

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(s) for impleadment)

[REGARDING STATES OF UTTAR PRADESH, ANDHRA PRADESH,
JHARKHAND, KARNATAKA, WEST BENGAL AND JAMMU & KASHMIR]

ORISSA,

WITH I.A. NOS. 109 & 113 IN C.A. NO. 1867/2006

(FOR DIRECTIONS AND EXEMPTION FROM FILING
REPORT)

O.T. AND OFFICE

Date: 24/11/2011 This Appeal along with I.As. were called on
for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN

HON'BLE MR. JUSTICE ANIL R. DAVE

For Appellant(s)

Mr. Vijay Hansaria, Sr. Adv. (AC)
Ms. Sneha Kalita, Adv.

Mr. Ejaz Maqbool, Adv.

Mr. Debasis Misra, Adv.

Mr. T.N. Rao, Adv.

For Respondent(s)

Mr. Lakshmi Raman Singh, Adv.

State of
Chhattisgarh

Mr. Atul Jha, Adv.
Mr. Rajesh Srivastava, Adv.
Mr. Dharmendra Kumar Sinha, Adv.

Intervener

Mr. Arvind Kr. Tiwari, Adv.
Mr. Ranjan Dwivedi, Adv.

State of W.B.

Mr. Chanchal Kumar Ganguli, Adv.
Mr. Abhijit Sengupta, Adv.

State of A.P.

Mr. G.N. Reddy, Adv.
Mr. C. Kannan, Adv.
Mr. Ravi Shankar, Adv.

...2/-

:2:

State of Arunachal
Pradesh

Mr. Anil Shrivastav, Adv.
Mr. Ritu Raj Biswas, Adv.

Mr. Nishe Rajen Shonker, Adv.

Mr. Amit Kumar, Adv.

Mr. Shankar Divate, Adv.

State of Jharkhand

Mr. Anil Kr. Jha, Adv.
Mr. Brahmajeet Mishra, Adv.
Ms. Chhaya Kumari, Adv.
Mr. S.K. Divakar, Adv.

Jharkhand HC

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

State of Goa

Ms. A.Subhashini ,Adv

Allahabad HC

Mr. Saurabh Trivedi, Adv.
for Mr. Ashok K. Srivastava, Adv.

Mr. Arun K. Sinha ,Adv

HC of P & H

Ms. Asha Jain Madan ,Adv

HP H.C.

Mr. Ashok Mathur, Adv
Mr. Anshul Narayan, Adv.

Mr. Anis Suhrawardy ,Adv

Ms. Bina Gupta ,Adv

HC of J & K

Mr. Bharat Sangal ,Adv
Ms. Vermika Tomar, Adv.
Ms. Srijana Lama, Adv.

Ms. Binu Tamta ,Adv

Mr. Dharam Bir Raj Vohra ,Adv

Calcutta HC

Mr. Jaideep Gupta, Sr. Adv.
Mr. Raja Chatterjee, Adv.
Mr. Sachin Das, Adv.
Ms. Puja Anand, Adv.
Mr. G.S. Chatterjee ,Adv

NCT of Delhi

Mr. Keshav Thakur, Adv.
Mr. S. Wasim Qadri, Adv.
Mrs. Anil Katiyar, Adv. Ch.

...3/-

:3:

State of Bihar/
Tripura

Mr. Gopal Singh ,Adv
Mr. Manish Kumar, Adv.
Mr. Rituraj Biswas, Adv.

State of Nagaland

Mr. K. Enatoli Sema, Adv.
Mr. Rokokieno Mor, Adv.
Mr. Edward Belho, Adv.
Mr. Balaji Srinivasan ,Adv

Ms. Hemantika Wahi ,Adv
Ms. Jesal, Adv.
Ms. Suveni Banerjee, Adv.

HC of Orissa

Mr. Sibho Sankar Mishra, Adv
Mr. K.K. Mohan ,Adv

Chandigarh

Ms. Kamini Jaiswal ,Adv

Mr. D.P. Singh, Adv.

Mr. Naresh K. Sharma ,Adv

Mr. Naresh Kumar, Adv.

Mr. Pradeep Misra ,Adv

Mizoram

Mr. K.N. Madhusoodhanan, Adv.

Mr. R. Sathish ,Adv

State of Mizoram

Mr. Pragyan P. Sharma, Adv.

Mr. P.V. Yogeswaran ,Adv

Mr. S.C. Patel ,Adv

Mr. Sunil Kumar Jain,Adv.

Mr. Parmatma Singh, Adv.

Mr. Mayank Jain, Adv.

Kerala HC

Mr. V. Giri, Sr. Adv.

Mr. T.G. Narayanan Nair ,Adv

State of Kerala

Ms. Liz Mathew, Adv.

Ms. Sana A. R. Khan, Adv.

Mr. G. Prakash, Adv. (N/P)

...4/-

:4:

Mr. T.V. Ratnam ,Adv

Mr. Ugra Shankar Prasad ,Adv

State of Sikkim

Mr. A. Mariarputham, Adv.Gen.

Mrs. Aruna Mathur, Adv.

Mr. Amarjeet Singh Girda, Adv.
for M/S Arputham, Aruna & Co.

Mr. D.S. Mahra, Adv.

Ms. Sunita Sharma, Adv.

Mr. R. K. Rathore, Adv.

Mr. H.S. Sachdeva, Adv.

Mr. A. Deb Kumar, Adv.

Mr. S.S. Rawat, Adv.

State of Meghalaya

Mr. Ranjan Mukherjee ,Adv

Mr. S. Bhowmick, Adv.

Mr. S.C. Ghosh, Adv.

Ms. S. Janani ,Adv

State of Puducherry

Mr. V.G. Pragasaam ,Adv

Mr. S.J. Aristotle, Adv.

Mr. Prabu Ramasubramanian, Adv.

Mr. Ashok Kumar Singh ,Adv

Mrs.D. Bharathi Reddy ,Adv

State of M.P. Mr. B.S. Banthia ,Adv

State of Manipur Mr.Khawairakpam Nobin Singh ,Adv
Mr. Sapam Biswajit Meitei, Adv.
Mr. Radha Shyam Jena ,Adv

State of Karnataka Mr. Sanjay R. Hegde ,Adv
Mr. Krutin R. Joshi, Adv.
Mr. Ramesh Mishra, Adv.
Mr. P.I. Jose ,Adv
Mr. Y. Raja Gopala Rao ,Adv
Mr. Shail Kumar Dwivedi ,Adv

State of T.N. Mr. T. Harish Kumar, Adv.

...5/-

:5:

HC of Madras Mr. R. Nedumaran ,Adv

State of Haryana Mr. Manjit Singh, AAG
Mr. Vinay Kuhar, Adv.
Mr. Kamal Mohan Gupta,Adv
Mr. V.N. Raghupathy ,Adv

State of H.P. Mr. Himinder Lal, Adv.

State of
Uttarakhand Ms. Rachana Srivastava ,Adv
Ms. Ranchi Daga, Adv.
Mr. Krutin Joshi, Adv.
Mr. Ashutosh Kr. Sharma, Adv.

State of Assam Mr. Navnit Kumar, Adv.
for M/s Corporate Law Group
Mr. Ashwani Kumar ,Adv.
Mr. Rajesh Srivastava ,Adv
Mr. C.D. Singh ,Adv
Mr. Sunny Chaudhary, Adv.
Mr. Shashank Shekhar Parihar, Adv.
Ms. Sakshi Kakkar, Adv.
Mr. Jatinder Kumar Bhatia ,Adv

State of U.P. Mr. S.R. Singh, Sr. Adv.
Mr. Mukul Singh, Adv.
Mr. Shrish Kumar Misra ,Adv
Mr. Kamlendra Mishra ,Adv
Mr. Garvesh Kalra, Adv.
Mr. A. Singh, Adv.

HC of Patna Mr. Ajay Kumar Jha, Adv.
Ms. Suman Yadav, Adv.
for M/S. Parekh & Co.

Mr. T. Mahipal ,Adv

Ms. Sumita Hazarika ,Adv

HC OF Bombay

Mr. Aniruddha P. Mayee ,Adv

Mr. Siddhartha Chowdhury ,Adv

...6/-

:6:

HC of Sikkim

Mr. Vishnu Sharma ,Adv

Mr. T.V.George ,Adv

Mr. Prakash Kumar Singh ,Adv

Mr. Sunil Kumar Verma ,Adv

Mr. Anuvrat Sharma ,Adv

State of Rajasthan

Dr. Manish Singhvi, Addl. AG

Mr. Abhinav Ramkrishna, Adv.

Mr. Milind Kumar ,Adv

State of Punjab

Mr. Ashok Aggarwal, Sr. Adv.

Mr. Anil Grover, AAG

Mr. Noopur Singhal, Adv.

Mr. Ajay Pal ,Adv

State of Mah.

Mr. Sanjay Kharde, Adv.

Mrs. Asha G. Nair, Adv.

Mr. Yatish Mohan, Adv.

Ms. Vinita Y. Mohan, Adv.

Mr. E.C. Vidyasagar, Adv.

State of J & K

Mr. Sunil Fernandes, Adv.

Mr. Suhaas Joshi, Adv.

Ms. Astha Sharma, Adv.

DHC

Mr. A.D.N. Rao, Adv.

Ms. Neelam Jain, Adv.

Mr. Keerthi Kiran Kota, Adv.

Mr. P.K. Jain, Adv.

Mr. Ashok Kr. Sharma, Adv.

Mr. Mukesh Kr. Jain, Adv.

Mr. P.K. Goswami, Adv.

Ms. T. Kanaka Durga, Adv.

Mr. Navin Prakash, Adv.

Intervener

Mr. C.B. Gururaj, Adv.

Mr. Raj Kumar, Adv.

Mr. Anil Kumar, Adv.

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:7:

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

Re: State of Andhra Pradesh

In the affidavit filed on behalf of the High Court, it is stated that in order to reduce the pendency in the District Courts, till regularly selected candidates are available, 32 Senior Civil Judges have been promoted on 23rd September, 2010 as District Judges on temporary basis. It is further stated that these appointments are not in any quota and the appointees have to pave way for the regularly selected candidates whenever available. For the

present, we refrain from commenting on the said exercise undertaken by the High Court as it is stated in the affidavit filed on behalf of the State Government that Andhra Pradesh State Judicial Service Rules, 2007 have since been amended and notified and, therefore, now the High Court will be in a better position to complete the exercise, which it had initiated for filling up of vacancies in the quota of direct recruits/accelerated promotions in the cadre of District Judge, expeditiously.

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As regards the vacancies in the cadre of Civil Judge Senior Division as well as in the Junior Division, it is stated that the process

for appointment of 11 recommended candidates for promotion to Civil Judge Senior Division is under active consideration of the Full Court.

Similarly, process for filling up of 69 posts in the Civil Judge Junior Division is at an advanced stage and, in fact, result for the examination held has already been declared on 11th August, 2011.

Let a further affidavit on behalf of the High Court of Andhra Pradesh, detailing further steps taken for filling up of the vacancies in the subordinate judiciary be filed within eight weeks.

List on 2nd February, 2012 at 3.00 p.m.

Re: State of Orissa

In the affidavit dated 9th September, 2011, filed on behalf of the High Court, it is ...9/-

:9:

stated that recommendations for appointment of District Judges in all the three categories have already been made to the State Government, but the notification is still awaited. We regret to note that learned counsel appearing for the High Court is not aware as to the present status of the said recommendations after the filing of the said affidavit, about three months' back. Under the circumstances, we direct the State Government to take appropriate steps for issue of the requisite notification, if not issued so far, as expeditiously as possible, and, in any case, not

later than four weeks from today. Learned
counsel for the State has been apprised of this
order. Insofar as filling up of the vacancies in
the cadre of Civil Judge Senior Division and
Junior Division are concerned, we request the
High Court and the State Government to expedite
the recruitment/appointment process and file
affidavits in this behalf within eight weeks.

List on 2nd February, 2012 at 3.00 p.m.

...10/-

:10:

Re: State of Jharkhand

We have perused the affidavit dated 13th
October, 2011 filed on behalf of the High Court.

We request the High Court and the State
Government to file their respective affidavits
indicating the latest status of the steps taken
for filling up of all the vacancies in the
subordinate judiciary within eight weeks. In the

meanwhile, we would direct the State Government
to issue requisite notification for appointment

of 17 candidates recommended for appointment to
the post of District Judge by the High Court on

17th September, 2011, as expeditiously as
possible, and not later than four weeks from
today.

List on 2nd February, 2012 at 3.00 p.m.

Re: State of West Bengal

For the present, no directions are called
for.

Re: State of Jammu & Kashmir

We have perused the affidavit dated 20th October, 2011 filed on behalf of the High Court.

We would request the High Court and the State

...11/-

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Government to file fresh affidavits furnishing

information with regard to the latest status of

the steps taken to fill up all the vacancies in

the subordinate judiciary within eight weeks.

In

the meanwhile, we would expect the State

Government to notify the amendments in the

Recruitment Rules, as proposed by the High Court,

within four weeks from today.

List on 2nd February, 2012 at 3.00 p.m.

Re: State of Karnataka

We have glanced through the affidavit

dated 20th October, 2011, filed on behalf of the

High Court. We regret to note that there are

large number of vacancies in all the cadres of

the Subordinate Judiciary but adequate steps are

not being taken to fill up the same.

We may note

that, according to the said affidavit, after the

written examination on 25th September, 2010, in

which one candidate was successful, viva-voce for

the said candidate was held on 16th August, 2011,

but the selection process had still not been

completed. Learned counsel appearing for the

High Court is unable to state whether the sole

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:12:

candidate has still been appointed or not. Under
the circumstances, we would require the High
Court to file a fresh affidavit indicating the
status of vacancies in all the cadres of
Subordinate Judiciary. The requisite affidavit
shall be filed within eight weeks. We direct the
Registrar General of the High Court to remain
present in Court in person on the next date along
with the relevant information in order to assist
us in making appropriate orders.

List on 2nd February, 2012 at 3.00 p.m.

Re: State of Uttar Pradesh

Learned counsel appearing for the High
Court prays for some time to file affidavit
indicating the status of the vacancies and steps
taken to fill up these vacancies in all the
cadres in the Subordinate Judiciary. Let the
needful be done within two weeks.

List on 14th December, 2011 at 2.00 p.m.

I.A.NOS. 109 & 113 IN C.A. NO. 1867/2006

List the applications on 2nd February,
2012 at 3.00 p.m.

(VINOD LAKHINA)
Court Master

(KUSUM GULATI)
Court Master