certainly vitiate the selection, and that is not the situation in the present case.

(t) While narrating the recommendations of the Hon ble Justice Shetty Commission, as to how viva-voce test should be a thorough process, the Supreme Court in Hemani Malhotra vs. High Court of Delhi (2008 AIR SCW 3205) dealt with a case, where minimum marks were prescribed for viva-voce after written examination was conducted, and held that if, before taking of the written examination, such minimum marks were not prescribed for viva-voce, such prescription subsequent to the written examination would amount to additional requirement, which is not permissible.

(u) The petitioner in W.P.No.1403 of 2011, Sadiq Basha,M. who stood at Serial No.11, in the list of candidates short listed for viva-voce, has secured 53 marks out of 75 in the written examination, while the person selected under the Backward Class Muslim category A.K.A. Rahmaan arrayed as 17th respondent in the said petition, and stood at Serial No.68 in the short listed candidates for viva-voce has secured 40.333 marks in the written examination and the said Rahmaan, for his performance, was granted 19 marks in the viva-voce, while the petitioner was granted 4 marks. As it is unanimously decided by the Hon ble Judges, there is no reason to come to a conclusion that the subjective satisfaction of the Committee of Judges in awarding marks in the viva-voce is either unreasonable or unjust.

(v) In respect of the writ petitioner in W.P.No.1480 of 2011, S.Karthikeyan, who belongs to Backward Class Non-Muslim community and secured 50.500 marks in the written examination he was able to secure only 6 marks in the unanimous opinion of the Committee of Judges in the viva-voce and if both the marks were put together, he was able to get only 56.500 marks, which was not sufficient to bring him within the zone of consideration for the selection of 17 posts of District Judges (Entry Level).

(w) In W.P.No.3087 of 2011, the petitioner secured 43.5 marks in the written examination and 6 marks in viva-voce. In W.P.(MD).No.1691 of 2011, the petitioner secured 45.75 marks in the written examination and 6 marks in viva-voce. In W.P.(MD) No.1135 of 2011, the petitioner secured 48.500 marks in the written examination and 7 marks in viva-voce.

(x) On verification of the Master Mark Sheet produced by the learned Senior Counsel appearing for the Registrar General of the High Court with respect to 103 candidates, it is found that the Judges of the Committee have unanimously given the viva-voce marks ranging from 3 marks to 20 marks based on the performance of each candidate. None of the petitioners nor their learned counsel raised allegation of mala fide or bias. In the absence of any specific allegation of bias or mala fide, we have no reason to disbelieve the genuineness of the said selection process. As we have stated earlier, in the absence of specific provision in the Rules, mandating publication of the marks obtained by the candidates in the viva-voce examination, there is no legal obligation to release the same. In any event, by exercising the power of judicial review and on production of the records by the learned senior counsel appearing for the High Court and on verification of the same as stated

above, we have no hesitation to hold that the selection process in this regard cannot be said to be either doubtful or unacceptable. Therefore, the non-disclosure of the marks of the candidates in the viva-voce, does not vitiate the selection process.

We answer the said issue accordingly.

III. Regarding Short-listing of candidates:

(a) This point has been raised only by Mr.P.N.Prakash, learned counsel appearing for the petitioner in W.P.No.1480 of 2011. Even though the point was raised in the earlier case, reported in V.Yamuna Devi vs. The Registrar General, High Court Madras (2011 (1) CTC 469), he wanted to distinguish by saying that he is questioning the validity of short-list on the basis that the yardstick applied is not correct. At the outset, it has to be held that the petitioner was aware of the short-listing of the candidates who had appeared in the written examination, since more than 2400 candidates appeared and therefore, short-listing is a necessary concomitant and even otherwise, when the earlier batch of writ petitions were filed on the said ground of short-listing, it cannot be said that the petitioner had no knowledge about that. Therefore, on this ground the said point is to be squarely rejected.

(b) The short-listing, whether it is in the ratio of 1:3 or 1:6 etc., is immaterial, especially in the absence of any specific provision in the Rules under the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules,2007. When there is no method prescribed specifically for short-listing, it cannot be said that short-listing in any manner is illegal. It is not only a matter of convenience, but a matter of necessity, especially when large number of candidates participated in the written examination and all of them cannot be expected to be called for viva-voce examination. The short-listing can be at any acceptable ratio, as has been held by a Division Bench of this Court in M.Palaniswamy vs. Tamil Nadu Public Service Commission by its Secretary, Government Estate, Anna Salai, Chennai 2 (1997 (3) CTC 698), wherein Shivaraj Patil,J. (as His Lordship then was) explained the issue as follows:

" 14. The rule is silent as to in what ratio candidates shall be called for viva-voce examination in case selection is to be made on the basis of written examination/and viva-voce examination, although the same rule expressly provided the ratio as 1:6 whenever direct recruitment is resorted to only on the basis of viva-voce examination. From this, two things follow, viz., (i) the Rule making authority was conscious of fixing the ratio, and still advisedly no specific ratio was fixed in respect of direct recruitment it was to be made on the basis of written examination as well as viva-voce examination; and (ii) if the Rules are silent or in other words the field is not occupied, it is open to the competent authorities to issue executive instructions or orders so as to provide the ratio in which the candidates are to be called for viva-voce examination.

15. Since the petitioner did not qualify himself to be called for viva-voce examination as he failed in two subjects as stated above, it would not matter in his case whether the ratio was fixed at 1:3 or 1:6. On this short point the writ petition can be dismissed. But we are taking pains to deal with it in detail as the learned counsel appearing for the petitioner took pains to argue it at length and

submitted that we may state the position of law, and therefore we are considering the submissions in detail.

16. The argument of the learned counsel for the petitioner/that the action of respondent is illegal and arbitrary, in fixing the ratio as 1:3 to call for the candidates for viva-voce examination on the ground that it is contrary to the Rules, and that such Government Orders or instructions could not be sustained; at any rate, respondent was not competent to fix the ratio as 1:3. We do not find that the action of the respondent in calling the candidates for viva-voce examination in the ratio of 1:3 is contrary to the rules, inasmuch as Rule 5(4) extracted above has not prescribed any ratio when the recruitment is to be made on the basis of written and viva-voce examination. On the other hand the said rule is silent on that aspect. Hence it was open to the authorities to follow some rational basis to short-list the candidates.

17. Short-listing of candidates, in the absence of any rules to the contrary, is held to be not arbitrary. A Division Bench of this Court, to which one of us (Shivaraj Patil,J.) was a member, had an occasion to deal with this very question precisely in W.P.No.13529 of 1997. In the order dated 3.9.1997, made in the said writ petition, in paragraphs 2 and 3, it is stated thus:-

" 2. The learned counsel for the petitioner contended that although the petitioner has passed the written test conducted so as to qualify to appear for viva-voce examination for the appointment to the post of Civil Judge (Junior Division) Judicial Magistrate I Class, he was not called for interview by the 1st respondent. In the notification issued calling for the applications or in the Rules, no provision is made to send interview cards only in the ratio of 1:3; in the absence of such Rule or provision made, all those candidates including the petitioner, who had passed the written test, ought to have been called for interview; failure to do so has seriously prejudiced the case of the petitioner. Under the circumstances, the learned counsel prays that the Writ Petition be admitted for consideration.

3. The learned Additional Government Pleader, who is present in Court, took notice for respondents 1 and 2 and he submitted that short listing of the candidates called for the interview is permissible. He relied on the decisions of the Supreme Court in the case of Madhya Pradesh Public Service Commission vs. Navint Kumar Potdar and another AIR 1995 SC 77 and in the case of Union of India and another vs. T.Sundararaman and others J.T.1997 (5) S.C. 48. He added that nearly 2774 candidates appeared for the written examination, out of them 1956 candidates passed, and the Public Service Commission in order to short list and to select the best of the candidates, issued interview cards in the ratio of 1:3, i.e., totally to 296 candidates. The short listing by the respondent No.1 cannot be said to be either arbitrary or unreasonable as it has been done on the basis of the marks secured in the written examination. He further submitted that in the light of the decision of the Supreme Court aforementioned, the petitioner cannot make any grievance."

(c) Therefore, short-listing in any manner, especially on the facts of the present case cannot be held to be arbitrary. In any event, the same point of short-listing was considered by us in V.Yamuna Devi vs. The Registrar General, High Court Madras 2011(1) CTC 469, of course, in the context of the argument advanced therein about the length of practice at Bar to be considered for short-listing and

upheld the process of short-listing effected by the High Court on the basis of marks in the written examination. On the specific finding on the said issue having been given by this Court, we see no reason to take a different view in the matter of selection process on the ground of short-listing. The said issue is answered accordingly.

IV. The term, High Court in relation to the appointment of District Judges:

(a) Much has been said about the term Full Court by the learned counsel during the course of their arguments. The term High Court in its constituent no doubt consists of the Chief Justice and other Judges, as the President may appoint from time to time as enshrined under Article 216 of the Constitution of India. The consultation process, which the Governor of the State is expected to have with the High Court regarding the appointment of persons or promotion of persons as District Judges, is under Article 233 as extracted above. There is no controversy that High Court means the Full Court , even in the context of Article 233 of the Constitution of India.

(b) Article 225 of the Constitution which is extracted below, " Article 225. Jurisdiction of existing High Courts.-

Subjects to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by this Constitution, the jurisdiction of, and the law administered in, any existing High Court, and the respective powers of the Judges thereof in relation to the administration of justice in the Court, including any power to make rules of Court and to regulate the sittings of the Court and of members thereof sitting alone or in Division Courts, shall be the same as immediately before the commencement of this Constitution:

[Provided that any restriction to which the exercise of original jurisdiction by any of the High Courts with respect to any matter concerning the revenue or concerning any act ordered or done in the collection thereof was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction.]"

explains about the jurisdiction of the High Courts does not only enable the Rule making power to the High Court in respect of its functioning, it includes the power to pass resolution in its Full Court as a guiding factor. The authority of such Full Court resolution of the High Court has been reiterated by the Apex Court in Manmatha Nath Ghosh v. Baidyanath Mukherjee [(2005) 13 SCC 630], wherein when an issue was raised challenging the Full Court resolution of the High Court of Calcutta on the ground that the Full Court has gone beyond the scope of the Special Committee constituted, the authority of the Full Court resolution has been confirmed by the Supreme Court, in the following words:

" 18. We are of the view that the challenge to the Full Court resolution dated 22-8-1973 must fail for more than one reason. The learned counsel contended that the Full Court resolution had gone much beyond the recommendations made by the Special Committee on 26-4-1973. The contention has no merit. The Special Committee was constituted to investigate the matters and express its views. Merely because the Special Committee expressed its views, the Full Court of the High Court was not

obliged to accept its recommendations as made. It was perfectly within the competence of the Full Court of the High Court to reject, accept or accept with modification the recommendations made by the Special Committee. The resolution of the Full Court dated 22-8-1973 specifically goes on record to say that the Recording Officers (Court) and Interpreting Officers (Court) shall not be treated on a par with the Assistant Registrars (Court) on the appellate side and they be not equated with the Assistant Registrars on the original side and Assistant Registrars (Court) on the appellate side or the Assistant Court Officers on the appellate side in matters of salary, scales of pay, emoluments and funds. This was a decision arrived at by the High Court on the basis of its intimate knowledge of the job contents of these officers. Merely because designations are changed, the responsibility invested in the incumbent or the caliber of the incumbent to discharge certain duties does not change. We have not been able to appreciate any substantial ground on which the resolution concerned of the Full Court of the High Court could be impugned. In the face of this Full Court s resolution, it is not open to the appellants to contend that the two categories of the employees concerned of the High Court must necessarily be treated as identical for all purposes including the question of special pay.

19. Secondly, the Full Court resolution was passed in the year 1973. It is not as if the employees concerned were not aware of the Full Court s resolution or that they did not know the benefits or disadvantages flowing therefrom. In fact, the change of designation of Shorthand Writers on the original side to Recording Officers (Court) and the change of designation of Interpreters to Interpreting Officers (Court) came about only because of this Full Court resolution. A challenge to this resolution of 1973 in the year 1984 should fail on that very ground."

(c) In respect of the power of the Full Court to authorize the Chief Justice regarding any matter including the one governed under Article 235, which relates to the control over subordinate courts and also the matter governed under Article 229, which relates to the control of the Officers and servants of the High Court, it was held that in respect of control over the Subordinate Courts, the power vests with the High Court as a whole and in respect of the High Court it vests with the Chief Justice, as found in High Court of Judicature for Rajasthan vs. P.P.Singh (2003 (4) SCC 239) and the relevant portion of the judgment of the Supreme Court is as under:

19. It is also true that the powers of the Chief Justice under Articles 235 and 229 of the Constitution of India are different and distinct. Whereas control over the subordinate courts vests in the High Court as a whole, the control over the High Court vests in the Chief Justices only. (See All India Judges Assn. v. Union of India (1992) 1 SCC 119) However, the same does not mean that a Full Court cannot authorize the Chief Justice in respect of any matter whatsoever. In relation to certain matters keeping the rest of it in itself by the Full Court, authorization to act on its behalf in favour of the Chief Justice on a Committee of Judges is permissible in law. How far and to what extent such power has been or can be delegated would be discernible only from the Rules. Such a power by the Full Court can also be exercised from time to time.

(d) It was further held that, when once a resolution has been passed by the Full Court authorizing the Chief Justice to constitute a Committee, the exercise of such power by the Chief Justice is absolutely valid and it does not require the Chief Justice to appoint a Committee of Judges only with the further approval of the Full Court In that regard, the Supreme Court has held as follows:

21. Once such a resolution authorizing the Chief Justice to constitute a committee has been passed, having regard to the decision of this Court in High Court of Judicature at Bombay v. Shirishkumar Rangrao Patil (1997) 6 SCC 339 there cannot be doubt whatsoever that the exercise of power by the Chief Justice in that behalf was absolutely valid. It is, therefore, not correct to contend that the Chief Justice could appoint the two-Judge Committee only with the approval of the Full Court.

(e) Of course, that was in the context of availability of the Rules of the High Court of Judicature of Rajasthan,1952. By virtue of such power conferred by Full Court , any Committee of Judges constituted by the Chief Justice and its decision are deemed to be the decision of the High Court. The Supreme Court in categorical term has held as follows:

23. The High Court, in our opinion, therefore, clearly erred in arriving at the aforementioned finding that the constitution of the Committee was illegal.

24. The submission on behalf of the respondents to the effect that in the matter relating to fixation of criteria for the purpose of appointment to the selection grade, the two-Judge Committee could not be made without consulting all the Judges is stated to be rejected. The said submission is based on a total misconception. Laying down the merit criteria for appointment to the selection grade also was within the domain of the High Court. It could not only lay down such criteria but also amend or modify the same from time to time. For the said purpose also the Chief Justice could appoint a committee, the recommendation whereof was to be subject to the approval of the Full Court. Rule 15 of the Rules does not say that before an action can be initiated in that behalf by the Chief Justice all the Judges are to be consulted. Rule 15 of the Rules postulates a final decision in the matter specified therein and not initiation of a process therefor.

25. It is also incorrect to contend that all the Judges of the High Court are required to be consulted at a time.

(f) By relying upon an earlier judgment in State of Uttar Pradesh vs. Batuk Deo Pati Tripathi and another (1978 (2) SCC 102) quoating a paragraph with approval, the Supreme Court in High Court of Judicature for Rajasthan vs. P.P.Singh and another (2003 (4) SCC 239) cited supra, has crystalised the proposition that a decision taken by the said Committee of Judges is deemed to be the decision of the High Court since it is not possible for every Judge to participate personally in every decision in the following words:

5. An almost identical question came up for consideration whether the High Court can delegate its power to a Judge or a small Committee of the Judges of the Court so as to authorize it to act on this behalf in State of U.P. v. Batuk Deo Pati Tripathi (1978) 2 SCC 102. In no uncertain terms it was held: (SCC pp.113-14, para 16) "The control vested in the High Court by that article comprehends, according to our decisions, a large variety of matters like transfers, subsequent postings, leave, promotions other than initial promotions, imposition of minor penalties which do not fall within Article 311, decisions regarding compulsory retirements, recommendations for imposition of major penalties which fall within Article 311, entries in character rolls and so forth. If every Judge is to be

associated personally and directly with the decision on every one of these matters, several important matters pertaining to the High Court s administrative affairs will pile into arrears like court arrears. In fact, it is no exaggeration to say that the control will be better and more effectively exercised if a smaller committee of Judges has the authority of the court to consider the manifold matters falling within the purview of Article 235. Bearing in mind therefore the nature of the power which that article confers on the High Court, we are of the opinion that it is wrong to characterize as delegation the process whereby the entire High Court authorizes a Judge or some of the Judges of the Court to act on behalf of the whole Court. Such an authorization effectuates the purpose of Article 235 and indeed without it the control vested in the High Courts over the subordinate courts will tend gradually to become lax and ineffective. Administrative functions are only a part, though an important part, of the High Court s constitutional functions. Judicial functions ought to occupy and do in fact consume the best part of a Judge s time. For balancing these twofold functions it is inevitable that the administrative duties should be left to be discharged by some on behalf of all the Judges. Judicial functions brook no such sharing of responsibilities by any instrumentality.

(g) Therefore, it is clear that when once the High Court as Full Court by resolution authorizes the Chief Justice, the decision taken by the Chief Justice or the Committee constituted by the Chief Justice is deemed to be the decision of the High Court as a whole and it can never be said that a smaller Committee constituted by the Chief Justice is acting as a delegate of the Full Court . Therefore, the contention of Mr.V.Raghavachari, learned counsel appearing for one of the petitioners that the Committee constituted by the Chief Justice cannot be deemed to be the Full Court unless the Full Court confirms the decision of the Committee of Judges, is not tenable.

(h) The Division Bench of this Court in T.S.Sankaranarayanan vs. The High Court of Judicature at Madras rep. by the Registrar, High Court, Madras (1994 (2) MLJ 168) has rendered a factual finding, in the light of Article 235 of the Constitution of India, in the following words:

".....But on facts we find that by resolution dated 20.4.1972, at a meeting of the Hon'ble Judges, the constitution of different committees was left to the discretion of the Chief Justice. ...."

(i) When such wider power has been given, which has not been expressly superseded, there is no reason to hold that after the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules,2007 has come into existence, when the High Court exercises its power in selecting District Judges under Article 233 of the Constitution of India, a fresh Full Court authorization should be obtained by the Chief Justice to constitute a Committee. The High Court as an institution created under the Constitution which is a prominent body, guided by the resolutions of the Full Court , in the absence of any Rules framed by it under various provisions of the Constitution of India, until such resolutions are expressly superseded, whatever may be the subsequent circumstance.

(j) The reliance placed on by the learned counsel in Chandra Mohan vs. State of U.P. (AIR 1966 SC 1987) is, in our view, misconceived. That was a case dealt with by Larger Bench (Five Judges) of the Hon ble Supreme Court, of course relating to the appointment of District Judges under Article 233 of the Constitution of India. In that case, U.P. Higher Judicial Service Rules constituted a selection Committee consisting of Two Judges of the High Court and the Judicial Secretary to Government

under Rule 13(c), which is as follows:

" Rule 13. Recruitment by promotion.- The following procedure for selection by promotion under Rule 5(i) shall be observed:

(c) The selection shall be made by a Committee consisting of two Judges of the High Court and the Judicial Secretary to Government."

The said Rule was framed by the Governor under Article 309 of the Constitution of India and that was distinguished by the Supreme Court to the effect that the Committee constituted is illegal, in the following words:

" 11. The position in the case of District Judges recruited directly from the Bar is worse. Under Article 233(2) of the Constitution, the Governor can only appoint advocates recommended by the High Court to the said service. But under the Rules, the High Court can either endorse the recommendations of the Committee or create a deadlock. The relevant Rules, therefore, clearly contravene the constitutional mandates of Article 233(1) and (2) of the Constitution and are, therefore, illegal."

(k) The Supreme Court also held that the selection of District Judges was invalid. As held by the Supreme Court, it is true that while exercising the power conferred by the Full Court, the Chief Justice of the High Court can constitute a Committee in respect of appointment of District Judges under Article 233 or 235 for effective control over Subordinate Courts, only from the Judges of the High Court and not an outsider, who cannot be a member of the constituted Committee of High Court as per the constitutional mandate.

(l) Again, the judgment of the Supreme Court in Premnath vs. State of Rajasthan (AIR 1967 SC 1599), wherein the Supreme Court dealt with the Rajasthan Higher Judicial Service Rules,1955 in the context of Article 233 of the Constitution of India. The said Rajasthan Higher Judicial Service Rules, 1955 was promulgated by the Governor in accordance with the powers conferred under the proviso to Article 309 of the Constitution of India, based on which the applications were called for appointment of Additional Sessions Judges and the appointment came to be challenged. It is no doubt true that the Selection Committee consisted of Three Judges of the High Court, but on fact, the High Court had nothing to do with the scrutiny of applications and the only function of the High Court was to transmit the list prepared by the Committee to the Governor, without any power of addition or deletion. It was the said fact, which was elicited in the said judgment, and the relevant portion is as follows:

5. .... The High Court has nothing to do with the scrutiny of applications. It is again the Selection Committee which interview the candidates considered eligible for appointment and not the High Court. It is also the Selection Committee which prepares the lists of eligible candidate selected by them. The only function entrusted to the High Court under the Rules is, therefore, to transmit the two lists prepared by the Committee under Rules 13 and 22. As aforesaid, there is no provision in the Rules empowering the High Court before submitting the lists to the Governor to vary those lists

even if the High Court were to disagree with the selections made by the Committee. Obviously, the Committee is not the High Court. The High Court thus is only a transmitting authority. The consultation as provided in Article 233 is consultation with the High Court and not with any other authority such as the Selection Committee appointed under the Rules. The Rules, therefore, are clearly inconsistent with the mandate provided for in Article 33 and are, therefore, invalid. Consequently, the selections made by the Committee, the lists prepared by them and appointments made thereunder would be invalid. Therefore, it was held that the consultation provided under Article 233 is a consultation with the High Court and not an authority like a Selection Committee constituted under the Rules framed as per Proviso to Article 309 of the Constitution of India. It was in that context, the selection was held invalid.

(m) In State of U.P. vs. Batuk Deo Pati Tripathi and another (1978 (2) SCC 102), particularly relied upon by Mr.V.Raghavachari, learned counsel for one of the petitioners, the Supreme Court in no uncertain terms has held that the Committee of Judges authorized by the High Court cannot be said to be the delegate of the High Court and each Judge of the High Court is an integral limb of the High Court, in the following words:

" 17. The High Court has not by its Rule authorised any extraneous authority, as in Shamsher Singh, to do what the Constitution enables and empowers it to do. The Administrative Judge or the Administrative Committee is a mere instrumentality through which the entire Court acts for the more convenient transaction of its business, the assumed basis of the arrangement being that such instrumentalities will only act in furtherance of the broad policies evolved from time to time by the High Court as a whole. Each Judge of the High Court is an integral limb of the Court. He is its alter ego. It is therefore inappropriate to say that a Judge or a Committee of Judges of the High Court authorised by the Court to act on its behalf is a delegate of the Court"

(n) While construing the control over the Subordinate Courts by the High Court under Article 235 of the Constitution of India, the importance of the Full Court decision authorizing the Chief Justice to constitute various Committees was approved by the Supreme Court in High Court of Judicature at Bombay v. Shirishkumar Rangrao Patil (1997 (6) SCC 339) in the following words:

" 10. It would thus be settled law that the control of the subordinate judiciary under Article 235 is vested in the High Court. After the appointment of the judicial officers by the Governor, the power to transfer, maintain discipline and keep control over them vests in the High Court. The Chief Justice of the High Court is first among the Judges of the High Court. The action taken is by the High Court and not by the Chief Justice in his individual capacity, nor by the Committee of Judges. For the convenient transaction of administrative business in the Court, the Full Court of the Judges of the High Court generally passes a resolution authorising the Chief Justice to constitute various committees including the committee to deal with disciplinary matters pertaining to the subordinate judiciary or the ministerial staff working therein. Article 235, therefore, relates to the power of taking a decision by the High Court against a member of the subordinate judiciary. Such a decision either to hold an enquiry into the conduct of a judicial officer, subordinate or higher judiciary, or to have the enquiry conducted through a District or Additional District Judge etc. and to consider the report of the enquiry officer for taking further action is of the High Court. Equally, the decision to

consider the report of the enquiry officer and to take follow-up action and to make appropriate recommendation to the Disciplinary Committee or to the Governor, is entirely of the High Court which acts through the Committee of the Judges authorised by the Full Court. Once a resolution is passed by the Full Court of the High Court, there is no further necessity to refer the matter again to the Full Court while taking such procedural steps relating to control of the subordinate judiciary."

Therefore, in the context of the above said legal position, we are of the view that inasmuch as there is already in existence a Full Court decision/resolution of the High Court of Madras authorizing the Chief Justice to constitute a Committee, especially when the senior most Judges, including the Hon ble the Chief Justice, have acted as the Selection Committee in conducting viva-voce test, it has to be construed that the decision of the Selection Committee is the decision of High Court as a whole and there is no infirmity in such decision and in our view, it is also not necessary that every time the Full Court s approval has to be obtained in respect of each and every action of the Chief Justice or the Committee constituted by the Chief Justice. Therefore, it cannot be said that non-placing of the selection list before the Full Court is fatal to the selection.

(o) Now, coming to the last limb of the arguments about the process of consultation by the Governor under Article 233 of the Constitution of India, either it is in respect of appointment of District Judges under Article 233 or control over the Subordinate Courts under Article 235, it is well settled that the High Court is the best person to have the first hand knowledge about the requirement of the District Judges to be appointed and extend of supervisory control over the Judges working in the Subordinate Courts. It is also equally well settled that the Governor as per Article 233 of the Constitution of India as the Chief Executive Officer of the State has a right of consultation with the High Court relating to the appointment of the District Judges. This is the constitutional privilege and power given to the Governor of the State.

(p) On the factual matrix, it is not the case of any one of the petitioners that either the Governor or the State has raised any objection regarding the consultation process. It is not as if the consultation process initiated by the Governor of the State has not been heeded to by the High Court. On the other hand, in the counter affidavit filed by the Government, adopting the counter affidavit of the Registrar General of the High Court, it is made explicitly clear that the Governor of the State or the State has no objection regarding the selection made in respect of the 17 District Judges. The very conduct of the Government in issuing the impugned Government Order on the recommendations sent by the High Court in appointing the said District Judges shows that there is no defect in the consultation process.

(q) The process of consultation is certainly the prerogative of the Governor of the State as held by the Supreme Court in Chandramouleshwar Prasad vs. The Patna High Court and Others (1969 (3) SCC 56) in paragraph 7, which is as follows:

" 7. The question arises whether the action of the Government in issuing the notification of October 17, 1968 was in compliance with Article 233 of the Constitution. No doubt the appointment of a person to be a District Judge rests with the Governor but he cannot make the appointment on his own initiative and must do so in consultation with the High Court. The underlying idea of the article

is that the Governor should make up his mind after there has been a deliberation with the High Court. The High Court is the body which is intimately familiar with the efficiency and quality of officers who are fit to be promoted as District Judges. The High Court alone knows their merits as also demerits. This does not mean that the Governor must accept whatever advice is given by the High Court but the Article does require that the Governor should obtain from the High Court its views on the merits or demerits of persons among whom the choice of promotion is to be limited. If the High Court recommends A while the Governor is of opinion that B s claim is superior to A s it is incumbent on the Governor to consult the High Court with regard to its proposal to appoint B and not A. If the Governor is to appoint B without getting the views of the High Court about B s claims vis-a-vis A s to promotion, B s appointment cannot be said to be in compliance with Article 233 of the Constitution. The correspondence noted above which passed between the High Court and the Secretariat from 28th September, 1968 to 7th October, 1968 shows that whereas the High Court had definitely taken the view that Misra as the senior Additional District and Sessions Judge should be directed to take charge from Chakravarty, the Government was not of the view that according to the records in its appointment department Misra was the senior officer at Shahabad among the Additional District and Sessions Judges. Government never suggested to the High Court that the petitioner was senior to Misra or that the petitioner had a better claim than Misra s and as such was the person fit to be appointed temporarily as District and Sessions Judge. Before the notification of October 17, 1968 Government never attempted to ascertain the views of the High Court with regard to the petitioner s claim to the temporary appointment or gave the High Court any indication of its own views with regard thereto excepting recording dissent about Misra s being the senior officer in the cadre of Additional District and Sessions Judges at Arrah. Consultation with the High Court under Article 233 is not an empty formality. So far as promotion of officers to the cadre of District Judges is concerned the High Court is best fitted to adjudge the claims and merits of persons to be considered for promotion. The Governor cannot discharge his function under Article 233 if he makes an appointment of a person without ascertaining the High Court s views in regard thereto. It was strenuously contended on behalf of the State of Bihar that the materials before the Court amply demonstrate that there had been consultation with the High Court before the issue of the notification of October 17, 1968. It was said that the High Court had given the Government its views in the matter; the Government was posted with all the facts and there was consultation sufficient for the purpose of Article 233. We cannot accept this. Consultation or deliberation is not complete or effective before the parties thereto make their respective points of view known to the other or others and discuss and examine the relative merits of their views. If one party makes a proposal to the other who has a counter proposal in his mind which is not communicated to the proposer the direction to give effect to the counter proposal without anything more, cannot be said to have been issued after consultation. In our opinion, the notification of October 17, 1968 was not in compliance with Article 233 of the Constitution. In the absence of consultation the validity of the notification of October 17, 1968 cannot be sustained."

(r) The High Court is the body, which has the power to see the eligibility and suitability of the candidates fit for promotion, while the Governor of State has the right of consultation. It is the Governor of the State, who has the privilege of raising objection and getting doubts relating to some of the persons clarified as explained in paragraph 7 of the judgment cited supra, and that power, in the background of the history of the Constitutional provision, has again been traced by the Supreme

Court in M.M.Gupta and others Vs. State of Jammu and Kashmir and others (1982 (3) SCC 412) in paragraph 17, as follows:

" 17. In the case of State of W.B. v. Nripendra Nath Bagchi AIR 1966 SC 447, this Court while considering Articles 233 and 235 of the Constitution elaborately traced the background and the history of the constitutional provisions relating to the judiciary and this Court held at SCR p. 786:

"Articles 233 and 235 make a mention of two distinct powers. The first is power of appointments of persons, their postings and promotion and the other is power of control. In the case of the District Judges, appointments of persons to be and posting and promotion are to be made by the Governor but the control over the District Judge is of the High Court.... The view that on proper construction of Articles 233 and 235 the appropriate authority to take the appointment of District Judges is the Governor and not the High Court has also been reiterated by this Court in later decisions of this Court. In a recent decision of this Court in the case of Chief Justice of A.P. v.L.V.A. Dixitulu (1979) 2 SCC 34 a five-Judge Bench of this Court held at SCC p. 46 (para 36): SCC (L&S) p. 110:

"Article 233 gives the High Court an effective voice in the appointment of District Judges. Clause (1) of the Article peremptorily requires that appointments of persons to be, and the posting and promotion of, District Judges shall be made by the Governor in consultation with the High Court . Clause (2) of the Article provides for direct appointment of District Judges from advocates or pleaders of not less than seven years standing, who are not already in the service of the State or of the Union. In the matter of such direct appointments, also, the Governor can act only on the recommendation of the High Court. Consultation with the High Court under Article 233 is not an empty formality. An appointment made in direct or indirect disobedience of this constitutional mandate, would be invalid . Service which under clause (1) of Article 233 is the first source of recruitment of District Judges by promotion, means the judicial services as defined in Article 236. In another recent decision of this Court in the case of Hari Datt Kainthla v. State of H.P. (1980) 3 SCC 189 this Court referred to earlier decision of this Court and observed at SCR p. 372: [SCC p. 195, para 12: SCC (L&S) p. 341] "Article 233 confers power on the Governor of the State to appoint persons either by direct recruitment or by promotion from amongst those in the judicial service as District Judges.... We have to note that on a proper interpretation of Articles 233 and 235 of the Constitution this Court has consistently held that the appointing authority is the Governor and this view has held the field for over two decades. In our opinion this is the correct view on proper interpretation of the said articles and requires no reconsideration. The argument of Mr Venugopal that this interpretation will lead to the subservience of the judiciary and the independence of the judiciary will be undermined is not convincing, as the power to make the appointment conferred on the Governor has to be exercised by him in consultation with the High Court. This provision regarding exercise of power by the Governor in consultation with the High Court is incorporated to safeguard the independence of the judiciary. We have earlier pointed out that Article 109 and Article 111 of the Constitution of Jammu & Kashmir correspond to Articles 233 and 235 of the Constitution of India. In view of the interpretation of Articles 233 and 235 of the Constitution of India consistently given by this Court, and with which we are in entire agreement, we hold that on a proper interpretation of Articles 109 and 111 of the Constitution of Jammu & Kashmir, the Governor is the authority competent to appoint the District Judges and the power of

appointment of District Judges is not vested in the High Court. The first contention of Mr Venugopal cannot, therefore, be accepted and is negatived."

(s) In the absence of any materials to show that the Governor of the State has been deprived of the power of consultation with the High Court, it is not possible to construe that there is any constitutional violation in the selection and appointment of the 17 District Judges.

This issue is answered accordingly.

23. It is also relevant to point out at this stage as submitted by the learned Special Government Pleader that the objections were sent by the petitioners nearly after 45 days from the date of selection, viz., on 31.12.2010, which was received by the Office of the Governor on 01.01.2011, forwarded by the Governor to the Government on 06.01..2011, however, in the meantime, the impugned Government Order was passed on 05.01.2011 and therefore, the hue and cry made by some of the petitioners that the representation made to the Governor has not been considered has factually no meaning.

24. In such view of the matter, looking into any angle, we are of the firm view that the contentions raised by the petitioners and their respective counsel are not tenable and the writ petitions fail and the same are dismissed. However, we make it clear that inasmuch as providing appointment to physically challenged person is a constitutional mandate and all directive principles are in tune with the fundamental rights, in the event of any vacancy arising out of 17 appointments, or otherwise in the immediate next vacancy of the District Judges (Entry Level), the same shall be filled up by a person with disability by fulfilling the constitutional mandate, of course, subject to the availability of the candidates and the suitability therefor. No costs. Connected miscellaneous petitions are closed.

kh To

1.The Registrar General High Court, Madras.

2.The Secretary to Government Government of Tamil Nadu Public (Special-A) Department Fort St.George, Chennai 600 009.

3.The Principal Secretary to Government Social Welfare and Noon Meal Project (SW4) Department Government of Tamil Nadu Secretariat, Chennai 600 009.

4.The District Disabled Rehabilitation Officer Sivagangai District