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W.P(C)No. 399 OF 1998

ITEM No.102

Court No. 2

SECTION PIL

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

Writ Petition (C) No.399/1998

S.N. BHARDWAJ

Petitioner (s)

VERSUS

U.O.I. & ORS.
(With office report)

Respondent (s)

Date : 25/07/2001 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.P. BHARUCHA
HON'BLE MR. JUSTICE Y.K. SABHARWAL
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Petitioner-in-person

For Respondent (s) Mr. Soli J. Sorabjee, A.G.
 Mr. Rajiv Nanda, Adv.
 Mr. Sanjay Hegde, Mr.Satya Mitra, Adv.
 Mr. B.K. Prasad, Adv.

For Rajasthan: Mr. Ranji Thomas, Adv.
 Mr. Javed M.Rao, Adv.
 for Mr. Sushil Kr.Jain, Adv.

For M.P. Mr. S.K. Agnihotri, Adv.

For Orissa: Mr. Radha Shyam Jena, Adv.

For Meghalaya: Mr. Ranjan Mukherjee, Adv.

For Tripura: Mr. Gopal Singh, Adv.

For Kerala: Mr. G. Prakash, Ms. Beena Prakash, Adv.

For Sikkim: Mr. A.Mariarputham, Mrs. Aruna Mathur, Adv.
 for M/s Arputham, Aruna & Co., Adv.

For U.P.: Mr. R.C. Verma, Adv.
 Ms. Kiran Kapoor, Adv.
 Mr. Mukesh Verma, Adv.

For Arunachal Pradesh: Mr. Anil Shrivastav, Adv.

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For Gujarat &
Mizoram: Ms. Hemantika Wahi, Adv.

For Karnataka: Mr. Sanjay R. Hegde, Adv.
Mr. N. Ganpathy, Adv.

For J & K: Mr. Ashok Mathur, Adv.

For Delhi: Mr. Ashok Bhan, Adv.
Mr. D.S. Mahra, Adv.

For Bihar: Mr. B.B. Singh, Adv.

For Goa: Ms. A. Subhashini, Adv.

For UT-Chandigarh: Ms. Kamini Jaiswal, Adv.

For Pondicherry: Mr. V.G. Pragasam, Adv.

For A.P.: Mrs. K. Amareswari, Sr. Adv.
M/s. T.V. Ratnam, K. Subba Rao, Adv.
Mr. Anil Kumar Tandale, Adv.

For Assam: Mr. Vijay Hansaria, Adv.
Mr. Sunil Kr. Jain, Adv.
for M/s Jain Hansaria & Co., Adv.

For H.P.: Mr. Naresh K. Sharma, Adv.

For Maharashtra: Mr. S.V. Deshpande, Adv.

For Nagaland: Mrs. V.D. Khanna, Adv.

For Punjab: Mr. Rajeev Sharma, Adv.

For Haryana: Mr. Mahabir Singh, Adv.

For Uttaranchal: Ms. Rachana Srivastava, Adv.
Mr. Yashank Adhyaru, Sr. Adv.
Ms. Alka Agrawal, Adv.
for M/s. I.M. Nanavati Associates, Adv.

For Manipur: Mr. KH. Nobin Singh, Adv.

For West Bengal: Mr. Tara Chandra Sharma, Adv.
Ms. Neelam Sharma, Mr. Ajay Sharma, Adv.

For Tamil Nadu: Mr. V. Balaji, Adv.
Mr. P.N. Ramalingam, Adv.

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

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We have heard learned counsel on the aspect of increase in
the strength of subordinate judiciary.

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The Law Commission has long back recommended that the number of Judges to population should be 50 to one million, and we are still far short of that. Affidavits have been filed by most States and we have looked at, as samples, the affidavits on behalf of the States of Andhra Pradesh, Bihar, Gujarat, Karnataka, Madhya Pradesh, Maharashtra and West Bengal. That an increase in the subordinate judiciary's judge strength is required is not, broadly, disputed, but the burden of the song of

each of these States is that they have no money to spend on the augmentation of judge strength.

The affidavits of the States are, for the most part, made by officers at a comparatively low rung in the Governmental structure. Considering that it is constitutionally imperative for the States to provide Judges for and fund the subordinate judiciary, we should have expected that their blunt refusal to shoulder any financial burden for augmenting judge strength would be stated at a much higher level. We must confess that we are very distressed by this refusal and would now want the Chief Secretaries of each of the States in the country and the Union Territories to place what they have to say in regard to the augmentation of Judge strength of the subordinate judiciary and the financial implications thereof, on affidavit. This shall be done within six weeks. No further time shall be available in this behalf.

The affidavits shall state the population of the concerned State in millions, the number of subordinate Judges as at present, the number of vacancies in the subordinate courts, the number of additional posts for which sanction has been sought, the arrears in the subordinate courts, the current Judge

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to population ratio, the number of Judges required to meet the Law Commission's recommendation of 50 Judges per one million population and the number of Judges required in the State's perception to eliminate arrears in the course of about three years. The affidavits shall also indicate what expenditure is being incurred per annum on the subordinate judiciary, what income is being derived per annum from court fees, and how and when the State concerned proposes to bear atleast fifty percent of the expenditure required to meet the Law Commission's recommendation of 50 Judges per one million population.

Copies of the affidavits shall be served upon the petitioner-in-person and upon the office of the learned Attorney General, in addition to service upon other parties.

Liberty to the States of U.P. and Delhi to file affidavits, which they have not done. Liberty to the States of Uttaranchal, Jharkhand and Chattisgarh, who are impleaded hereby, to file affidavits. Liberty to the States of Gujarat and Karnataka to file additional and better affidavits. Liberty also to the Union of India to file a further affidavit.

Learned counsel for the State of Bihar seeks eight weeks to file the Chief Secretary's affidavit because, he says, a lot of work requires to be done. In our perception, this work should have been done long back and atleast after this writ petition was filed. The application for eight weeks time is rejected.

The Registry shall furnish to the petitioner-in-person copies of the affidavits of the States that have not been furnished to him.

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The Registry shall send a fax copy of this order to the Chief Secretaries of all the States and Union Territories.

List on 19th September, 2001 for directions.

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(N. Annapurna)
Court Master

(Shelly Sengupta)
Court Master