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T.C.(C)No. 22 OF 2001

ITEM No.26

Court No. 1

SECTION XVIA

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

Transferred Case (Civil) No.22 of 2001  
( For Prel. Hearing )

BRIJ MOHAN LAL

Petitioner (s)

VERSUS

UNION OF INDIA & ORS.

Respondent (s)

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

With  
T.C.(C) No.23 of 2001

T.P.(C) Nos.407-410 of 2001

S.L.P. (C) No.7870 of 2001

S.L.P. (C) No.10645 of 2001

Date : 15/09/2003 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE S.B. SINHA

For Petitioner (s) Mr. Chander Shekhar Ashri,Adv.

Mr. PS Narasimha, Adv.

Mr. Ananga Bhattacharya, Adv.  
Mr. P Sridhar, Adv.  
for M/s. P.S.N. & Co.,Adv.

For Respondent (s)

UOI

Mr. K.N. Raval, SG  
Mr. Prateek Jalan, Adv.  
Mr. P. Parmeswaran,Adv.

Ms. Sunita Sharma, Adv.

Mr. D.S. Mahra, Adv.

State of U.P.

Mr. Ravi Prakash Mehrotra, Adv.

Ms. Deepti R. Mehrotra, Adv.

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State of Gujarat/  
State of Mizoram

Ms. Hemantika Wahi,Adv.

State of H.P. Mr. J.S. Attri, Adv.

State of Madhya Pradesh Mr. SK Agnihotri, Adv.  
Mr. Anil Kumar Pandey, Adv.  
Mr. Rohit K. Singh, Adv.

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

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

State of Manipur Mr. Khwairakpam Nobin Singh, Adv.

State of Meghalaya Mr. Ranjan Mukherjee, Adv.

State of Rajasthan Mr. Ranji Thomas, Adv.  
Ms. Bharati Upadhyay, Adv.  
Mr. A.K. Shukla, Adv.  
Mr. V.N. Raghupathy, Adv.

State of A.P. Mr. T.V. Ratnam, Adv.  
Mr. K Subba Rao, Adv.

State of Punjab Mr. R.K. Rathore, Addl. Adv. General  
Mr. RS Suri, Adv.

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

State of Karnataka Mr. Sanjay R Hegde, Adv.

State of Sikkim Mr. A Mariarputham, Adv.  
& Rajasthan High Court Ms. Aruna Mathur, Adv.  
Mr. Anurag D Mathur, Adv.

State of Arunachal Pradesh Mr. Anil Shrivastava, Adv.

State of West Bengal Mr. TC Sharma, Adv.  
Ms. Neelam Sharma, Adv.

State of Assam Ms. Krishna Sarma, Adv.  
Ms. Asha G. Nair, Adv.  
Mr. V.K. Sidatharan, Adv.  
M/s. Corporate Law Group, Advs.

State of Tripura Mr. Navin Prakash, Adv.  
Mr. Gopal Singh, Adv.

U.T., Pondicherry Mr. VG Pragasam, Adv.

NCT, Delhi, U.T. Mr. Ashok Bhan, Adv.  
Andaman & Nicobar, Mr. T.A. Khan, Adv.  
Dadra & Nagar Haveli, Mr. D.S. Mahra, Adv.  
Lakshadweep Mr. Satbir Pillania, Adv.  
Ms. Anil Katiyar, Adv.  
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State of Kerala Mr. K.R. Sasiprabhu, Adv.

State of Haryana Mr. Praveen Kumar Rai, Adv.

State of Bihar Mr. B.B. Singh, Adv.  
Mr. Kumar Rajesh Singh, Adv.

State of Goa Ms. A Subhashini, Adv.

State of Tamil Nadu Mr. P.N. Ramalingam, Adv.  
Mr. V. Balaji, Adv.

State of Maharashtra Mr. Mukesh K. Giri, Adv.

State of Uttaranchal Ms. Sangeeta Sharma, Adv.  
Ms. Rachna Srivastava, Adv.

State of Orissa Mr. R.S. Jena, Adv.

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

Mr. B.S. Banthia, Adv.  
Ms. Pragati Nikhra, Adv.

No. 2 in TC 22 Ms. Kamini Jaiswal, Adv.

for impleading party Ms. Rachna Gupta, Adv.  
in TC 22

in TC 22 Ms. Rachana Srivastava, Adv.

in TP 407-10 Mr. K Ram Kumar, Adv.

No. 1 in SLP 7870 Mr. Prashant Bhushan, Adv.

Mr. Vijay Kumar, Adv.  
Mr. Vishwajit Singh, Adv.

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

State of Andhra Pradesh:

Learned counsel appearing for the State of Andhra Pradesh states that interview regarding selection and appointment of the Members of the Higher Judicial Services has already taken place on 15th June, 2003 and the appointments shall be made within a month.

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The State Government and the High Court are directed to strictly comply with the order of this Court.

State of Jammu and Kashmir:

For the State of Jammu and Kashmir, 12 postes in the cadre of Higher Judicial Services were sanctioned. It is reported that, instead of creating posts in the Higher Judicial Services, the State Government and the High Court have created posts in the cadre of Munsiff.

According to learned Amicus Curiae and the learned Solicitor General, this is a complete deviation from the Scheme. In that view of the matter, we direct the State Government and the High Court to explain within a period of four weeks as to why they have deviated from the Scheme, for which money was allocated to them.

The State Government and the High Court are directed to take appropriate steps for filling up the said vacancy strictly in terms of the Scheme.

It is also unfortunate that despite the direction of this Court in terms of its order dated 14th July, 2003, most of the High Courts have failed to report about the disposal of the sessions and other cases by the Presiding Officers of the Fast Track Courts. The directions contained in the said order dated 14th July, 2003 must be complied with.

It is rather unfortunate that despite directions were issued to the States of Andhra Pradesh,

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Bihar, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab and West Bengal for creating posts in the cadre of Higher Judicial Services under the Fast Track Scheme from time to time, the States have not complied with the order. The money for creation of such posts has already been sanctioned and given to the aforesaid States. On 14th July, 2003, this Court again granted four weeks' time to file

an affidavit indicating therein the manner in which the appointments were being made in Fast Track Courts and also within what period the remaining posts of Fast Track Courts would be filled up. The respective High Courts shall also obtain a report from the Presiding Officer(s) from each Fast Track Courts about the disposal of the cases and submit the same to this Court through the counsel for the respective States.

Today, when the matter was taken up, we find that the aforesaid order has still not been complied with by the afore-mentioned States. In some cases, it has been said that the delay has been caused because of non-providing of the infra-structure that has not been granted by the State Governments. In some cases, in-action on the part of the High Courts has been pointed out in not recommending the Officers for appointment on those posts. It is rather a very sad state of affairs where the State Governments have put all the blame on the High Courts and the High Courts in turn have put the blame on the respective State

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Governments. In fact both the State Governments and the High Courts are jointly and severally responsible for creation and appointment of officers for the posts. We also note with dismay about 70 Courts in Karnataka, 10 Courts in Kerala, 42 Courts in Madhya Pradesh, 84 Courts in Maharashtra, 42 Courts in Orissa, 14 Courts in Punjab and 132 Courts in West Bengal are not functioning. However, seeing the facts and circumstances of the case, we direct all the State Governments and the High Courts to file an affidavit within a period of six weeks' from today, indicating therein the infra-structure available for the posts under the Fast Track Scheme; on how many posts the High Courts have made appointment; list showing the volume of work done by each Fast Track Court; how much more time the State Government would take to provide infra-structure for creation of posts for the purpose of establishing the Courts; and the High Court would indicate the period of time within which the appointments for filling up the vacancies would be made.

I.A. No. 8 (State of Rajasthan):

It is stated herein that the grant meant for the Fast Track Courts has already been availed of. The State Government has already written to the Central Government for sanctioning further grant, to which the Central Government has reported that the Fast Track Scheme is a one time Scheme and, therefore, no further

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sanction could be made. Learned Solicitor General is present in Court. He prays for and is allowed four weeks' time to obtain instructions. List all the matters after six weeks.

[ Alka Dudeja ]                      [ Suraj Prakash ]  
Court Master      Court Master