REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL/APPELLATE JURISDICTION

MISCELLANEOUS APPLICATION D.No. 5112 of 2023
IN
WRIT PETITION (C) NO.59/2013

ASSOCIATION OF OLD SETTLERS OF SIKKIM PRESIDENT SHRI RAM CHANDRA MUNDRA S/O LATE MURLIDHAR MUNDRA & ORS. PETITIONER(S)

VERSUS

UNION OF INDIA MINISTRY OF FINANCE SECRETARY GENERAL & ANR. RESPONDENT(S)

WITH

MISCELLANEOUS APPLICATION D.No. 5236 of 2023

IN

WRIT PETITION (C) NO.59/2013

AND

MISCELLANEOUS APPLICATION D.No. 5645 of 2023

IN
WRIT PETITION (C) NO.59/2013

AND

REVIEW PETITION (C) D. Nos. 5450, 5075 AND 5065 OF 2023
(Upon being mentioned today, Taken on Board)

O R D E R

Petitioner No.4, the Union of India as well as the State of Sikkim have filed applications seeking correction of certain phrases in paragraphs 10(a) and 77 of my

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judgment (B.V. Nagarathna, J) disposing of Writ Petition (C) NO.59/2013 along with the connected writ petition on 13.01.2023.

It is noted that, in the said writ petition(s), there was an amended writ petition filed, pursuant to an application seeking amendment, namely, I.A. No.3A of 2013, being allowed on 02.08.2013 and the petitioners being granted leave to file the amended writ petition vide paragraphs 4(a) to 4(y) of I.A.No.3A of 2013. Consequently, the amendments were made in the Writ Petition.

Unfortunately, learned senior counsel appearing for the writ petitioners and other counsel appearing for the respective parties in the said matter did not bring to the notice of this Court the aforesaid substantial amendments made to the original writ petition(s). It was, infact, their duty to bring to the notice of this Court the said amendments, which were twenty five in number. As a result, the unamended writ petition has been taken into consideration for the purpose of referring to the pleadings in the judgment of B.V. Nagarathna,J. Now, Miscellaneous Applications have been filed seeking correction of the judgment as if the error has occurred from the side of the Court by ignoring the fact that the amendments brought to the original writ petition(s) were not brought to the notice of this Court!

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However, having heard learned Solicitor General, learned Senior Advocates and all other learned counsel appearing for the respective parties, we think it is just and proper and in the interest of justice to correct certain phrases/portions in paragraphs 10(a) and 77 of the judgment of B.V. Nagarathna,J. by making the following corrections -

1. In Para 10 (a), the sentence, "*Therefore, there was no difference made out between the original inhabitants of Sikkim, namely, the Bhutia-Lepchas and the persons of foreign origin settled in Sikkim like the Nepalis or persons of Indian origin who had settled down in Sikkim generations back*" stands deleted.

2. It is further submitted that since this Court has held that the Explanation to Section 10(26AAA) of the Income Tax Act, 1961 is discriminatory against persons such as the petitioners, the benefit of the exemption must be given from the day the said Explanation was inserted to the said Act. Under the circumstances, the following expression, at page 115, in para 77 namely, "*from the current financial year i.e., 1st April, 2022 onwards*" stands deleted and there shall be a full stop after the word "provision".

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Shri Tushar Mehta, learned Solicitor General appearing on behalf of the Union of India and Shri C. S. Vaidyanathan, learned Senior Advocate appearing on behalf of the State have also requested to make suitable observations that this Court has not expressed anything on the validity or interpretation of Article 371-F of the Constitution of India. No such clarification is required at all as the validity or interpretation of Article 371-F of the Constitution of India was not the subject matter before this Court at all.

It is further clarified that the definition of Sikkimese and the reference to Sikkim Subjects Regulations, 1961 and Sikkim subject Rules, 1961 though repealed, are relevant for the purpose of the Explanation to Clause 26 (AAA) of Section 10 of the Income Tax Act, 1961 only.

The Miscellaneous Applications stand disposed of in the aforesaid terms.

In view of the above, Review Petition (C) D. Nos. 5450, 5075 and 5065 of 2023 stand disposed of.

All pending applications, including applications for intervention and clarification, also stand disposed of.

This order shall be read as part and parcel of judgment dated 13th January, 2023.

.....J.
[M.R. SHAH]

.....J.
[B.V. NAGARATHNA]

NEW DELHI
FEBRUARY 08, 2023