

Item NO.1
(Part-heard)

COURT NO.3

SECTION PIL

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

I. A. Nos.94 & 96 in WRIT PETITION (CIVIL) NO. 196 OF 2001

PEOPLE'S UNION FOR CIVIL LIBERTIES

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(for directions and report submitted by Commissioner and Special Commissioner of Supreme Court directed to be treated as I.A. vide Order dt.27.01.2010)
(NIGHT SHELTER MATTERS)

Date:19/04/2011 These Petitions/applns. were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DALVEER BHANDARI
HON'BLE MR. JUSTICE DEEPAK VERMA

For Petitioner(s)Mr. Colin Gonsalves,Sr.Adv.
Mr. Divya Jyoti,Adv.
For Ms. Jyoti Mendiratta,Adv.

For Respondent(s)Mrs.Sunita Sharma, Adv.
Mr.S.W.A.Qadri, Adv.
Mr.D.L.Chidananda, Adv.
Mr.A.Deb Kumar, Adv.
For Ms. Sushma Suri,Adv.
For Ms. Anil Katiyar,Adv.
For Mr. D.S. Mehra,Adv.
FOR Mr.B.V.Balram Das, Adv.

Mr. Ranjan Mukherjee,Adv.(NP)

Ms. Hemantika Wahni,Adv.(NP)

Mr.Pragyan P.Sharma, Adv.
For Mr. P.V. Yogeswaran,Adv.

Ms. Indra Sawhney,Adv.(NP)

Dr.Manish Singhvi, Adv.
For Mr. Milind Kumar,Adv.

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

Mr.Rahul Verma, Adv.
For Ms. Rachana Srivastava,Adv.

Mr. T.V. George,Adv.(NP)

Ms. Kamini Jaiswal,Adv.(NP)

Mr.Sapam Biswajit Meitei, Adv.
For Mr. Khwairakpam Nobin Singh,Adv.

Mr.S.J.Aristotle, Adv.
Mr.S.Prabu Ramasubramanian, Adv.
For Mr. V.G. Pragasaam,Adv.

Mr. Jatinder Kumar Bhatia,Adv.

Mr.Pramod Swarup, Sr.Adv.
Mr.R.K.Gupta, Adv.
Mr.Rajeev Dubey, Adv.
For Mr.Kamlendra Mishra, Adv.

Mr. Gopal Singh,Adv.
Mr.Manish Kumar, Adv.

Mr.Gopal Singh, Adv.

Mr. Abhijit Sengupta,Adv.

Mr. C.S. Ashri,Adv.(NP)

Mr.Bhaskar P.Gupta, Sr.Adv.
Mr. Tara Chandra Sharma,Adv.
Ms.Neelam Sharma, Adv.

Mr. Anil Shrivastav,Adv.(NP)

Mr. T. Harish Kumar,Adv.

Mr. P. Parmeswaran,Adv.

Mr. Prashant Kumar,Adv.

Mr. Gopal Prasad,Adv.(NP)

Ms. Anjana Chandrashekar,Adv.(NP)

Mr.I.Venkatanarayana, Sr.Adv.
Mr.Ramesh Allanki, Adv.for Mr. D. Mahesh Babu,Adv.

Mr. Sunil Fernandes,Adv.
Mr.Suhaas Joshi, Adv.
Ms.Astha Sharma, Adv.

Mr. Ramesh Babu M.R.,Adv.(NP)

Ms. D. Bharathi Reddy,Adv.(NP)

Mr. Sanjay R. Hegde,Adv.(NP)

Ms. Sumita Hazarika,Adv.(NP)

Mr. Kamal Mohan Gupta,Adv.(NP)

Ms. A. Subhashini,Adv.

Mr. Kuldip Singh,Adv.
Mr.Mohit Mudgil, Adv.

Mr. Ravindra Keshavrao Adsure,Adv.(NP)

Mr. Vishwajit Singh,Adv.(NP)

Mr.Sanjay V.Kharde, Adv.
For Ms. Asha G. Nair,Adv.

Mr. K.V. Mohan,Adv.(NP)

Mr.Atul Jha, Adv.
For Mr.D.K.Sinha, Adv.

Mr. Rajesh Srivastava,Adv.(NP)

Mr. Anuvrat Sharma,Adv.

Mr.K.N.Madhusoodhanan, Adv.
For Mr. R. Sathish,Adv.

Mr. R.C. Kaushik,Adv.(NP)

Mr. Pradeep Misra,Adv.(NP)

Mr. Venkateswara Rao Anumolu,Adv.(NP)

Mr. B.S. Banthia,Adv.

Mr. G. Prakash,Adv.
Mr.Navnit Kumar, Adv.
For M/s.Corporate Law Group, Advs.

Mr. Anil Kumar Jha,Adv.
Miss Chhaya Kumari, Adv.
Mr.S.K.Divakar, Adv.

Mr. Vikas Mehta,Adv.(NP)

Mr. Naresh K. Sharma,Adv.

Mr. Anis Suhrawardy,Adv.(NP)

Mr. S.M. Jadhav,Adv.(NP)

Mr.Suresh Chandra Tripathy, Adv.

Mr.Edward Belho, Adv.
Mr.Nimshim Vashom, Adv.
For Mr.Balaji Srinivasan, Adv.

Mr.Navin R.Nath, Adv.(NP)

Mr.Aruneshwar Gupta, Adv.(NP)

Mr.Vishnu B.Saharya, Adv.
for M/s.Saharya & Co., Advs.

Mr.S.Thananjayan, Adv.

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

MADHYA PRADESH:

In pursuance to the directions of this Court, Mr.Hiralal Trivedi, Commissioner, Department of Social Justice, Government of Madhya Pradesh, Bhopal has filed an affidavit on 28.02.2011. The State of Madhya Pradesh has undertaken to comply with the directions of this Court expeditiously. The Government of Madhya Pradesh has allocated more than twenty crores for construction of night shelters. As on 28.03.2011, out of total number of 100 night shelters with the State of Madhya Pradesh, 31 of them have already been constructed and remaining 69 night shelters would be constructed shortly.

The State of Madhya Pradesh is directed to construct the remaining night shelters as expeditiously as possible, in any event on or before 31.10.2011. Mr.Banthia, learned standing counsel appearing for the State submits that he would be filing the blue-print and lay-out of the night shelters within two weeks and there would be a joint inspection of the night shelters in the month of August, 2011.

We would like to record our appreciation for the very positive attitude adopted by the State of Madhya Pradesh in this connection.

RAJASTHAN:

In pursuance to the directions of this Court, the Chief Secretary, Government of Rajasthan has filed an affidavit on 06.04.2011 in which it is indicated that in pursuance to the directions

of this Court, a Committee has been designated as Monitoring Committee to oversee the overall working of Rain Baseras and to correct and remedy the deficiencies found in Rain Baseras. The State of Rajasthan has earmarked Rs.10 crores for construction of 50 permanent shelters for homeless in various urban local bodies in the State of Rajasthan.

The petitioner, in his report, has highlighted some problems in the night shelters in the State of Rajasthan. The Chief Secretary, in his response in Annexure-A has indicated that most of the problems have been resolved. Earlier, in the night shelters they were charging money for taking bath in Sulabh toilets. In response to that it was stated that the officials of the Rajasthan Government had deliberations with the Sulabh International and it has been assured by them that in future Sulabh shall not charge any fee from the persons having tokens issued by the night shelters. Tokens are given to the persons living in the Rain Baseras or night shelters.

During the inspection, the space for putting by the travelers in Rain Baseras was found to be deficient at many stages. Even that problem has now been taken care of. The other main problem highlighted in the report was regarding cleanliness. In response to that it has been stated that the Government, in order to ensure cleanliness, has given directions in this regard to the Chief Sanitary Inspector to ensure cleanliness and prevent any garbage dumping by vendors/pull-carters etc. The problem of inadequate toilets has also been taken care of by providing additional mobile toilets arranged in accordance with the availability of space. Necessary arrangements have also been done for providing food. To provide adequate medical facilities, coordinated efforts have been made between the Rain Baseras and the Chief Medical and Health Officer for ensuring all proper and necessary medical aid. Adequate publicity is given so that people may learn about the availability of night shelters. Arrangements have also been made for making bathrooms within tents. Some complaints which were made against the security guards, those complaints have also been sorted out. The persons who shall be found to be addicted would be suitably transferred to de-addiction camps. The trespass by the shopkeepers have been removed to have free access to Rain Baseras. Similarly, the toilets/bathrooms have been made fully available to the persons availing facilities at Rain Baseras. More sensitive and careful guards have been deployed and earlier guards, against whom complaints were received, have been removed.

We are happy that the State of Rajasthan has comprehended the problem in the proper perspective and has taken necessary steps in that direction. Mr.Singhvi, learned counsel appearing for the State of Rajasthan undertakes to give the details of the night shelters which have already been constructed and which are proposed to be constructed by the next date of hearing. He is also directed to indicate the time-frame within which these night shelters would be constructed. We direct the State to construct the night shelters as expeditiously as possible, in any event, the entire process be completed on or before 31.10.2011.

MAHARASHTRA:

We have perused the affidavits filed by the Chief Secretary of the State of Maharashtra. We are not satisfied with the same. Learned counsel appearing for the State prays for some more time to take up the matter at the highest level and file a better affidavit. Let that be done before the next date of hearing with an advance copy to learned counsel for the petitioner. Liberty to file reply, if any to that affidavit before the next date of hearing.

List this matter on 09.05.2011 at 2.00 p.m..

WEST BENGAL:

We have perused the affidavit of Shri R.D.Meena, Commissioner, Land & Land Reforms Department, Principal Secretary, Government of West Bengal filed on 29th March, 2011. Learned counsel for the parties have drawn our attention to various paras of the affidavit. To say the least, the affidavit is far from satisfactory. Mr.Gonsalves, learned senior counsel for the petitioner has also drawn our attention to the Report on Shelters for Homeless in West Bengal prepared on 03.04.2010. This indicates the detailed deliberations between the Chief Secretary and some other officials of the petitioner organisation. What all was achieved in the last so many months have been watered down in the affidavit filed on 29.03.2011.

Mr.Bhaskar Gupta, learned senior counsel appearing for the State of West Bengal undertakes to file a better and comprehensive affidavit on the lines of the affidavits filed by the States of Bihar, Madhya Pradesh, Rajasthan, Andhra Pradesh and Delhi. In the affidavit he would also indicate within what period the directions of this Court would be complied with. Because of the peculiar situation now in the State, we are giving a longer period to the State for filing the

he affidavit. Let the same be filed on or before 11th July, 2011 with an advance copy to learned counsel for the petitioner. Reply, if any, be filed within a week thereafter.

Registry is directed to give copies of the reports of the States of Bihar, Rajasthan, Madhya Pradesh, Andhra Pradesh and Delhi to learned standing counsel for the State of West Bengal during the course of the day.

List this matter on 18.07.2011 at 2.00 p.m.

ASSAM:

In pursuance of the directions of this Court, the Chief Secretary to the Government of Assam has filed an affidavit. The affidavit is totally unsatisfactory. It does not indicate as to how the orders of this Court are going to be complied with. We direct the State of Assam to file a better affidavit on or before 7th May, 2011. Let this comprehensive affidavit be filed in consultation with the Chief Minister of the State of Assam on the lines of the affidavits which have been filed by the State of Bihar, Madhya Pradesh, Rajasthan, Delhi and Andhra Pradesh. We direct the Registry to provide copies of these affidavits to the State of Assam.

List this matter on 9th May, 2011.

BIHAR:

In pursuance of the directions of this Court, the Chief Secretary to the Government of Bihar has filed an affidavit dated 27.1.2011. It is stated in the affidavit that the State of Bihar has only two towns, namely, Patna and Bodhgaya under Jawaharlal Nehru National Urban Renewal Mission (JNNRUM). Patna has a population of beyond 5 lakhs whereas Bodhgaya has a population of 30,857. Apart from Patna, there are 19 other urban areas which exceed a population of 1 lakh. The state Government in the Urban Development and Housing Department had sanctioned a survey of shelterless in 9 urban local bodies of Patna, Muzaffarpur, Bhagalpur, Darbhanga, Chhapra, Saharsa, Munger and Purnea. The required resources were released to the urban local bodies. It was also submitted that the training programme of survey was conducted on 11.10.2010 and detailed guidelines have been issued to urban local bodies. A sum of Rs. 50 lakhs have been allotted for this purposes.

It is also mentioned in the affidavit that these night shelters were not equipped with all facilities initially and therefore, needed up-gradation and extension of other facilities. The Urban Development Department had issued the order to upgrade one night shelter in each of the 9 divisional headquarters, which are incidentally the headquarters of local bodies, and necessary funds were also allotted. It was proposed that gradually all the existing night shelters would be upgraded and other basic facilities will be provided in them in a phased manner. This process is underway. The shelter developed in the 9 towns are described below, which are per the prescribed norms:

Name of Towns

Night Shelter New Construction

1.

Patna

3

2.

Muzaffarpur

1

3.

Gaya

1

4.

Bhagalpur

1

5.

Darbhanga

1

6.

Chhapra

1

7.

Shashrsa

1

8.

Munger

1

9.

Purnea

It is also mentioned in the affidavit that pursuant to the directions passed by this Court on 7th January, 2011, all the night shelters have been made operational and all the night shelters have been covered from all four sides, doors and windows wherever possible, have been provided for proper ventilation and entrance. In some of the shelters, plastic sheet covers have also been provided, which can be removed in summer for ventilation. These night shelters have been provided with drinking water facilities, dari and straw, arrangement of bonfire and blankets. Toilets have also been provided near these night shelters. All the shelters are either being managed by the NGOs or by the local municipal staffs. As per the direction of this Court regarding identification of shelterless persons in the towns, survey work has already been started in most of the ULBs by different organization.

In compliance of the directions of this Court, a programme for joint inspection was drawn to complete the inspection between 21st January and 26th January, 2011. All the night shelters as reported earlier are upgraded in consonance with prescribed norms and basic amenities are provided. A detailed chart which has been mentioned in paragraph 5 of the affidavit is reproduced hereunder:

Sr.No.	Name of Municipal Corporation/Municipal Council	Number of Shelters	Basic Amenities provided	Shelters Covered or Not	Managed by	
					Staff (in no.)	NGO (in no.)
1	Patna	20	Drinking water, Blankets, Dari & Straw, Bonfire, Toilets etc.	All Shelters are covered from all sides with door & ventilation		
2	Bhagalpur	7	Drinking water, Blankets, Dari & Straw, Bonfire, Toilets etc.	All Shelters are covered from all sides with door & ventilation		
3	Gaya	7	Drinking water, Blankets, Dari & Straw, Bonfire, Toilets etc.	All Shelters are covered from all sides with door & ventilation		
4	Muzaffarpur	9	Drinking water, Blankets, Dari & Straw, Bonfire, Toilets etc.	All Shelters are covered from all sides with door & ventilation		
5	Darbhanga	2	Drinking water, Blankets, Dari & Straw, Bonfire, Toilets etc.	All Shelters are covered from all sides with door & ventilation		
6	Munger	2	Drinking water, Blankets, Dari & Straw, Bonfire, Toilets etc.	All Shelters are covered from all sides with door & ventilation		

-

2

7

Purnea

5

Drinking water, Blankets, Dari & Straw, Bonfire, Toilets etc.

All Shelters are covered from all sides with door & ventilation

5

-

8

Chhapra

1

Drinking water, Blankets, Dari & Straw, Bonfire, Toilets etc.

All Shelters are covered from all sides with door & ventilation

-

1

9

Saharsa

1

Drinking water, Blankets, Dari & Straw, Bonfire, Toilets etc.

All Shelters are covered from all sides with door & ventilation

-

1

We are happy and satisfied with the efforts which have been made by the State of Bihar to address the human problem of shelterless people in the State in correct perspective.

UTTAR PRADESH:

The Chief Secretary to the Government of Uttar Pradesh has also filed a very comprehensive affidavit. In the affidavit it is indicated that to ensure the compliance of this Court's orders dated 16.12.2010, directions were issued to all the District Magistrates that at the village level, specially in the winter season, all Village Pradhans and Village Development Officers posted at all Panchayats are entrusted with the responsibility to determine and locate the need and homeless and immediately inform the Block Development Officers/Tehsil Officer who shall in turn inform the District Magistrate/Tehsildars. The District Administration on receiving such information shall ensure that all the reported homeless are provided all the basic amenities in the facilities at the district level. Further directions were issued that in the interregnum of the action taken by the District level administration, as an interim arrangement the Village Development Officer shall take immediate action and without delay make arrangements for providing night shelters to the homeless in the colleges, Aganbadis centre, ANM centres and Panchayat Bhawans falling within the respective areas of the panchayats. Similarly, Municipal Commissioners in the respective municipal corporations have also been directed to comply with the orders dated 16.12.2010 passed by this Court, in its true letter and spirit and must ensure that no homeless or destitute person be left to vagaries of the nature.

The Government of U.P. first issued an order on 24.12.2010 and thereafter after receiving the orders dated 7.1.2011 and 12.1.2011 passed by this Court, another Government order dated 12.1.2011 was issued and all the Municipal Commissioners have been directed to provide all the basic amenities to the shelterless people and vide G.O. Dated 12.1.2011, detailed information regarding the amenities being provided at shelter homes were sought on a particular format requiring them a strict compliance of the directions issued by this Hon'ble Court from time to time and all the Nagar Aayukts were directed to come prepared with the aforesaid report in the given proforma on 17.1.2007.

It is also incorporated in the affidavit that it was required that shelter homes for the homeless should be set up as per the standard norms and they shall be provided basic amenities, like beds, blankets, drinking water, electricity, cooking, toilets, bonfire, security and primary medical facilities. It is further mentioned that necessary directions were issued that all the Municipal Commissioners and their subordinates shall make regular inspections of the said shelter homes to ensure that all the facilities provided are availed by them. In the affidavit, it is also mentioned that the concerned authorities must also ensure wide publicity and information to the public at large regarding the shelter homes established in their vicinities a

and the basic facilities provided by them.

It is also mentioned in the affidavit that there are total 140 shelter homes in operation in the 13 municipal corporation towns of State of Uttar Pradesh, out of which 51 are permanent and 89 are temporary in character. The details of these night shelters and the facilities provided therein have been given in the cities of Agra, Allahabad, Kanpur, Meerut, Lucknow, Aligarh, Moradabad, Sharanpur, Bareilly, Ghaziabad, Varanasi, Jhansi and Gorakhpur. It is also mentioned that directions have been issued to the Medical and Health Department of the Government of U.P. to secure a proper arrangement for primary treatment at the shelter homes, and appropriate transportation arrangements were also directed to be made by municipal corporation and medical department. It is also mentioned in the affidavit that 139 permanent shelter homes, as per norms, shall be established in the Nagar Nigams of the State within a period of three years. We are happy to learn that 140 night shelters have already been made operational in the State of Uttar Pradesh with the basic amenities and facilities. The State of Uttar Pradesh needs to be complimented to have taken the problem of shelterless people in its proper perspective. We direct the State of Uttar Pradesh to construct the remaining night shelters as expeditiously as possible and all endeavour must be made to complete them before 31st October, 2011.

KARNATAKA:

In pursuance of the direction of this Court passed on 27.1.2011, the Chief Secretary to the Government of Karnataka has filed an affidavit. In the affidavit, details of the deliberations between the Special Commissioner and the officials of the Government of Karnataka have been mentioned and suggestions which emerged from the deliberations on 18.9.2010 have been indicated hereunder:

One shelter accommodating about 100 people @ 1 for every 1,00,000 population with basic amenities like drinking water, toilets, beddings, lockers etc.,
Special shelter for women and recovery shelters for the destitute.
To set up category-wise Night Shelters separately for men, women, destitute and aged persons.
Existing buildings to be used as Night Shelters with necessary modifications.
Involvement of reputed NGOs, social groups.
To issue Bio Metric card to homeless to access Government services.
To convert Night Shelters as place of economic activity so that residents can earn their livelihood.
To establish community kitchens @ 1 for every 5000 urban population with assurance to provide hygienic food at cheaper and reasonable cost for which the material can be sourced from the public distribution system.
Counselling support at the night shelters with proper health facility.
Formation of Committee at the State level for monitoring the pro-poor programs of Government of urban areas.
To make arrangements to admit homeless children in residential schools by creating more capacity in existing residential schools run by Social Welfare Department.
To make arrangement for magisterial enquiry in all the cases of death of homeless persons and proper record to be maintained by all Urban Local Bodies with the details of such death along with causes of death.
To utilise Unique Identification Authority for issuing Bio Metric cards for night shelterless people.
Capacity building of the main power at Urban Local Bodies level and also to improve the level of skills in handling urban poor issues.
To convert existing beggars' centres maintained by the Social Welfare Department in to the place for common destitute people.

In the affidavit it is also indicated that the Deputy Commissioners and the Commissioners of the concerned Districts were directed to identify the land/places for the night shelters. The list of City Corporations where the lands have been identified within the jurisdiction along with survey number is detailed below:

Sl. No.	Name of the City Corporation	Land Identified for construction of Nigh Shelter
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1

Mysore	Sy.No.387, K.R.Mohalla, N.S. Road, Mysore-27 mt X 17 mt	Sy.No.388, K.R.Mohalla, N.S.Road, Mysore-24 mt X 21 mt.
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2

Mangalore

No.275-3 H, Shakthi Nagara, Padavu Grama-1.08 Acres

3

Belgaum

Old godown, Old P.B. Road, Khasabhaga, Belgaum-5000 sq.ft.

4

Gulbarga

Sruvey No.9/3, Filter Bed, Ashraya Colony, Gulbarga-10,000 sq.ft.

5

Bellary

T.S.NO.987, Near Government Hospital, Cawl Bazar, Jagruthi Nagara, Bellary-0.50 cents.

6

Davanagere

Municipal Property, Kondajji Road, S.M.Krishna Nagara, Davanagere-9064 Sq.ft.

7

Hubli-Dharwad

67/1A (3C/72), Keshvapura, Hubli-Dharwad - 850,83 Sq.m.

63B, Plot No.156, Keshvapuram, Hubli-Dharwad -1258.88 Sq.m.

145B/1, Plot No.74, Bengeri, Hubli-Dharwad 1588.11 Sq.m.

160B, 183, Plot No.225, Ayodhya, Hubli-Dharwad 4582.87 Sq.m.

157/1, Plot No.42, Ayodhya, Hubli-Dharwad 1224.15 Sq.m.

101C, Plot No.42, Krishnapura, Hubli-Dharwad 1169.77 Sq.m.

In the affidavit it is also mentioned that in respect of Bruhat Bangalore Mahanagara Palike, identification of land/places for the night shelters is in process. A temporary night shelter has already been established in the jurisdiction of Mysore City Corporation provided with 2 big halls with bathing and toilet facilities and the same is functioning with the assistance of NGO. After establishing the night shelter facilities in all the above mentioned cities, following facilities have been commonly provided:

- (a) Accommodation with bathing and toilet facilities.
- (b) Free food for those who are not able to earn their livelihood and food will be provided for the earning people who avail night shelter facility at a reasonable price.
- (c) Health check-up for all.
- (d) Counselling of the shelterless people
- (e) Skill development training.

Some efforts have been made by the State to comply with the directions of this Court. We direct the State to erect the night shelters as per norms as expeditiously as possible, in any event, before 31st October, 2011.

This matter also be placed for directions on 18th July, 2011 at 2.00 p.m.

TAMIL NADU:

Learned standing counsel for the State of Tamil Nadu has filed an affidavit in Court today and has given a copy of the same to the learned senior counsel for the petitioner in Court, who may file response to the same before the next date of hearing.

List this matter on 18th July, 2011 at 2.00 p.m.

It has been brought to our notice that despite repeated opportunities granted by this Court, following States have not filed their affidavits:

- 1.Punjab
- 2.Haryana
- 3.Uttrakhnad
- 4.Chhattisgarh
- 5.Gujarat
- 6.Nagaland
- 7.Goa
- 8.Tripura
- 9.Sikkim
- 10.Jammu & Kashmir
- 11.Kerala

One more opportunity is granted to these States to file their affidavits on or before 7th May, 2011 with an advance copy to the learned counsel for the petitioner. It is made clear that no further opportunity shall be granted for this purpose.

List for further direction 9th May, 2011.

(A.S. BISHT) (G.V.RAMANA) (NEERU BALA VIJ)
COURT MASTER COURT MASTER COURT MASTER