

ITEM NO.1

COURT NO.3

SECTION XI

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

Civil Appeal No(s). 1867/2006

MALIK MAZHAR SULTAN AND ANR.

Appellant(s)

VERSUS

U.P. PUBLIC SERVICE COMMISSION &amp; ORS

Respondent(s)

(regarding status of Karnataka, Uttar Pradesh, Bihar, Rajasthan,  
Gujarat and Maharashtra and office report)

Date : 13/11/2014 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ANIL R. DAVE  
HON'BLE MR. JUSTICE KURIAN JOSEPH

Amicus Curiae

Mr. Vijay Hansaria, Sr. Adv.  
Mr. Avnish Pandey, Adv.  
Ms. Sneha Kalita, Adv.

For Appellant(s)

Mr. Debasis Misra, Adv.  
Mr. Ejaz Maqbool, Adv.

For Intervenor

Mr. Ranjan Dwivedi, Adv.  
Mr. Arvind Kumar Tiwari, Adv.  
Mr. Shiv Shankar Singh, Adv.For Applicant  
in I.A. No. 129Mr. Shyam Divan, Sr. Adv.  
Mr. Y. Raja Gopala Rao, Adv.  
Mr. Hitendra Nath Rath, Adv.  
Mr. P.Sudheer Kumar Reddy, Adv.For Applicant(s)  
In IA Nos.127-128Mr. A.K. Ganguli, Sr. Adv.  
Mr. T.V. Ratnam, Adv.For Respondent(s)  
NCT of Delhi  
Signature Not VerifiedMs. Pinky Anand, ASG  
Ms. Natasha Khrawat, Adv.  
Ms. Sadhna Sandhu, Adv.

Digitally signed by

Jayant Kumar Arora  
Date: 2014.11.18  
17:08:38 IST

Ms. Gunwant Dara, Adv.

Reason:

Mr. Vijay Prakash, Adv.  
Mr. D.S. Mahra, Adv.

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Min. of Law &amp; Justice

Ms. Pinky Anand, ASG  
Ms. Gunwant Dara, Adv.  
Mr. Vijay Prakash, Adv.  
Mr. B.V. Balramdas, Adv.

State of Andhra Pradesh

Ms. Prerna Singh, Adv.  
Mr. Guntur Prabhakar, Adv.

State of Utter Pradesh

Mr. Irshad Ahmad, Adv.  
Mr. Abhishth Kumar, Adv.

Ms. Archana Singh, Adv.

State of Madhya Pradesh Mr. Suryanarayana Singh, AAG  
Ms. Pragati Neekhara, Adv.  
Mr. Abhishek Kr. Jha, Adv.

Patna High Ct. Mr. Pravin H. Parekh, Sr. Adv.  
Mr. Sumit Goel, Adv.  
Mr. Kumar Shashank, Adv.  
Mr. Kshatrshal Raj, Adv.  
Mr. Vishal Prasad, Adv.  
Mr. Abhishek V. Deshmukh, Adv.  
Ms. Madhurima Rai, Adv.  
For M/s. Parekh & Co.

Jharkhand High Ct. Mr. Krishnanand Pandey, Adv.  
Mr. Y. Lokesh, Adv.  
Mr. Amrendra Kr. Choubey, Adv.

State of Mizoram Mr. Pragyam Sharma, Adv.  
Mr. Heshu Kayina, Adv.

State of Manipur Mr. Sapam Biswajit Meitei, Adv.  
Mr. Ashok Kr. Singh, Adv.  
Mr. Z. H. Isaac Haiding, Adv.

State of Orissa Mr. Ashok Panigrahi, Adv.  
Mr. Santosh Kumar, Adv.  
Ms. Ashmi Mohan, Adv.

State of Uttarakhand Ms. Rachana Srivastava, Adv.  
Mr. Utkarsh Sharma, Adv.

State of Sikkim Mr. A. Mariarputham, AG, Sikkim  
Ms. Aruna Mathur, Adv.  
Mr. Yusuf Khan, Adv.  
For M/s Arputham Aruna & Co.

State of West Bengal Mr. Anip Sachthey, Adv.  
Mr. Saakaar Sardana, Adv.

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State of T.Nadu Mr. B. Balaji, Adv.  
Mr. R. Rakesh Sharma, Adv.  
Ms. R. Shase, Adv.  
Mr. S. Anand, Adv.

High Court of Karnataka Mr. V. N. Raghupathy, Adv.

State of Chhatisgarh Mr. A.P. Mayee, Adv.  
Mr. Nitin Lonkar, Adv.  
Mr. Charudatta Mahindrakar, Adv.  
Mr. Selvin Raja, Adv.  
Ms. Sonia S. Chillarge, Adv.

High Ct. Of Chhatisgarh Mr. C. D. Singh, AAG

Bombay High Court Mr. A.P. Mayee, Adv.  
Mr. Charudatta Mahindrakar, Adv.  
Mr. Selvin Raja, Adv.

Allahabad High Court Mr. Ashok K. Srivastava, Adv.

State of Maharashtra Mr. Shankar Chillarge, Adv.  
Ms. Sonia S. Chillarge, Adv.  
Mr. A.P. Mayee, Adv.

State of Kerala Mr. Liz Mathew, Adv.  
Mr. M.F. Philip, Adv.

Kerala High Court	Mr. T. G. Narayanan Nair, Adv. Mr. K.N. Madhusoodhanan, Adv.
State of Haryana	Mr. Manjit Singh, AAG Ms. Vivekta Singh, Adv.(N.P) for Mr. Kamal Mohan Gupta, Adv.
Govt. of Puducherry	Mr. V.G. Pragasam, Adv. Mr. S.J. Aristotle, Adv. Mr. Prabhu Ramasubramanian, Adv.
State of Gujarat	Ms. Hemantika Wahi, Adv. Ms. Jesal, Adv. Ms. Puja Singh, Adv. Ms. Giss Antony, Adv. For Ms. Preeti Bhardwaj, Adv.(N.P.)
State Arunachal Pradesh	Mr. Rituraj Biswas, Adv. For Mr. Anil Shrivastav, Adv.
State of Nagaland	Ms. K. Enatoli Sema, Adv. Mr. Amit Kumar Singh, Adv. Mr. Balaji Srinivasan, Adv.
Andaman & Nicobar Admn.	Mr. K.V. Jagdishvaran, Adv. Ms. G. Indira, Adv.
Bihar Public Service Commn. & High Court of Sikkim	Mr. Vishnu Sharma, Adv. Ms. Anupama Sharma, Adv. Mr. Navin Prakash, Adv.
State of Jharkhand	Mr. Anil Kumar Jha, Adv.
State of Telangana	Mr. S. Udaya Kumar Sagar, Adv.
State of Tripura	Mr. Ritu Raj Biswas, Adv. For Mr. Gopal Singh, Adv.
State of Punjab	Mr. Jagjit Singh Chhabra, Adv.
State of Assam	Mr. Riku Sarma, Adv. Mr. Navnit Kumar, Adv. For M/s. Corporate Law Group
State of Bihar	Mr. Manish Kumar, Adv. For Mr. Gopal Singh, Adv.
State of Rajasthan	Mr. S.S. Shamsbery, AAG Mr. Sandeep Singh, Adv. Mr. Amit Sharma, Adv. For Mrs. Ruchi Kohli, Adv.

Mr. Abhijit Sengupta, Adv.

Mr. Ajay Pal, Adv.

Mr. Amit Kumar, Adv.

Mr. Anil Kumar, Adv.

Mr. Annam D. N. Rao, Adv.

Mr. Anuvrat Sharma, Adv.

Mr. Arun K. Sinha, Adv.

Mr. Ashok Kumar Singh, Adv.

Mr. Ashok Mathur, Adv.

Mr. Ashwani Kumar, Adv.

Mr. Avijit Bhattacharjee, Adv.

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Mr. Balaji Srinivasan, Adv.

Mr. Bharat Sangal, Adv.

Mr. B. S. Banthia, Adv.

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

Mr. Dharam Bir Raj Vohra, Adv.

Mr. Dharmendra Kumar Sinha, Adv.

Mr. E. C. Vidya Sagar, Adv.

Mr. G. Prakash, Adv.

Mr. G. S. Chatterjee, Adv.

Mr. Jatinder Kumar Bhatia, Adv.

Mr. Kamendra Mishra, Adv.

Mr. Kaushal Yadav, Adv.

Mr. K. K. Mohan, Adv.

Mr. Krishnanand Pandeya, Adv.

Mr. Lakshmi Raman Singh, Adv.

Mr. Merusagar Samantaray, Adv.

Mr. Milind Kumar, Adv.

Mr. M. R. Shamshad, 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. Vishwanath, Adv.

Mr. Alok K. Prasad, Adv.

Mr. Vishwanath Bahuguna, Adv.

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Mr. Pradeep Misra, Adv.

Mr. Prakash Kumar Singh, Adv.

Ms. Purnima Jauhari, Adv.

Dr. B. K. Jauhari, Adv.

Mr. P. V. Yogeswaran, Adv.

Mr. Radha Shyam Jena, Adv.  
Mr. Rajesh Srivastava, Adv.  
Mr. Rana Ranjit Singh, Adv.  
Mr. Ranjan Mukherjee, Adv.  
Mr. S. C. Ghosh, Adv.  
Mr. R. Nedumaran, Adv.  
Mr. R. Sathish, Adv.  
Mr. Sanjay R. Hegde, Adv.  
Mr. S. C. Patel, Adv.  
Mrs. D. Bharathi Reddy, Adv.  
Mr. Shail Kumar Dwivedi, Adv.  
Mr. Shankar Divate, Adv.  
Mr. Shrish Kumar Misra, Adv.  
Mr. Siddhartha Chowdhury, Adv.  
Mrs Sarla Chandra, Adv.  
Mr. Pawanshree Agrawal, Adv.  
Ms. Reeta Chaudhary, Adv.  
For Mr. Sunil Kumar Jain, Adv. (N.P.)  
Mr. Sunil Kumar Verma, Adv.  
Mr. Tara Chandra Sharma, Adv.  
Mr. T. Mahipal, Adv.  
Mr. T. V. George, Adv.  
Mr. Ugra Shankar Prasad, Adv.

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Ms. Asha Gopalan Nair, Adv.  
Ms. Asha Jain Madan, Adv.  
Ms. A. Subhashini, Adv.  
Ms. Bina Gupta, Adv.  
Ms. Binu Tamta, Adv.  
Ms. Kamini Jaiswal, Adv.  
Ms. Naresh Bakshi, Adv.  
Ms. S. Janani, Adv.  
Ms. Sumita Hazarika, Adv.

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

STATE / HIGH COURT OF KARNATAKA

In pursuance of the order dated 30.10.2014, Mr. B.A.Patil,

Learned Registrar General of the High Court of Karnataka is present in the Court.

The Registrar General has submitted that there are certain practical and administrative difficulties due to which, posts in the cadre of Civil Judges (Junior Division) could not be filled up. It has been further submitted that there is an issue with regard to the percentage of reservation so far as Civil Judge's (Junior Division) cadre is concerned and the said issue is being discussed at the level of the State Government.

We hope that the State Government shall take the final decision with regard to the said issue, preferably within four weeks from today so that necessary formalities for filling up the vacancies in the cadre of Civil Judges (Junior Division) can be initiated by the High Court.

So far as the vacancies in the cadre of District Judges are concerned, it has been submitted that at present, there are 40 vacancies so far as direct recruitment to the said cadre is concerned. It has been submitted that an advertisement had been issued in 2012 inviting applications for filling up 17 posts in the said cadre and needful is being done to see that 17 persons are appointed in pursuance of the said advertisement.

We hope that the High Court as well as the State Government shall complete the process of recruitment and give appointments preferably within six weeks from today. The High Court shall do the needful for filling up the remaining posts as soon as possible, immediately after appointments are made in pursuance of the advertisement published in 2012.

The Registrar General of the High Court of Karnataka shall submit a Status Report as on 1st January, 2015 before 15th January, 2015.

STATE / HIGH COURT OF GUJARAT

Mr. B. N. Karia, Learned Registrar General and Mr. V. K. Vyas, Registrar (Recruitment) of the High Court of Gujarat are present in Court today.

It has been submitted by the Registrar General that for direct recruitment of District Judges, advertisement had already been published on 30.09.2014 and needful is being done for the said recruitment.

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So far as recruitment to the post of District Judges, by promotion is concerned, it has been submitted that necessary formalities for giving promotion had been started in 2013 and the formalities shall be over as soon as possible. We hope that the

necessary formalities shall be completed at an early date and promotion shall be given to eligible Senior Civil Judges, preferably by 30th December, 2014.

So far as promotion to the post of Civil Judges (Senior Division) is concerned, it has been submitted that needful is being done for examining the suitability of Junior Division Judges who are in the zone of consideration and that the formalities shall be completed before 31st January, 2015.

So far as the cadre of Junior Division Judges is concerned, it has been submitted that at present, there are 58 vacancies and 102 vacancies are likely to arise as and when Civil Judges (Junior Division) would be given promotion to the post of Civil Judges (Senior Division). It has also been submitted that at present, 267 ad-hoc Civil Judges are working and, therefore, there is no shortage in the cadre of Civil Judges (Junior Division).

The Registrar General of High Court of Gujarat shall submit the Status Report as on 31st January, 2015 before 15th February, 2015.

STATE / HIGH COURT OF UTTAR PRADESH

Upon perusal of the Affidavit filed by the Allahabad High Court, we find that complete information with regard to the nature of vacancies has not been stated and, therefore, we are unable to

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make out nature of vacancies in the cadre of District Judges.

We desire that a comprehensive affidavit giving details with regard to the vacancies and the breakup, including action taken by

the High Court for filling up the said vacancies in the last year be stated in the said affidavit. The affidavit shall be filed by the Registrar, who is concerned with the recruitment process, on or before 15th December, 2014.

It has been submitted that formalities for appointing 125 Civil Judges (Junior Division) have been completed and the matter is pending with the State Government for issuance of appointment orders to the concerned candidates. It is hoped that by 31 st December, 2014, regular appointments shall be made in respect of the said 125 candidates.

STATE / HIGH COURT OF PATNA

Mr. Madan Kishore Kaushik, Registrar (Appointment) of the High Court of Bihar, is present in Court.

It has been submitted by him that the Bihar Civil Service (Judicial Branch) Recruitment Rules, 1955 are sought to be amended and the matter pertaining to the amendment is pending with the State Government for obtaining views of the Bihar Public Service Commission.

We hope that the Commission shall express its views and communicate the same to the State Government and thereafter, needful shall be done for finalisation of the Rules within two weeks. We hope that upon amendment of the Rules, the Bihar Public Service Commission shall do the needful for recruitment of 206

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Civil Judges (Junior Division) so that appointments to the said posts can be made at an early date.

It has been further submitted by the learned counsel appearing for the High Court that for filling up of the posts of Additional District Judges, several efforts were made in the past, but due to poor performance of the candidates in the written test, no appointment was made. In the circumstances, the High Court has taken a decision to reduce the cut off percentage for selection from 60 per cent to 55 per cent. For that purpose, necessary amendment will have to be made in the Bihar Civil Service (Judicial Branch) Recruitment Rules, 1955. It has been further

submitted that needful is being done for amendment of the said Rules and upon the Rules being amended, advertisement shall be published inviting applications not only from Bihar but from other parts of the country also.

We hope that needful for amendment of the Rules shall be done, preferably within three weeks from today.

The status report to that effect shall be filed by way of an affidavit on or before 5th December, 2014.

So far as filling up of posts of District Judges by promotion is concerned, it has been submitted that Judgments of the eligible candidates, who are within the zone of consideration, have already been called for and they are under scrutiny of the High Court

Judges. We believe that the said formalities shall be done preferably before 31st December, 2014 and appointments shall be made before 31st January, 2015.

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STATE / HIGH COURT OF RAJASTHAN

The High Court of Rajasthan shall give details with regard to the progress made in the matter of appointment of Judges on or before 5th December, 2014.

STATE / HIGH COURT OF BOMBAY

So far as the High Court of Bombay is concerned, no order is passed at this stage.

List the matters on 16th January, 2015 after the normal work is over.

Officers of the aforesaid High Courts need not remain present on the next date of hearing.

(Jayant Kumar Arora)  
Sr. P.A.

(Sneh Bala Mehra)  
Assistant Registrar