

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 OF 2006

MALIK MAZHAR SULTAN AND ANR.

Appellant (s)

VERSUS

U.P. PUBLIC SERVICE COMMISSION & ORS

Respondent(s)

(With appln(s) for directions and intervention and impleadment)
(Regarding States of Karnataka, Jammu & Kashmir, Orissa and Rajasthan)

Date: 27/01/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN

HON'BLE MR. JUSTICE H.L. DATTU

For Appellant(s)

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

Mr. Akshat Hansaria, 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. Dharmendra Kumar Sinha, Adv.

Intervener

Mr. Ranjan Dwivedi, Adv.

State of W.B.

Mr. Bhaskar P. Gupta, Sr. Adv.

Mr. Tara Chandra Sharma, Adv.

State of A.P.

Mr. G.N. Reddy, Adv.

Mr. V. Pattabhiram, Adv.

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.

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State of Jharkhand

Mr. Anil Kr. Jha, Adv.

State of Goa

Ms. A.Subhashini ,Adv

Allahabad HC

Mr. Ashok K. Srivastava ,Adv

Mr. Arun K. Sinha ,Adv

HC of P & H Ms. Asha Jain Madan ,Adv
Mr. Ashok Mathur ,Adv
Mr. Anis Suhrawardy ,Adv
Ms. Bina Gupta ,Adv

HC of J & K Mr. Bharat Sangal ,Adv
Mr. R.R. Kumar, Adv.
Ms. Vermika Tomar, Adv.
Ms. Alka Singh, Adv.
Ms. Binu Tamta ,Adv
Mr. Dharam Bir Raj Vohra ,Adv

Calcutta HC Mr. Jaidip Gupta, Sr. Adv.
Mr. Raja Chatterjee, Adv.
Mr. G.S. Chatterjee ,Adv

NCT of Delhi Mr. Wasim Qadri, Adv.
Mrs. Rekha Pandey, Adv.
Mr. Mukesh Verma, Adv.
Mrs. Anil Katiyar, Adv.

State of Bihar Mr. Gopal Singh ,Adv
Mr. Manish Kumar, Adv.

State of Nagaland Mr. Edward Belho, Adv.
Mr. K. Enatoli Sema, Adv.
Ms. Hemantika Wahi ,Adv
Ms. Nupur Kanungo, Adv.

State of Orissa Mr. Sibho Sankar Mishra, Adv.
Mr. K.K. Mohan ,Adv

Chandigarh Ms. Kamini Jaiswal ,Adv
Mr. Naresh K. Sharma ,Adv

Mizoram Mr. R. Sathish ,Adv

State of Mizoram Mr. Pragyan P. Sharma, Adv.
Mr. P.V. Yogeswaran ,Adv
Mr. S.C. Patel ,Adv

Rajasthan H.C. Mr. Sunil Kumar Jain ,Adv
Mr. Aneesh Mittal, Adv.

Kerala HC Mr. T.G. Narayanan Nair ,Adv

State of Kerala Mr. G. Prakash ,Adv

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Mr. T.V. Ratnam ,Adv
Mr. Manish Mohan, Adv.
Ms. Anita Mohan, Adv.
Mr. K.N. Sinha, Adv.
Mr. Ugra Shankar Prasad ,Adv

State of Sikkim Mrs. Aruna Mathur, Adv.
M/S Arputham, Aruna & Co. ,Adv

UOI Mr. R. K. Rathore, Adv.
Mr. Aditya Sharma, Adv.
Mr. Sunita Sharma, Adv.
Mr. Shalinder Saini, Adv.
Mr. D.S. Mahra, 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. Pragasam ,Adv
Mr. S.J. Aristotle, Adv.
Mr. Prabu Ramasubramanian, Adv.

Mr. Ashok Kumar Singh ,Adv
Mrs.D. Bharathi Reddy ,Adv
Mr. Krishnanand Pandey ,Adv

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State of M.P. Mr. Naveen Sharma, Adv.
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. P.I. Jose ,Adv
Mr. Y. Raja Gopala Rao ,Adv
Mr. Shail Kumar Dwivedi ,Adv

State of T.N. Mr. T. Harish Kumar, Adv.
Mr. P. Prasanth, Adv.
Mr. V. Vasudevan, Adv.
Mr. R. Nedumaran ,Adv

State of Haryana Mr. Manjit Singh, Adv.
Mr. Harikesh Singh, 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

State of Assam Mr. Manish Goswami, Adv.
For M/s MAP & Co.

Mr. Riku Sarma, Adv.
Mr. Navnit Kumar, Adv.
M/S Corporate Law Group ,Adv.
Mr. Ashwani Kumar ,Adv.

Mr. Rajesh Srivastava ,Adv

Mr. C.D. Singh ,Adv

Mr. Jatinder Kumar Bhatia ,Adv

State of U.P. Ms. Savitri Pandey, Adv.
Mr. Mukul Singh, Adv.
Mr. Shrish Kumar Misra, Adv.
Mr. Kamlendra Mishra ,Adv

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:5:

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

Mr. T. Mahipal ,Adv

Ms. Sumita Hazarika ,Adv

HC OF Bombay Mr. Aniruddha P. Mayee ,Adv
Mr. Charudatta Mahendrakar, Adv.
Ms. Rucha A. Mayee, Adv.

Applicants Mr. A.K. Ganguly, Sr. Adv.
Mr. Siddhartha Chowdhury ,Adv

HC of Sikkim Mr. Vishnu Sharma ,Adv
Ms. Anupama Sharma, Adv.
Mr. Amarjyoti Sharma, Adv.

Mr.T.V.George ,Adv

Mr.Prakash Kumar Singh ,Adv

Mr.Sunil Kumar Verma ,Adv

Mr. Anuvrat Sharma ,Adv

Mr. Balaji Srinivasan ,Adv

State of Rajasthan Dr. Manish Singhvi, Addl. AG
Mr. Devanshu Kumar Devesh, Adv.
Mr. Milind Kumar ,Adv

State of Punjab Mr. Ajay Pal ,Adv

State of Mah. Mr. Sanjay Kharde, Adv.
Mrs. Asha G. Nair, Adv.

Mr. E.C. Vidyasagar, Adv.

DHC

Mr. A.D.N. Rao, Adv.
Ms. Neelam Jain, Adv.
Mr. Aditya Senger, Adv.

Mr. P.K. Jain, Adv.
Mr. Ashok Kr. Sharma, Adv.
Mr. Mukesh Kr. Jain, Adv.
Mr. P.K. Goswami, Adv.

Mr. Mushtaq Ahmad, Adv.

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Mr. T. Kanaka Durga, Adv.

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

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

Re: State of Rajasthan

As per the status report dated 13th
January, 2011, filed by the High Court, a fresh
recruitment process has to be initiated for
filling up of 58 vacant posts (as on 31st
December, 2010) for selection of District Judges
(Direct and Limited Examination). It is stated

that the said exercise has been necessitated
because of the decision of the Full Court of the
High Court cancelling the examination conducted
pursuant to Notification dated 15th April, 2010.

Learned counsel appearing for the High

Court points out that the said decision of the
High Court has since been challenged but he is

not aware as to whether any stay has been granted
restraining the High Court for initiating fresh
recruitment process.

As regards filling up of vacancies in the
Civil Judge (Senior Division) as also in the
Civil Judge (Junior Division), it is pointed out
by learned counsel appearing for the State that
recommendation for promotion of 60 officers from

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Civil Judge (Junior Division) to Civil Judge (Senior Division) has been received from the High Court this morning and the same shall be processed and notified within four weeks. Similarly, the names of the selected candidates, forwarded by the State Government on the recommendation of the Public Service Commission, were received back from the High Court on 24th January, 2011. Learned counsel has assured us that the appointments shall be notified within four weeks.

Re: State of Karnataka

Having perused affidavit dated 14th of January, 2011 filed by the High Court of Karnataka, we feel that, for the present, no further directions, except to request the High Court to expedite the amendment of the Recruitment Rules pertaining to the recruitment of Civil Judge (Junior Division), are necessary.

Re: State of Jammu & Kashmir

As per the affidavit filed by the High Court dated 12th January, 2011, for filling up 16 vacant posts of District Judges (Direct & Accelerated), the Chief Justice has constituted a Committee, and pursuant to the decision taken by

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the Committee written examinations for filling up

of 11 vacant posts in the direct quota is scheduled to be held on 12th/13th February, 2011, and for filling up of 04 posts in limited competitive examination quota, the process has to be initiated. Learned counsel appearing for the State submits that limited competitive examination is also likely to be held in the month of February itself. We request the High Court to expedite the process of filling up of vacant posts of District Judges in direct, limited competitive examination as also for the promotees quota.

Re: State of Orissa

Learned counsel appearing for the High Court prays for some time to file a better affidavit detailing the steps being taken for filling up the vacant posts of District Judges as well as Civil Judges (Junior Division). Let the needful be done within four weeks. In the meantime, we direct the State Government to take steps for making appointments in the cadre of Civil Judge (Junior Division) as expeditiously as possible, preferably within four weeks from today.

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I.A. NOS. 93 & 94 IN C.A. NO. 1867 OF 2006

Admittedly, the issue sought to be raised in the present applications is pending adjudication before the High Court on the judicial side. In that view of the matter, we refrain from issuing any directions in these applications. The applications are dismissed

accordingly. However, since the issue raised in the present applications pertains to the selection process, initiated in the year 2007, we would request the High court to try to dispose of the pending matters as expeditiously as practicable. It goes without saying that we have not expressed any opinion on the merits of the applications. The cases pending before the High court shall be considered on their own merit uninfluenced by the dismissal of these applications.

I.A. NOS. 97 & 98 IN C.A. NO. 1867 OF 2006

Admittedly, the issue sought to be raised in the present applications is pending adjudication before the High Court on the judicial side. In that view of the matter, we are not inclined to entertain these applications. The applications are dismissed accordingly.

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However, we would request the High court to dispose of the pending cases on the issue as expeditiously as practicable. It goes without saying that we have not expressed any opinion on the merits of the applications. The matters pending before the High court shall be considered on their own merits uninfluenced by the dismissal of these applications.
I.A. NOS. 99 & 100 AND 101 & 102 IN C.A. NO. 1867 OF 2006

Learned counsel for the applicants seeks leave to withdraw the applications, stating that the applicants would like to approach the High Court. Accordingly, the applications are

dismissed as not pressed.

I.A. NO. 79 IN C.A. NO. 1867 OF 2006

Let the application be listed when the
State of Jharkhand is taken up.

(VINOD LAKHINA)
Court Master

(KUSUM GULATI)
Court Master