

ITEM NO.2

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 (CRL.) NO(s). 109 OF 2003

NATIONAL HUMAN RIGHTS COMMISSION

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(With appln(s) for directions filed by A.C. And stay and intervention and direction and a note dt. 27.2.04

submitted by A.C. And directions )

WITH

CRL.M.P.NO.10719/2003 IN W.P.(CRL.) NO.109/2003

(FOR DIRECTION)

CRL.M.P.NO.7078/2003 IN W.P.(CRL.) NO.109/2003

(For stay)

CRL.M.P.NO.7827/2003,8193/2003 & 8194/2003 IN W.P.(CRL.) NO.109/2003

(For intervention)

CRL.M.P.NO.11668/2003 IN W.P.(CRL.) NO.109/2003

(For intervention)

CRL.M.P.NO.11689/2003 IN W.P.(CRL.) NO.109/2003

(For directions)

CRL.M.P.NO.4782/2003 IN W.P.(CRL.) NO.109/2003

CRL.M.P.NO.3741/2004 & 3742/2004 IN W.P.(CRL.) NO.109/2003

(For directions)

CRL.M.P.NO.6864/2004 IN W.P.(CRL.) NO.109/2003

(For directions)

CRL.M.P.NO.9236/2005 IN W.P.(CRL.) NO.109/2003

(For intervention/directions)

WITH W.P(CRL.) NO. 118 of 2003

(With appln. For directions and interim relief and exemption from filing O.T. And office report)

T.P.(CRL) NO. 194-202 & 326-329 of 2003

(With appln. For stay and exemption and impleading party and permission to submit/place addl.

Documents on record & office report)

W.P(CRL.) NO. 216 of 2003

W.P(CRL.) NO. 284 of 2003

(With office report)

W.P(CRL.) NO. 37-52 of 2002

(With appln. For exemption from filing O.T. and permission to submit/place addl. Documents on record

& office report)

T.P.(CRL) NO. 43 of 2004

(With appln. for stay and exemption from filing O.T. & office report)

SLP(Cr1) NO. 4409 of 2003

(Appl. for stay)

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SLP(Cr1) 5309/2003

(With appln. for c/delay in filing SLP and exemption from filing O.T. & C/C of the impugned judgment

& office report)

T.P.(CRL) NO. 66-72 of 2004

(With appln. For permission to file T.P. And stay and directions and taking addl. Document on record

and permission to submit addl. documents)

SLP(C) NO. 7951 of 2002

(With appln. For exemption from filing C/C of the impugned judgment and permission to place addl.

Documents on record)

T.P.(CRL) NO. 233-234 of 2004

(With appln. For stay and office report)

D-W.P(CRL.) NO. D17953 of 2003

(With office report)

Date: 11/07/2006 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

HON'BLE MR. JUSTICE TARUN CHATTERJEE

HON'BLE MR. JUSTICE D.K. JAIN

For Petitioner(s)

Mr. Harish N. Salve, Sr. Adv.

Mr. B.V. Desai, Adv. (A.C.)

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Ms. Meenakshi Grover, Adv.

M/s. Huzefa Ahmadi, Ejaz Maqbool, Nakul Dewan,

Vikash Singh, Taruna Singh, Adv.

Petitioner-In-Person

M/S. J.S. Wad & Co., Adv.

Mr. Naveen R. Nath, Adv.

Ms. Shobha, Adv.

Ms. Aparna Bhat, Adv.

Mr. P. Ramesh Kumar, Adv.

Mr. R.K. Banju, Adv.

Mr. L. Nageshwar Rao, Sr. Adv.

Mr. G. Ramaikrishna, Adv.

Dr. K.P.K. Pillai, Adv.

Mr. Md. Wasay Khan, Adv.

Mr. B. Suyodhan, Adv.

Mr. T.S. Venkat Ramana, Adv.

For Respondent(s)

Mr. B.B. Singh ,Adv

Mr. Gopal Singh ,Adv

Mr. Ranjan Pandey, Adv.

Mr. Mukul Rohatgi, Sr. Adv.

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Ms. Shivangi, Adv.

Dr. Nafis A. Siddiqui ,Adv

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State of Sikkim

Mr. A. Mariarputham, Adv.

Mrs. Aruna Mathur, Adv.

Ms. Mini N. Nair, Adv.

For M/S Arputham, Aruna & Co. ,Adv.

Mr. K.R. Sasiprabhu ,Adv

Mr. Ranjan Mukherjee ,Adv

Mr. V.G. Pragasam ,Adv

Mr. S. Vallinayagam, Adv.

Mr. J.S. Attri ,Adv

Ms. Shivani Thakur, Adv.

Mr. Mukesh K. Giri ,Adv

Mr. Bimal Roy Jad ,Adv

Mr. Radha Shyam Jena ,Adv

Mr. Anil Shrivastav ,Adv

Mr Vinay Kumar Garg ,Adv

Mr. Gopal Prasad ,Adv

Mr. V.N. Raghupathy ,Adv.

Mr. S. Vig, Adv., Mr. Riku Sarma, Adv.

For M/S Corporate Law Group ,Adv

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Mr. C.D. Singh ,Adv

Mr. Dhruvad Kashyap,Adv.,Ms. Minakshi Sarma, Adv.

Mr. Ravi Prakash Mehrotra ,Adv

Mr. Manish Kumar, Adv.

For Mr. Ansar Ahmad Chaudhary ,Adv

Mr. L.N. Rao, Sr. Adv.

Mr. Nikhil Goel, Adv.

Dr. Kailash Chand, Adv.

M/s. H.K. Puri,Ujjwal Banerjee,SK Puri,

Priya Puri, V.M. Chauhan, Adv.

M/s. D. Bharat Kumar, Anand, Anhijit Sengupta,Adv

s.

M/s. S. Wasim A. Qadri, Rajeev Kr. Dubey, Rashmi

Singh, Kamendra Mishra, DS Mehra, Adv.

State of Goa

Ms. A. Subhashini, Adv.

State of Kerala

Mr. K.H. Nobin Singh, Adv.

State of Manipur

Mr. P.V. Dinesh, Adv.

State of Arunachal

Mr. Anil Shrivastav, Adv.

Pradesh

State of Mizoram

Mr. K.N. Madhusoodhanan, Adv.

Mr. R. Sathish, Adv.

State of Chhatisgarh

M/s. Atul Jha, Nirmal Mittal, D.K. Sinha, Adv.

UPON hearing counsel the Court made the following

O R D E R

About 14 crimes had been registered by the police in the State of Gujarat.

Investigation was conducted and offences triable by the Court of Sessions were found to

have been committed and report under Section 173 of Cr.P.C. was filed and some of the

cases have already been committed to the Sessions Court and some cases are pending

committal proceeding. Meanwhile, some of the persons, who are interested in these cases,

filed application for further investigation of the case and they allege that the FIR was not

properly recorded and some important witnesses have not been questioned by the police

and that there was no proper investigation of these cases. Some of the petitions filed before

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by the interested parties it is urged that the trial of these cases should be held in the

courts outside the State of Gujarat and they have filed applications for transfer of these

cases. The allegations made in these cases as well as in the transfer petitions have been

stoutly denied by the State of Gujarat. It is alleged that these persons have filed false

affidavits to protract the proceedings and the averments above mentioned contained in

these affidavits are not correct.

There are voluminous materials filed in these cases and the main question to be

decided is whether these cases have been properly investigated by the police. To find out

whether the investigation had been done properly, the records have to be scrutinized and

the nature of the objections filed by the interested parties also to be looked into. We

require the assistance of an experienced judicial officer who has been conducting such cases

especially cases involving serious crimes punishable under the penal code. Unless these

materials are scrutinized and a report is given in respect of each case, we may not be able to

properly take a decision on this aspect.

Hence we require the assistance of a senior Additional District and Sessions Judge

working in the Delhi Judicial Service. We request the Chief Justice of the Delhi High

Court to give the assistance of a senior Additional District and Sessions Judge to go through

the papers and give a brief report in respect of each case. The services of the Sessions

Judge be made available in the week commencing on 17th July, 2006 and his service would

be required at least for four weeks. The Registry of this Court will give all assistance to the

Additional District and Sessions Judge to verify the papers and he would give a brief report

in respect of each case. The Sessions Judge would be at liberty to seek any clarification

from the counsel appearing for these parties in these proceedings. The Additional Sessions

Judge shall submit his report by 20th August, 2006.

Post the matter on 29th August, 2006.

Issue notice in I.A.No.4485 in SLP(C)3770/03.

The Registrar General to take further steps in the matter and copy of this order be

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sent to the Acting Chief Justice of the High Court of Delhi with covering letter.

(R.K. Dhawan)

( Khushi Ram)

Court Master

Court Master

(Corrected copy of the cases supplied in the Court is enclosed)