

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. 1867 OF 2006

MALIK MAZHAR SULTAN AND ANR.

Appellant (s)

VERSUS

U.P. PUBLIC SERVICE COMMISSION & ORS

Respondent(s)

(With appln. for directions on behalf of Government of Mizoram and impleadment and directions/impleadment and intervention and c/delay in filing the compliance affidavit on behalf of Patna and permission to file impleadment) (Regarding States of Uttar Pradesh, Maharashtra, Gujarat, Karnataka, Bihar and Rajasthan)

WITH

W.P.(C) No. 46 of 2007

(With appln. for recalling the court's order and office report)

Date: 11/02/2014 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

Mr. Vijay Hansaria, Sr. Adv. (AC)

Mr. Avnish Pandey, Adv.

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

In WP(C)46/2007 Mr. Shankar Divate, Adv.

For Respondent(s) Mr. P.H. Parekh, Sr. Adv.

Patna High Court Mr. Shashank Kumar, Adv.

& I.A.124

Mr. Vishal Prasad, Adv.

Mr. Abhishek Vinod Deshmukh, Adv.

Ms. Himanjali Gautam, Adv.

M/S. Parekh & Co. , Adv.

For UOI

Mr. Paras Kuhad, ASG

Ms. G.Dara, Adv.

Mr. Vijay Prakash, Adv.

Mr. D.S. Mahra, Adv.

Ms. Pravita Shekhar, Adv.

For Jharkhand HC Mr. Krishnanand Pandey, Adv.

For Applicant in Mr. C.B. Gururaj, Adv.

I.A.No. 118

Mr. Anil Kumar, Adv.

Mr. Viswanath Bahuguna, Adv.

Mr. Sabarish Subramanian, Adv.

For Nagaland

Mrs. K.Enatoli Sema, Adv.

Mr. Amit Kumar Singh, Adv.

For Jharkhand

Ms. Priyanka Tyagi, Adv.

Mr. Anil Kr.Jha, Adv.

Fir Andaman &

Mr. Bala Subramaniam, Adv.

Nicobar Admn.	Mr. K.V. Jagdishvaran,Adv. Mrs. G. Indira,Adv.
For Arunachal Pradesh	Mr. Anil Shrivastav ,Adv Mr. Rituraj Biswas,Adv.
For Tripura	Mr. Gopal Singh,Adv. Mr. Ritu Raj Biswas,Adv.
For Rajasthan	Mr. S.S. Shamschery,AAG Mr. Bharat Sood,Adv. Mr. Varun Punia,Adv. Mr. Sandeep Singh,Adv. Mr. Ritesh Prakash Yadav,Adv. Mr. Amit Sharma,Adv. Mr. Irshad Ahmad,Adv.
For A.P.	Mr. Mayur R.Shah,Adv. Mr. D. Mahesh Babu,Adv. Mr. Amit K. Nain,Adv. Mr. Amjid Maqbool,Adv. Mr. Aditya Jain,Adv. Mr. Rama Krishna Rao,Adv.
For Govt. of Puducherry	Mr. V.G. Pragasam ,Adv Mr. S.J. Aristotle,Adv. Mr. Prabu Ramasubramanian,Adv.
For Kerala	Ms. Liz Mathew,Adv. Mr. M.F. Philip,Adv.
For Bihar	Mr. Gopal Singh,Adv. Mr. Manish Kumar,Adv.
For Bombay HC	Mr. Aniruddha P. Mayee ,Adv Mr. Charudatta Mahindrakar,Adv.
For Sikkim	Mr. A. Mariarputham,AG(Sikkim) Mrs.Aruna Mathur,Adv. Mr. Yusuf Khan,Adv. M/S Arputham,Aruna & Co.
For H.P.	Mr. Suryananaryana Singh,Adv. Ms. Pragati Neekhra,Adv. Ms. Leena Singh,Adv.
Applicant in I.A.No.125	Mr. Rana Ranjit Singh ,Adv Mr. Vivek Kr. Singh,Adv. Mr. Jaswant Singh,Adv.
Applicant in I.A.120	Ms. Mridula Ray Bhardwaj,Adv.
Applicant in I.A.115	Mr. Rakesh Kumar,Adv.
Applicant in I.A.113	Mr. P.V. Yogeswaran ,Adv.
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Mr. Ambhoj Kr. Sinha,Adv.

Mr. Sibho Sankar Mishra,Adv.

Mr. E.C. Vidyasagar,Adv.

Mr. Arun K.Sinha,Adv.

Mr. G.N. Reddy,Adv.

Mr. T.Harish Kumar,Adv.

Mr. Anish Suhrawardy,Adv.

Mr. Nishe Rajen Shonker,Adv.

Mr. Amit Kumar,Adv.

Mr. Sunil Fernandes,Adv.

Mr. Navin Prakash,Adv.

Mr. Rajan Dwivedi,Adv.

Mr. B.Balaji ,Adv

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Mr. Anuvrat Sharma ,Adv

Ms. Ruchi Kohli ,Adv

Mr. R. Nedumaran ,Adv

Mr. Sanjay R. Hegde ,Adv

Mr. Ranjan Mukherjee ,Adv

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Mr. Ashwani Kumar ,Adv

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Ms. Binu Tamta ,Adv

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Mr. Avijit Bhattacharjee ,Adv
Mr. Kamal Mohan Gupta ,Adv
Mr. K.K. Mohan ,Adv
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Mrs Sarla Chandra ,Adv
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Mr. Balaji Srinivasan ,Adv
Mr. Abhijit Sengupta ,Adv
Mr. V.N. Raghupathy ,Adv
Mr. Pradeep Misra ,Adv
Mr. Kamlendra Mishra ,Adv
Ms. Rachana Srivastava ,Adv
Mr. Jagjit Singh Chhabra ,Adv
Mr. Annam D.N. Rao ,Adv
Mr. Shail Kumar Dwivedi ,Adv
Mr. Ashok Mathur ,Adv
Mr. Naresh K. Sharma ,Adv
Mr. Ajay Pal ,Adv
Ms. Hemantika Wahi ,Adv
Mr. Ashok Kumar Singh ,Adv
Mr. D.S. Mahra ,Adv
Mr. C.D. Singh ,Adv
Mr. Sunil Kumar Jain ,Adv
M/S Corporate Law Group ,Adv
Mr. Milind Kumar ,Adv

Mr.Sunil Kumar Verma ,Adv
Mr. Merusagar Samantaray ,Adv
Mr. Shrish Kumar Misra ,Adv
Mr. Y. Raja Gopala Rao ,Adv
Ms. Kamini Jaiswal ,Adv
Mrs.D. Bharathi Reddy ,Adv
Mr. Bharat Sangal ,Adv

Mr. T.G. Narayanan Nair ,Adv
Mr. G.S. Chatterjee ,Adv
Mr. Dharam Bir Raj Vohra ,Adv
Mr. T.V. Ratnam ,Adv
Ms. Bina Gupta ,Adv
Mr. Naresh Kumar ,Adv
Mr. Jatinder Kumar Bhatia ,Adv
Mr. G. Prakash ,Adv
Mr. Rajesh Srivastava ,Adv
Ms. A.Subhashini ,Adv
Mr. Kaushal Yadav ,Adv
Ms. Sumita Hazarika ,Adv
Mr. S.C. Patel ,Adv
Mr. Ashok K. Srivastava ,Adv
Mr. Radha Shyam Jena ,Adv
Mr. T. Mahipal ,Adv
Mr. Tara Chandra Sharma,Adv.
Mr. Debasis Misra ,Adv.

UPON hearing counsel the Court made the following

O R D E R

I.A.No. 113

Government of Mizoram has filed I.A. No. 113 of 2011 praying for certain directions. Mr. Vijay Hansaria, learned senior counsel who is assisting this Court in these matters as amicus curiae has brought to our notice the details furnished by the Registrar, Aizwal Bench, Gauhati High Court. The relevant portion reads as under:

From the above, it will be seen that of the 20 existing posts, 15 of them are filled up and there are 5 vacancies. Of the 14 newly created posts none of them are filled up. In view of the low pendency of cases as reflected above, it is not necessary to fill up the newly created posts for the time being.

In view of the same, no further direction is required. I.A. is disposed of accordingly.

I.A.No. 118

Heard learned counsel for the applicants as well as Mr. Vijay Hansaria, learned senior counsel who is assisting this Court.

In the light of the relief as prayed for and of the fact that Civil Appeal No. 1867 of 2006 has already been disposed of, the applicants are free to approach the concerned High Court to vindicate their grievance if they are aggrieved of any decision.

I.A. is disposed of accordingly.

I.A. No. 115

We are not inclined to entertain the claim of the applicant. However, if the applicant is still wants to pursue his remedy/grievance, he is free to approach the concerned High Court for which we are not expressing any opinion on merits.

I.A. is disposed of accordingly.

I.A. No.119

We are not inclined to entertain the claim of the applicants. However, if the applicant are still want to pursue their remedy/grievance, they are free to approach the concerned High Court for which we are not expressing any opinion on merits.

I.A. is disposed of accordingly.

In view of the order in I.A. No. 119, the unregistered I.As for intervention and directions are closed.

I.A. No. 120

We are not inclined to go into the merits of the claim made by the applicant in the above I.A. However, we permit the applicant to approach the concerned High Court if he has any grievance. With the above observation, the I.A. is disposed of.

I.A. No. 125

The main grievance of the applicants is that in spite of the order of this Court dated 15.11.2010 in I.A.No. 83/2010 in C.A. No. 1867 of 2006, the same is not implemented till this date.

The said direction referred in the above order is as under:

"All the 81 promotees, 34 direct recruits whose names were recommended by the High Court vide its letter dated 19th January, 2010 and the candidates to be appointed pursuant to this order shall be treated to have been appointed in the same 2009 batch and their inter se seniority shall be determined accordingly under the U.P. Higher Judicial Service Rules, 1975.

We reiterate that this order will apply in relation to appointments for the 2009 batch only. Nonetheless, if in the light of these directions, any amendment to the existing Rules is deemed necessary for future recruitments, it will be open to the High Court to carry out the same and forward the revised Rules to the State Government for consultation and notification".

On going through the same, we feel that in the interest of parties concerned, it is desirable to direct the applicants to

approach the High Court for implementation of the above direction.

With the above observation, the I.A. is disposed of.

In view of the order in I.A. No.125 the unregistered I.As for directions are closed.

On 30th August, 2013, this Court, with regard to the vacancies prevailing in the States viz. Uttar Pradesh, Maharashtra, Gujarat, Karnataka, Bihar and Rajasthan directed those States as well as the High Courts to furnish list of vacancies in District and Subordinate Courts as on 31st July, 2013 within a period two weeks.

Pursuant to the said direction, Mr. Vijay Hansaria, learned senior counsel who is assisting this Court submitted the required details for our consideration.

After going into all the details, we intend to ascertain the correct position up to 28th February, 2014. Accordingly, we direct all the High Courts and the States referred above to furnish the details about the vacancies and various steps taken for filling up those vacancies in the form of an affidavit.

List the matter on 25th March, 2014 at 2.00 P.M.

I.A. No. 124

The State of Bihar as well as the Patna High Court are directed to ascertain the present state of affairs pursuant to the direction issued by this Court on 10.09.2010 and subsequent orders.

List I.A. No. 124 on 25th February, 2014.

Affidavit be filed on or before 20th February. 2014.

Writ Petition No.(C) No. 46 of 2007

De-tagged.

List on 26th February, 2014.

[Madhu Bala]
Court Master

[Savita Sainani]
Assistant Registrar