

?
T.C.(C)No. 22 OF 2001
ITEM No.303

Court No. 2

SECTION XVIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Transfer Case(Civil) No.22/2001

BRIJ MOHAN LAL

Petitioner (s)

VERSUS

UNION OF INDIA & ORS.

Respondent (s)

(With Appln(s). for directions and permission and Office Report with quarterly reports received from High Courts and State Govt. for directions)

with

T.C.(C)No.23/2001, SsLP(C)No.7870/2001, SLP (c) 10645/2001, TP(c) 407-410/2001

Date : 01/11/2004 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner (s)

Mr. Chander Shekhar Ashri,Adv.

Mr.P.S.Narasimha,Adv., (A.C.)
Mr.Ananga Bhattacharya,Adv.for
M/s.PSN & Co.

For Respondent (s)

for the Intervenor: Mr.Vijay Kumar,Adv.,
Mr.Vishwajit Sigh,Adv.

for UOI: Mr.R.Mohan, ASG
Mr.T.S. Doabia,Sr.Adv., Mr.P. Parmessaran,Adv.

Mr.T.S. Doabia,Sr.Adv.,
Ms.Sunita Sharma,Adv.,
Mr.D.S. Mahra,Adv.

For State of W.Bengal Mr.Bhaskar P. Gupta,Sr.Adv.,
Mr. Tara Chandra Sharma,Adv.,
Mr.Rajeev Sharma,Adv.,
Ms.Neelam Sharma,Adv.

for UT of Chandigarh: Ms.Kamini Jaiswal,Adv.,
Mr.Saqib,Adv.

For NCT of Delhi Mr.Ashok Bhan,Adv.,
Ms.Sunita Sharma,Adv.,
Ms.Anil Katiyar,Adv.

for State of Gujarat: Ms. Hemantika Wahi,Adv.
Mrs.Manita Varma,Adv.,
Mrs.Aruna Gupta,Adv.

For J&K High Court Mr.Tara Chandra Sharma,Adv.

For Allahabad High Court Mr.Ashok K. Srivastava,Adv.

For Orissa High Court Mr.Janaranjan Das,Adv.,
Mr.Swetaketu Mishra,Adv.,
Ms.Moushumi Gahlot,Adv.

For Patna High Court Mr.Amit Pawan,Adv.,
Mr.Amit Kumar,Adv.

For State of Tamil Nadu Mr.Subramonium Prasad,Adv.,
Mr.Gopalakrishnan,Adv.,
Mr.Abhay Kumar,Adv.
Mr.Rahul,Adv.

For State of Manipur Mr.KH.Nobin Singh,Adv.

For U.T of Pondicherry Mr. V.G. Pragasam,Adv.

For State of H.P. Mr. J.S. Attri,AAG,

For State of Tripura Mr. Gopal Singh,Adv.,
Mr.Anurag Sharma,Adv.,
Mr.Rituraj Biswas,Adv.

For State of Punjab Mr.R.K. Rathore,AAG
Mr.A.K. Sinha,Adv.,
Mr. Bimal Roy Jad,Adv.,

for State of Maharashtra: Mr. Ravindra K Adsure,Adv.,
Mr.Mukesh K. Giri,Adv.

For State of Haryana Mr.Praveen Kumar Rai,Adv.,
Ms. Kavita Wadia,Adv.

For State of Orissa Mr. Radha Shyam Jena,Adv.

for State of U.P. Mr.Ravi P. Mehrotra,Adv.,
Mrs.Deepti R Mehrotra,Adv.,
Mr.Garvesh Kabra,Adv.

for State of Uttaranchal Ms.Rachna Srivastava,AAG

for State of M.P. Mr.S.K. Agnihotri,Adv.,
Mr.Rohit K. Singh,Adv.,
Mr.Amit Mishra,Adv.

for State of Chhatisgarh: Ms.Suprarna Srivastava,Adv.,
Mr.Rajesh Srivastava,Adv.,
Mr.Rahul Srivastava,Adv.

for State of Goa Ms.A. Subhashini,Adv.

For UTs Mr.S.Wasim A. Qadri,Adv.,
Mr.D.S. Mahra,Adv.

For State of Rajasthan: Mr.Aruneshwar Gupta,AAG

For State of Nagaland Mr.U. Hazarika,Adv.,
Ms.Sumita Hazarika,Adv.

for State of Assam: Ms.Krishna Sarma,Adv.,
Mr.Atul Kumar,Adv.for
M/s.Corporate Law Group

for State of Sikkim Mr.A.Mariarputham,Adv.,
Ms.Aruna Mathur,Adv.for
M/s Arputham,Aruna & Co.,

for State of Kerala Mr. K.R. Sasiprabhu, Adv.

For State of Bihar Mr. B.B. Singh, Adv.

For State of Jharkhand: Mr. Ashok Mathur, Adv.,
Mr. Rajesh Pathak, Adv.

for State of Meghalaya Mr. Ranjan Mukherjee, Adv.

for State of J & K Mr. Anis Suhrawardy, Adv.

For State of Karnataka Mr. Sanjay R. Hegde, Adv.

Mr. C.D. Singh, Adv.,
Dr. Indra Pratap Singh, Adv.,
Mr. Sanjay Singh, Adv.

For Arunachal Pradesh State: Mr. Anil Shrivastava, Adv.

Mrs. Rachna Gupta, Adv.

Mr. Prashant Bhushan, Adv.

Mr. V.N. Raghupathy, Adv.

Mr. Javed Mahmud Rao, Adv.

Mr. Annam D.N. Rao, Adv.

Mr. T.V. Ratnam, Adv.

Mr. B.S. Banthia, Adv.

Mrs. V.D. Khanna, Adv.

Mr. Raj Kumar Mehta, Adv.

Mr. M.N. Sharma, Adv.

Mrs. Revathy Raghavan, Adv.

UPON hearing counsel the Court made the following

O R D E R

A chart has been filed by Mr. Narasimha the learned amicus-curiae explaining that in number of States all posts of Fast Track Courts have not been filled up. Our attention in this behalf has been drawn to the States of Andhra Pradesh, Bihar, Gujarat, Haryana, Orissa and also Punjab. It has further been contended that in the State of J & K in place and stead of District Judges, the Civil Judges (Junior Division) have been appointed under the aforementioned Scheme. Mr. Tara Chandra Sharma, the learned counsel appearing for the High Court of J & K however states that corrective measures have been taken to convert the said posts into the post of Higher Judicial Service. The learned counsel appearing for the State of Punjab states that the High Court has taken a decision that it is not necessary to appoint more than 18 Fast Track Courts out of 34 Fast Track Courts. Let an affidavit to that effect be filed. The State of Andhra Pradesh and other States as specified hereinbefore and the concerned High Courts shall file supplementary affidavits explaining as to why all the posts of Fast Track Courts as sanctioned have not been filled up so far.

Our attention has also been drawn to the affidavit filed on behalf of the Union of India affirmed by N.M. Perumal wherein it has been contended as under:-

"That the matter of continuation of fast track courts scheme beyond the original period of five years has already been taken up with Twelfth Finance Commission. The Minister for Law & Justice has written to the Chairman of Twelfth Finance Commission with a request to favourably consider the proposals of requirement for the upgradation of judicial infrastructure which, inter-alia, include continuation of fast track courts scheme during the period of the Twelfth Finance Commission and also creation of another 1500 fast track courts of Magistrates for dealing with non-sessions cases and other criminal cases."

However, from the said statements it does not appear as to whether the Union of India has

taken a firm decision to continue the Fast Track Courts and/or to modify the said Scheme in the light of its experience as regards their functioning in the country. Keeping in view fact remains that despite lapse of 4 and a half years (1.4.2001) when the Scheme was to be given effect to, the States have not been able to fill up all the posts. It is expected that the Ministry of Law and Justice shall take a fresh look at the matter and taken a firm decision. It is also expected that a decision at the appropriate level could be taken by the Union of India to continue the functioning of the Fast Track Courts as expeditiously as possible. The learned Addl.Solicitor General appearing for the Union of India states that an affidavit to that effect shall be filed within three weeks. A copy of the said affidavit may be handed over to Mr.Narasimha, the learned amicus curiae in advance so as to enable him to file his response thereto. The learned ASG further states that an affidavit shall also be filed as regards the decision taken by the Union of India in terms of the Order of this Court dated 15.9.2003.

Put up after six weeks.

(Vijay Kumar Sharma) (Madhu Saxena)
AR cum PS to Hon.Judge Court Master