

ITEM NO.2

COURT NO.11

SECTION XI-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 15804/2017

(Arising out of impugned final judgment and order dated 20-01-2017 in WA No. 2349/2016 passed by the High Court Of Kerala at Ernakulam)

ROJER MATHEW

Petitioner(s)

VERSUS

SOUTH INDIAN BANK LTD AND ORS

Respondent(s)

(FOR ADMISSION AND I.R. and IA  
No.110266/2017-INTERVENTION/IMPLEADMENT)

Date : 15-03-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL  
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN  
HON'BLE MR. JUSTICE NAVIN SINHA

Mr. Arvind P. Datar, Sr. Adv. (A.C.)  
Mr. Renjith B. Marar, Adv.  
Ms. Lakshmi N. Kaimal, Adv.  
Mr. Anubhav Anand Pandey, Adv.  
Ms. Kanika Kalaiyarasan, Adv.

For Petitioner(s) Ms. V. Mohana, Sr. Adv.  
Mr. R. Bala, Adv.  
Mr. Shradha Deshmukh, Adv.  
Mr. M.K. Maroria, Adv.  
Ms. Kashvi Dutta, Adv.

Ms. Lakshmi N. Kaimal, AOR

For Respondent(s) Mr. P. I. Jose, AOR  
Mr. P.S. Chandralekha, Adv.  
Mr. Shashank Mishra, Adv.

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

At the time of earlier hearing on 24.10.2017, we took up for consideration the issue as to whether norms for appointment to the

Debt Recovery Tribunals are required to be revisited, to uphold the independence of judiciary. We requested Shri Arvind P. Datar learned senior counsel to assist the Court as Amicus.

Learned Amicus has given a Concept Note dealing with the issue of appointment process, qualifications for Members, removal procedure, efficiency, timely filling up of vacancies and uniformity of service conditions. Apart from the Concept Note, he has put forward certain suggestions.

Main suggestion of learned Amicus is that instead of having short term appointments out of retired persons, there should be a regular cadre to man the Tribunals. Even serving judicial officers could be appointed to the Tribunals by appropriate temporary or permanent increase to the cadre of District judiciary. Selection should be by a national competition, which may be conducted by an autonomous body, consistent with the requirements of independence of judiciary. Cadre control, including disciplinary mechanism, should be either with the High Courts or with an autonomous body which again should be as per the concept of independence of judiciary.

It was also suggested that orders of the Tribunal/Appellate Tribunal should be final, subject only to constitutional remedies. No statutory appeal should be provided against the orders of the Tribunals to avoid multiple layers of litigation which delay finalisation of proceedings.

In view of the above, we do feel that the structure of Tribunals may need revisit taking into account the suggestion for permanent cadre, autonomous selection procedure, autonomous accountability and disciplinary mechanism, finality subject only to jurisdiction of Constitutional Courts, to uphold the rule of law

and independence of judiciary.

Since the above issues involve policy matters and may also call for legislative changes, the Central Government may first consider the matter and file its response.

Learned amicus curiae is at liberty to give a further note.

List on 3rd April, 2018.

(SUSHIL KUMAR RAKHEJA)

COURT MASTER (SH)

(PARVEEN KUMARI PASRICHA)

BRANCH OFFICER