

ITEM NO.301

COURT NO.1

SECTION XI

S U P R E M E C O U R T O F
R E C O R D O F P R O C E E D I N G S

I N D I A

Civil Appeal No. 1867/2006

MALIK MAZHAR SULTAN AND ANR.

Appellant(s)

VERSUS

U.P. PUBLIC SERVICE COMMISSION & ORS Respondent(s)
 (With appln. for impleadment (I.A. No. 137) and regarding
 STGATE OF KARNATAKA, U.P., BIHAR, REJASTHAN, CALCUTTA, DELHI,
 BOMBAY, PUNJAB & HARYNA And office report)

WITH

W.P.(C) No. 403/2014
 (With application for impleadment as party respondent and
 vacation of status quo and office report)

W.P.(C) No. 85/2015
 (With appln. for directions and office report)

Date : 21/07/2015 This appeal/petition were called
 on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
 HON'BLE MR. JUSTICE ARUN MISHRA
 HON'BLE MR. JUSTICE AMITAVA ROY

Mr. Vijay Hansaria, Sr. Adv. (A.C.)

For Appellant(s) Mr. Ejaz Maqbool, Adv.

Ms. T. Anamika, Adv.
 Mr. B.V. Chandan, Adv.

For Applicant(s) Mr. Y Rajagopala Rao, Adv.

Signature Not Verified

Mr. Hitendra Nath Rath, Adv.

Digitally signed by

Mr. P. Sudeer Reddy, Adv.

Charanjeet Kaur
 Date: 2015.07.23
 14:53:47 IST
 Reason:

For Applicant(s) Mr. Satya Mitra, Adv.
 Mr. Alok Sinha, Adv.
 Mr. Ruchesh Sinha, Adv.

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Applicant(s) Mr. Basavaprabhu S. Patil, Sr. Adv.
 Mr. Y. Rajagopala Rao, Adv.
 Mr. Hitendra Nath Rath, Adv.
 Mr. Y. Vismail Rao, Adv.

Mr. D. Mahesh Babu, Adv.

For Respondent(s) Ms. Pinky Anand, ASG
 Ms. Sadhna Sandhu, Adv.
 Mr. Gunwant Dara, Adv.
 Mr. S. Wasim A Qadri, Adv.

Mr. Abhinav Mukherjee, Adv.
Ms. Binu Tamta, Adv.
Ms. Kritika Sachdeva, Adv.
Ms. Sadhna Sandhu, Adv.
Ms. Sushma Suri, Adv.
Mr. B.V. Balram Das, Adv.
Mr. D.S. Mahra, Adv.

Mr. Debasis Misra, Adv.

Mr. Abhijit Sengupta, Adv.

Mr. Ajay Pal, Adv. (NP)

Mr. Amit Kumar, Adv.

Jharkhand

Mr. Anil K. Jha, Adv.
Mr. R.K. Ojha, Adv.

Jharkhand H. Court

Mr. Krishnanand Pandey, Adv.
Mr. Amrendra Kr. Choubey, Adv.

Mr. Anil Kumar, Adv.

Mr. Anil Shrivastav, Adv.
Mr. Rituraj Biswas, Adv.

Delhi High Court

Mr. Annam D. N. Rao, Adv.
Mr. Annam Venkatesh, Adv.
Ms. Neelam Jain, Adv.
Mr. Sudipto Sircar, Adv.
Ms. Vaishali R., Adv.
Ms. Ankita Chadha, Adv.

Mr. Anuvrat Sharma, Adv.

Mr. Arun K. Sinha, Adv. (NP)

Mr. Ashok K. Srivastava, Adv.
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Manipur

Mr. Sapam Biswajit Meitei, Adv.
Mr. Z.H. Isaac Haiding, Adv.
Mr. Ashok Kumar Singh, Adv.

Mr. Ashok Mathur, Adv.

Mr. Ashok Panigrahi, Adv.

Mr. Ashwani Kumar, Adv.

Mr. Avijit Bhattacharjee, Adv.

Nagaland

Mr. Balaji Srinivasan, Adv.

Tamil Nadu

Mr. B. Balaji, Adv.
Mr. R. Rakesh Sharma, Adv.
Ms. Shase, Adv.

Mr. Bharat Sangal, Adv.

Mr. C.S.N. Mohan Rao, Adv.

Mr. Dharmendra Kumar Sinha, Adv.

Mr. E.C. Vidya Sagar, Adv.

Mr. Gopal Singh, Adv.

Mr. Rituraj Biswas, Adv.

Mr. Gopal Singh, Adv.

Mr. Manish Kumar, Adv.

Ms. Rashmi Srivastava, Adv.

Mr. G. Prakash, Adv.

Mr. G.S. Chatterjee, Adv.

Punjab Mr. Jagjit Singh Chhabra, Adv.

Uttarakhand Mr. Jatinder Kumar Bhatia, Adv.
P.S.C.

Mr. B.S. Banthia, Adv.

Haryana Mr. Alok Sangwan, Addl. Adv. Gen.
Mr. Kamal Mohan Gupta, Adv. (NP)

Mr. Kamendra Mishra, Adv.

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Mr. Kaushal Yadav, Adv.

Mr. Khwairakpam Nobin Singh, Adv.

Mr. K.K. Mohan, Adv.

Mr. Lakshmi Raman Singh, Adv.

Mr. Merusagar Samantaray, Adv.

Mr. Milind Kumar, Adv.

Mr. M.R. Shamsad, Adv.

Mr. Mushtaq Ahmad, Adv.

Mr. Naresh K. Sharma, Adv.

Mr. Naresh Kumar, Adv.

Mr. Nishe Rajen Shonker, Adv.

Mr. P.I. Jose, Adv.

Mr. Pradeep Misra, Adv.

Mr. Prakash Kumar Singh, Adv.

Mr. T.L.V. Ramchari, Adv.

Mr. K.L.R. Raghavan, Adv.

Mr. Hitesh Kumar Sharma, Adv.

Mr. P.V. Yogeswaran, Adv.

Mr. Radha Shyam Jena, Adv.

Mr. Rajesh Srivastava, Adv.

Mr. Rana Ranjit Singh, Adv.

Mr. Ranjan Dwivedi, Adv.

Mr. Ranjan Mukherjee, Adv.

Mr. S.C. Ghosh, Adv.

Mr. S. Bhowmick, Adv.

Mr. R. Nedumaran, Adv.

Mr. R. Sathish,Adv.

Mr. Sanjay R. Hegde,Adv.

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Mr. S.C. Patel,Adv.

Mrs. D. Bharathi Reddy,Adv.

Mr. Shail Kumar Dwivedi,Adv.

Mr. Shankar Divate,Adv.

UPPSC

Mr. Shrish Kumar Misra,Adv.

Mr. Piyush Dwivedi, Adv.

Mr. Siddhartha Chowdhury,Adv.

Mrs Sarla Chandra,Adv.

Rajasthan
High Court

Mr. Sunil Kumar Jain,Adv.

Mr. Akarsh Garg, Adv.

Mr. Sunil Kumar Verma,Adv.

Mr. Tara Chandra Sharma,Adv.

High Court of
Bombay

Mr. A.P. Mayee, Adv.

Mr. A. Selvinraja, Adv.

Maharashtra

Mr. Rahul Chitnis, adv.

Mr. Nishant R. Katneswarkar, Adv.

Ms. Asha G. Nair, Adv. (NP)

Mr. T.G. Narayanan Nair,Adv.

Mr. T. Mahipal,Adv.

Mr. T.V. George,Adv.

High Court of
Andhra Pradesh

Mr. T.V. Ratnam,Adv.

Puducherry

Mr. V.G. Pragasam,Adv.

Mr. Prabu Ramasubramanian, Adv.

Bihar P.S.C.

Mr. Navin Prakash, Adv.

Sikkim

Mr. A. Mariarputham, Adv. Gen.

Ms. Aruna Mathur, Adv.

Mr. Yusuf Khan, Adv.

Mr. K. Vijay Kumar, Adv.

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Karnataka H.Court

Mr. Basavaprabhu S. Patil, Sr. Adv.

Mr. B.s. Prasad, Adv.

Mr. V.N. Raghupathy,Adv.

Mr. Basavaprabhu S. Patil, Sr. Adv.

Mr.Y. Raja Gopala Rao,Adv.

Mr. Hitendra Nath Rath, Adv.

Mr. Y. Vismai Rao, Adv.

M/s Arputham Aruna & Co.,Adv.

Ms. Asha Gopalan Nair,Adv.

Punjab & Haryana High Court	Ms. Asha Jain Madan, Adv. Mr. Mukesh Jain, Adv. Ms. A. Subhashini, Adv. Ms. Bina Gupta, Adv. M/s Corporate Law Group, Adv.
Andaman & Nicobar	Mr. Balasubramanian, Adv. Mr. K.V. Jagdishvaran, Adv. Ms. G. Indira, Adv.
Madhya Pradesh High Court	Mr. C.D. Singh, Adv. Mr. Darpan Bhuyan, Adv.
Gujarat	Ms. Hemantika Wahi, Adv. Ms. Kamini Jaiswal, Adv.
For Kerala	Ms. Liz Mathew, Adv. Mr. Philip Mathew, Adv. Ms. Malvika Prasad, Adv. Ms. Naresh Bakshi, Adv.
Patna High Court	Mr. Pravin H Parekh, Sr. Adv. Mr. Abhishek V. Deshmukh, Adv. for M/s. Parekh & Co., Adv.
For Uttarakhand	Ms. Rachana Srivastava, Adv. Mr. Ashutosh Kr. Sharma, Adv.
Rajasthan	Mr. S.S. Shamsbery, Adv. Mr. Amit Sharma, Adv. Mr. Sandeep Singh, Adv. Ms. Ruchi Kohli, Adv.
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	Ms. S. Janani, Adv.
	Ms. Sumita Hazarika, Adv.
	Mr. Vinay Kr. Garg, Adv. Ms. Mayuri Raghuvanshi, Adv.
	Mr. M.P. Shorawala, Adv.
U.P.	Mr. Irshad Ahmad, AAG Mr. Abhisth Kumar, Adv. Mr. Abhishek Kumar Singh, Adv. Mr. Som Raj Choudhury, Adv.
For West Bengal	Mr. Anip Sachthey, Adv. (NP)
Telangana	Mr. S. Udaya Kumar Sagar, Adv. Mr. Krishna Kumar Singh, Adv.
Himachal Pradesh	Mr. Suryanaryana Singh, Addl. Adv. Gen. Ms. Pragati Neekhara, Adv.
Calcutta H. Court	Mr. Raja Chatterjee, Adv. Ms. Runa Bhuyan, Adv. Mr. Satish Kumar, Adv.
For Bihar	Mr. Rudreshwar Singh, Adv. Mr. Samir Ali Khan, Adv.

Mr. S. Ugra Shankar Prasad, Adv.

Mr. Vishnu Sharma, Adv.

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

IN RE: MAHARASHTRA (BOMBAY)

Pursuant to our directions, Shri N.J. Jamadar, the Registrar of the High Court of Bombay is present before us. So far as the selection process of District Judges are
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concerned, we see from their affidavit and also additional affidavit that sufficient progress is made by the High Court. We only reiterate that the selection process will be completed within the time schedule as indicated by this Court in the case of "Malik Mazhar Sultan (3) & Another vs. Uttar Pradesh Public Service Commission & Others, reported in (2008) 17 SCC 703.

Insofar as the selection and appointment process of Civil Judges (Senior Division) are concerned, the affidavit filed by the Registrar of the High Court would demonstrate that sufficient progress is made in the selection and appointment process. Therefore, no further direction is required to be issued by us at this stage. We only hope and trust that the High Court will expedite the selection and appointment process at the earliest.

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Insofar as the Civil Judges (Junior Division) are concerned, the selection process for appointment of 223 candidates has already taken place. In fact, we are

informed that the Public Service Commission has sent its recommendations to the State Government on 11.06.2015. It is now for the State Government to take appropriate steps to appoint Civil Judges (Junior Division) which we hope will be done as expeditiously as possible.

The presence of the Registrar of the High Court is dispensed with for the present.

IN RE : MAHARASHTRA (GOA)

The status report filed by the Registrar is taken on record. We only indicate that suitable and appropriate steps will be taken by the High Court to fill up vacancies both at the District Judges as well as the Civil Judges (Senior and Junior Division) level.

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The State will issue letters of appointment after looking into the recommendations made by the High Court for appointment of Civil Judges (Junior Division).

The presence of the officer(s) is dispensed with for the present.

IN RE: PUNJAB

Pursuant to the directions issued by us, Shri Gurvinder Singh Gill, Registrar General and Mr. Sumeet Malhotra, O.S.D. (Vigilance), are present before us.

Insofar as the selection process of District Judges are concerned, appropriate

advertisement has already been issued by the High Court. However, the date of written examination is not yet finalised. Therefore,

we now direct the High Court to fix the date for written examination and further process

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as early as possible.

Insofar as the selection process of Civil Judges (Senior and Junior Division) are concerned, in our opinion, at this stage, no further directions are required to be issued.

The presence of the officer(s) is dispensed with for the present.

IN RE: HARYANA

Insofar as State of Haryana is concerned, from the note submitted by Shri Vijay Hansaria, learned Amicus Curiae, it would not be necessary for us to issue any further directions in the recruitment process for the District Judges, Civil Judges (Senior and Junior Division) for the present.

The presence of the officer(s) is dispensed with for the present.

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IN RE: BIHAR

Pursuant to the directions issued by us on the last date of hearing, Shri Vinod Kr. Sinha, Registrar General and Mr. Madan K. Kaushik, Registrar (Appointment) are present before us.

Insofar as the selection process to fill up the vacancies of District Judges (Direct

Recruitment) is concerned, since there was some difference of opinion between the State Government and the High Court, the High Court has taken the initiative to issue necessary advertisement to fill up the vacancies in the District Judges (Direct Recruitment) quota. They have also conducted the preliminary examination in the month of March, 2015.

In a scenario of this nature, we intend to direct the State Government to accept the selection process initiated by the High Court for the present, so that the vacancies in the

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District Judges (Direct Recruitment) quota could be filled up at the earliest.

Accordingly, we direct the State Government to accept the selection process initiated by the High Court to fill up the existing vacancies of the District Judges (Direct Recruitment) as and when it is recommended by the High Court for the approval of the State Government and further issuance of letters of appointment. This exercise shall be done by them as early as possible, at any rate within six weeks from the date of receipt of the recommendation that may be made by the High Court.

Insofar as the selection process of Civil Judges (Senior Division) are concerned, in our opinion, no further direction requires to be issued by us. It is suffice to observe that the High court will keep in its view the orders and directions issued by this Court to

fill up the vacancies of Civil Judges (Senior
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Division).

Insofar as the selection process of Civil
Judges (Junior Division) are concerned, we
need not to issue any further directions,
since the matter is pending before this Court
in S.L.P. (C) Nos.10163-10165 of 2015 and
connected matters.

The presence of officer(s) is dispensed
with for the present.

IN RE: WEST BENGAL

Pursuant to the directions issued by us,
Shri Sugato Majumdar, Registrar General,
Calcutta High Court is present before us.

Shri Vijay Hansaria, learned Amicus
Curiae after going through the affidavit, in
his memo has stated that insofar as the
vacancies of the year 2014 for District Judges
(Direct Recruitment) are concerned, no further
direction need be issued by us since the High
Court has filled up all the existing
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vacancies.

Insofar as the vacancies for the year
2015 are concerned, the learned counsel
appearing for the High Court has given us the
time schedule within which the High Court is
going to fill up the existing vacancies for
the year 2015. The status report filed by the
learned counsel is taken on record.

In view of the above, for the present no
further direction need be issued insofar as

filling up of vacancies for District Judges
(Direct Recruitment) are concerned.

Insofar as the selection process of Civil
Judges (Senior Division) are concerned, it
may not be necessary for us to issue any
directions for the present.

Insofar as the selection process of Civil
Judges (Junior Division) are concerned, the
selection process has to be initiated by the
Public Service Commission, West Bengal. We
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are informed that there are 44 vacancies for
Civil Judges (Junior Division).

Learned counsel for the State of West
Bengal is not present. Therefore, we now
direct the learned counsel for the State of
West Bengal to request the State to issue
appropriate direction to the Public Service
Commission to fill up 44 vacancies of Civil
Judges (Junior Division) as early as
possible.

A copy of this order be forwarded to the
Chief Secretary, State of West Bengal at the
earliest.

On the next date of hearing, we direct
the Secretary (Judicial Department) to be
present before us with relevant records in
order to facilitate us to issue appropriate
directions to fill up the vacancies of Civil
Judges (Junior Division) in the State.
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The presence of the officer(s) is

dispensed with for the present.

IN RE: KARNATAKA

Pursuant to the directions issued by us, Shri John Michael D'Cunha, Registrar General is present before us. In the affidavit filed by the High Court it is indicated that they have complied with the order and direction issued by us.

Insofar the selection of District Judges is concerned for the present we need not have to issue any further directions.

Insofar the selection of Civil Judges (Senior Division) are concerned, in the additional affidavit filed by the High Court, the time schedule within which they intend to fill up all the vacancies of Civil Judges (Senior Division) has been indicated. The

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said additional affidavit is taken on record.

Insofar as the selection of Civil Judges (Junior Division) are concerned, in view of the time schedule furnished by the High Court to fill up vacancies of Civil Judges (Junior Division) for the present no further directions require to be issued by us.

On the last date of hearing, we made certain observations against the Registrar General of the Karnataka High Court. Since sufficient progress is made by the Registrar General, we withdraw our earlier observations and directions.

The presence of the officer(s) is dispensed with for the present.

I.A. No. 137

Dismissed.

Consequently, I.A. Nos....(applications for directions and stay) are also dismissed.

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I.A. No. 138 & 139

Applications for extension of time to complete the recruitment process to the cadre of Civil Judges (Junior Division) for the year 2014 are dismissed.

The Registry is directed to inform the learned Registrars of the High Courts of Jharkhand, Madhya Pradesh, Tamil Nadu, Uttarakhand and Gauhati to remain present before the Court with relevant records on 27.08.2015.

List on 27.08.2015 at 3:00 p.m.

[Charanjeet Kaur]
A.R.-cum-P.S.

[Vinod Kulvi]
Asstt. Registrar