

ITEM NO. 301

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. No. 9 IN WRIT PETITION (CIVIL) NO. 176 OF 2009

RAM JETHMALANI & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For Directions)

Date: 22/04/2014 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU
HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI
HON'BLE MR. JUSTICE MADAN B. LOKUR

For Petitioner(s) Mr. Anil Divan, Sr. Adv.
 Mr. Ram Jethmalani, In person
 Ms. Lata Krishnamurthi, Adv.
 Mr. Sandeep Kapur, Adv.
 Mr. Ranvir Singh, Adv.
 Mr. Ravi Sharma, Adv.
 Mr. Vivek Suri, Adv.
 Ms. Manik Karanjawala, Adv.
 Mr. Arjun Mahajan, Adv.
 Mr. Pranav Diesh, Adv.
 Ms. P.R. Mala, Adv.
 Mr. Karan Kalia, Adv.
 for M/S. Karanjawala & Co., Adv.

For Respondent(s) Mr. Mohan Parasaran, S.G.
 Mr. Paras Kuhad, ASG
 Mr. D.L. Chidananda, Adv.
 Mr. T.A. Khan, Adv.
 Mr. Arijit Prasad, Adv.
 Mrs. Anil Katiyar, Adv.
 Mr. Ashwin Kumar, Adv.
 Mr. Jitin Chaturvedi, Adv.
 Mr. Abhik, Adv.
 Ms. Pranita, Adv.
 Mr. B.V. Balaram Das, Adv.

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Mr. Pratap Venugopal, Adv.
Ms. Surekha Raman, Adv.
Mr. Meenakshi Chauhan, Adv.
Mr. Gaurav Nair, Adv.
for M/S. K.J. John & Co. , Adv

Ms. Anuradha Mutatkar, Adv.
Ms. Anagha S. Desai, Adv.

Mr. Kuldeep S Parihar, Adv.
Mr. H.S. Parihar , Adv

Mr. Aniruddha P. Mayee , Adv
Mr. Shankar Chillage, Adv.
Ms. Asha G Nair, Adv.
Mr. Nitin Lonkar, Adv.

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

1. This Court on 04.07.2011 in the writ petition filed by Shri Ram Jethmalani and others had issued the following directions:

(i) The Union of India shall forthwith disclose to the Petitioners all those documents and information which they have secured from Germany, in connection with the matters discussed above, subject to the conditions specified in (ii) below;

(ii) That the Union of India is exempted from revealing the names of those individuals who have accounts in banks of Liechtenstein, and revealed to it by Germany, with respect of whom investigations/enquiries are still in progress and no information or evidence of wrongdoing is yet available;

(iii) That the names of those individuals with bank accounts in Liechtenstein, as revealed by Germany, with respect of whom investigations have been concluded, either partially or wholly, and show-cause notices issued and proceedings initiated may be disclosed; and

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(iv) That the Special Investigation Team, constituted pursuant to the orders of today by this Court, shall take over the matter of investigation of the individuals whose names have been disclosed by Germany as having accounts in banks in Liechtenstein, and expeditiously conduct the same. The Special Investigation Team shall review the concluded matters also in this regard to assess whether investigations have been thoroughly and properly conducted or not, and on coming to the conclusion that there is a need for further investigation shall proceed further in the matter. After conclusion of such investigations by the Special Investigation Team, the Respondents may disclose the names with regard to whom show-cause notices have been issued and proceedings initiated."

2. Clause (iv) of the directions speaks about the constitution of an Special Investigation Team (for short, 'the SIT'). To head the SIT, the Court had requested Mr. Justice B.P. Jeevan Reddy to be the Chairman and Mr. Justice M.B. Shah as a Vice-Chairman of the Committee apart from other Governmental authorities.

3. By communication dated 15.08.2011 and 18.04.2014, Mr.

Justice B.P. Jeevan Reddy had expressed his inability to be the Chairman of the SIT. He had stated that at the most he can provide guidance and direction to the SIT.

4. Shri Mohan Parasaran, learned Solicitor General on instructions would submit that the Ministry of Finance had contacted Mr. Justice M.B. Shah who has no reservation to be the Vice-Chairman of the SIT. The statement of the learned Solicitor General is taken on record.

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5. In the normal course, we would have requested another learned Judge of this Court to be the Chairman of the SIT, but in our view, it would be in the interest of both the parties to suggest a name of learned Judge which is agreeable to both the parties and who could be the Chairman of the SIT that is constituted by this Court.

6. Both the learned counsel seeks some time to come out with the name of a learned Judge of this Court to be the Chairman of the SIT. For this purpose we grant them time till 29.04.2014.

7. Shri Anil Divan, learned senior counsel appearing for the petitioners brings to our notice para '90' of the judgment of this Court and contends that the respondents are required to comply with certain directions issued therein. Since, the respondents have not complied with the directions issued by this Court for the last three years, according to the learned senior counsel appropriate proceedings require to be initiated against them.

8. Per contra, Shri Mohan Parasaran, learned Solicitor General submits that clause (iv) of the directions issued by this Court should be read along with Clauses (i) to (iii) of the judgment and since the respondents could not constitute the SIT in view of the inability being expressed by one of

the learned Judges, they have not complied with conditions

(i) to (iii).

9. We have carefully perused the directions issued by this Court in para '90' of the judgment and order passed by this Court. In our opinion, the directions issued by this Court should be read disjunctively and not conjunctively and therefore, each Clause positively mandates that they are carried out in a particular manner. When this was indicated to the learned Solicitor General, he requested for time to take appropriate instructions from the respondents. In view of the aforesaid request we adjourn this matter to 29.04.2014 at 3.30 p.m.

[Charanjeet Kaur]
Court Master

[Vinod Kulvi]
Asstt. Registrar