

ITEM NO.8

COURT NO.1

SECTION PIL

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 116 OF 1998

JUSTICE SUNANDA BHANDARE FOUNDATION

Petitioner(s)

VERSUS

U.O.I. &amp; ANR

Respondent(s)

(With appln(s) for exemption from filing O.T., directions and office report )

WITH W.P(C) NO. 115 of 1998

W.P(C) NO. 430 of 2000(for prel.hearing)

(With appln.(s) for interim relief)

Civil Appeal NO. 6442 of 1998

(With appln.(s) for intervention and impleading party and vacating stay and office report)

AND Civil Appeal NO. 6443 of 1998

Date: 18/02/2009 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE J.M. PANCHAL

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Ms. C.K. Sucharita, Adv.

Petitioner-In-Person(NP)

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Mr. Mukesh K. Giri, Adv.

Mr. Ravindra Keshavrao Adsure, Adv.

For Respondent(s) Mr.T.S.Doabia, Sr.Adv.

Mrs.Sunita Sharma, Adv.

Mrs.Rekha Pandey, Adv.

for Mrs.Anil Katiyar, Adv.

Mr.D.S.Mahra, Adv.

Mr.P.Parmeswaran, Adv.

Ms. Sushma Suri ,Adv

Mr. Prashant Kumar, Adv.

Ms. A.Subhashini ,Adv

Mr. Arun K. Sinha ,Adv

Mr Manish Kumar Saran,Adv

Mr.T.V.Ratnam, Adv.

Mrs.V.D.Khanna, Adv.

Mr.Praveen Swarup,Adv.

Mr.Anil K.Jha, Adv.

Mr. Ashok Mathur ,Adv

Mr. Anis Suhrawardy ,Adv

Mr.S.Mehdi Imam, Adv.

Mr.Tabrez Ahmad, Adv.

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Mr. B.B. Singh ,Adv

Mr. G. Prakash ,Adv

Mr. Gopal Singh ,Adv

Ms. Hemantika Wahi ,Adv

Ms.pinky, Adv.

Ms.Mamta, Adv.

Mr. M.A. Krishna Moorthy ,Adv

Mr. Naresh K. Sharma ,Adv

Mr. P.N. Gupta ,Adv

Mr. P.N. Ramalingam ,Adv

Mr.K.N.Madhusoodhanan, Adv.

Mr. R. Sathish ,Adv

Mr. Sushil Kumar Jain ,Adv

Mr. Satish Vig ,Adv

Mr. Rajeev Sharma ,Adv

Mr. Ranbir Singh Yadav ,Adv

Mr. K.V.Mohan ,Adv

Ms. Niranjana Singh ,Adv

Mr. Ranjan Mukherjee ,Adv

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Mr. V.G. Pragasam ,Adv

Mr.S.J.Aristotle, Adv.

Mr.Prabu Ramasubramanian,Adv.

Mr. Jana Kalyan Das ,Adv

Mrs.D. Bharathi Reddy ,Adv

Mr.Khwairakpam Nobin Singh ,Adv

Mr. Anil Kumar Tandale ,Adv

Mr. Anil Shrivastav ,Adv

Mr. Sanjay R. Hegde ,Adv

Mr. Rajiv Mehta ,Adv

Mr. Praveen Swarup ,Adv

Mr.Ng.J.R.Luwang, Adv.

Mr.Ranjan Mazumdar, Adv.

For M/S Corporate Law Group ,Adv

Mr. Rajesh Srivastava ,Adv

Mr.Vikrant Singh Bais, Adv.

Ms. Vibha Datta Makhija ,Adv

Mr. Kamendra Mishra ,Adv

Ms. Sumita Hazarika ,Adv

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Ms. Susmita Lal ,Adv

Mr. Gulshan Bajwa ,Adv

Mr.T.V.George ,Adv

Mr.Mukesh Verma, Adv.  
Mr.Shrish Kr.Misra, Adv.

Mr.Abhay Prakash Sahay, Adv.  
Mr. Anuvrat Sharma ,Adv

Mr. Shreekant N. Terdal

Mrs.Suchitra Atul Chitale

Mr. Prashant Kumar, Adv.

Mr.S.Thananjayan, Av.

Mrs.Aruna Mathur, Adv.  
For M/s.Arputham, Aruna & Co., Advs.

UPON hearing counsel the Court made the following  
ORDER

The persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (hereinafter referred to as 'the Act') came into force on 7.2.1996  
vide

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S.O.107(E) dated 7.2.1996. The petitioner in these cases, a charitable foundation, alleges  
that the provisions of this benevolent legislation are not being implemented and the disabled  
persons are not appointed on the basis of the reservation provided under the Act. Th  
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petitioner also alleges that the vacancies which could be filled up by reservation are not bei  
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identified in accordance with the provisions of the Act and the Rules framed thereunder. In

Chapter XII of the Act, a mechanism has been provided for the implementation of the Act.

Section 57 states that the Central Government may, by Notification, appoint a Chief

Commissioner for persons with disabilities for the purposes of this Act. The Chief

Commissioner, so appointed, has to coordinate with the work of the Commissioners as

appointed by various State Governments and monitor the utilisation of funds as disbursed by the Central Government. He has also to take steps to safeguard the rights and facilities made available to the persons with disabilities and look into the complaints with respect to the deprivation of rights of persons with disabilities.

Under Section 60 of the Act, every State Government may, by Notification, appoint a Commissioner for persons with disabilities for the purposes of this Act. The

Commissioner, so appointed by the State Government, is also vested with the power to coordinate with the various departments of the State Government for the programmes and schemes for the benefit of persons with disabilities. He has to monitor the utilisation of the funds disbursed by the State Government and to take steps to safeguard the rights and facilities made available to the disabled persons. The Commissioner is also expected to file a report to the State Government on the implementation of the

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Act at such intervals as that Government may prescribe and forward a copy thereof to the Chief Commissioner. We are told that many of the State Governments have not appointed the Commissioners as provided under Section 60 of the Act. If any of the State Governments have not appointed any Commissioner as provided under Section 60 of the Act, the same shall be done at the earliest and at least within a period of two months. The petitioner is permitted to take steps to implead all the Commissioners and the Chief Commissioner appointed/so appointed as respondents.

Issue notice to the impleaded respondents.

A copy of this order be sent to the Chief Secretary of each State/Union Territory.

List after eight weeks.

(G.V.Ramana)  
Court Master

(Veera Verma)  
Court Master