

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 &amp; ORS

Respondent(s)

(For directions and impleadment and intervention)  
[REGARDING STATES OF CHHATTISGARH, GUJARAT, HIMACHAL PRADESH,  
JHARKHAND, MAHARASHTRA, ANDHRA PRADESH AND BIHAR]

Date: 03/12/2010 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)  
Ms. Sneha Kalita, Adv.

Mr. Ejaz Maqbool, Adv.

Mr. Debasis Misra ,Adv

Mr. T.N. Rao ,Adv

For Respondent(s)

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State of  
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Mr. Atul Jha, Adv.  
Mr. Dharmendra Kumar Sinha, Adv.

Intervener

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State of W.B.

Mr. Tara Chandra Sharma, Adv.  
Ms. Neelam 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.

....2/-

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State of Jharkhand

Mr. Anil Kr. Jha, Adv.  
Mr. Manoranjan K. Jha, Adv.

State of Goa

Ms. A.Subhashini ,Adv

Allahabad HC

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Mr. Arun K. Sinha ,Adv

HC of P & H Ms. Asha Jain Madan ,Adv  
Mr. Mukesh Jain, Adv.  
Ms. Chhaya Kumari, 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. Ajungla Thungwa, Adv.  
  
Ms. Binu Tamta ,Adv  
  
Mr. Dharam Bir Raj Vohra ,Adv

Calcutta HC Mr. G.S. Chatterjee ,Adv

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Mr. Wasim A. Qadri, Adv.  
Ms. Rekha Pandey, Adv.  
Mrs. Varuna Bhandari Gugnani, Adv.  
Mr. Shailender Saini, Adv.  
Mr. Mukesh Verma, Adv.  
Mr. D.S. Mahra, Adv.  
Mrs. Anil Katiyar, Adv.

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

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Ms. Jesal Wahi, Adv.

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Mr. P.P. Nayak, Adv.

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:3:

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Mr. Naresh Kumar, Adv.  
  
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Mr. R. Sathish ,Adv

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Mr. P.V. Yogeswaran, Adv  
  
Mr. S.C. Patel ,Adv

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Mr. T.V. Ratnam ,Adv

Mr. Ugra Shankar Prasad ,Adv

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Mr. Prabu Rama Subramanian, Adv.  
Mr. L.A.J. Selvam, Adv.

Mr. Ashok Kumar Singh ,Adv

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Mr. Satish C. Joshi, Adv.

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Mr. V. Vasudevan, Adv.  
Mr. R. Nedumaran ,Adv

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Mr. Kamal Mohan Gupta ,Adv  
  
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State of H.P. Mr. Himinder Lal, Adv.  
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Mr. Ashwani Kumar ,Adv.  
  
Mr. Rajesh Srivastava ,Adv

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:5:

Mr. C.D. Singh ,Adv  
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Ms. Pallavi Shrivastava, Adv.  
Mr. Rajat Nair, Adv.  
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Ms. Sumita Hazarika ,Adv

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Mr. Siddhartha Chowdhury ,Adv

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

Mr.T.V.George ,Adv

Mr.Prakash Kumar Singh ,Adv

Mr.Sunil Kumar Verma ,Adv

Mr. Ameet Singh, 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  
                                 Mr.    Sahil S. Chauhan, Adv.

State of Punjab            Mr. Ajay Pal ,Adv

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

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:6:

Mr. Yatish Mohan, Adv.  
Ms. Vinita Y. Mohan, Adv.  
Mr. E.C. Vidyasagar, Adv.

State of J & K            Mr. Sunil Fernandes, Adv.  
                                 Mr. Sidhant Goel, Adv.  
                                 Mr. Renu Gupta, Adv.

DHC                        Mr. A.D.N. Rao, Adv.  
                                 Ms. Neelam Jain, Adv.

Mr. P.K. Jain, Adv.

Mr. Mushtaq Ahmad, Adv.

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

Re: State of Andhra Pradesh

As per the affidavit filed by the High Court,  
for filling up of 18 Posts of District Judge (direct)  
and 17 posts through limited competitive examination  
written test is scheduled to be held on 23rd January,

2011. It is further stated that 32 officers have been  
promoted as District Judges on 23rd September, 2010 and

all steps shall be taken for completing the recruitment

process at the earliest.

As regards, the post of Civil

Judge (Sr. Division), it is stated that 41 Civil Judges

(Junior Division) have been empanelled for promotion as

Civil Judge (Senior Division)

on 28th October, 2010

and appointment orders will be issued shortly.

We

expect and hope that promotion orders for Civil Judge

(Senior Division), who have already been empanelled,

shall be issued at the earliest by the State and in any

case, not later than two weeks from today.

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In the affidavit, it is also pointed out that 69 candidates have been appointed as Civil Judge (Junior Division) on 21st August, 2010, and are undergoing training. As regards the remaining 29 vacancies, the affidavit is silent. We request the High Court to ensure that the said vacancies are filled up as per the schedule laid down by this Court vide order dated 4th January, 2007.

Re: State of Chattishgarh

As per the status report dated 1st December, 2010, filed in Court, final select list of District Judge (Entry Level), by promotion as well as by direct recruitment as also by limited competitive examination, has already been sent to the State Government on 19th November, 2010 for making appointments. We direct the State Government to take a final decision on these recommendations as expeditiously as possible and in any case, not later than four weeks from today.

Neither the High Court nor the State Government has filed any affidavit indicating the latest status of select list of 33 Civil Judges (Senior Division), stated to have been prepared on 7th September, 2010.

Let the requisite affidavit be filed within four weeks. If promotion orders for the said appointments have not been issued so far, they will be issued before the next date.

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Re: State of Gujarat

A Status report as on 23rd November, 2010, has

been filed in Court. We are satisfied with the progress made for recruitment/promotion at all levels of subordinate judiciary. We would only request the High Court to ensure that the process of evaluation of the answer sheets for the written examination conducted for direct recruitment of the District Judges is expedited.

Re: State of Himachal Pradesh

As per the affidavit filed by the High Court dated 9th September, 2010, for filling up of 3 vacancies through limited competitive examination; 3 vacancies by promotion and 6 vacancies in the Fast Tract courts, selection process has been completed and steps have been taken for appointment by making reference to the appointing authority, i.e., State Government. It is not clear from the affidavit as to whether actual recommendations for these appointments have been made to the State Government or not. We request the High Court to ensure that the requisite reference, if not already made, is made expeditiously. We further direct the State Government to process the said recommendations within four weeks of the receipt of the reference by the High Court.

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So far as the vacancies in the cadre of Civil Judge (senior Division) as also Civil Judge (Junior Division) are concerned, number of vacancies has not been indicated in the affidavit. The High Court is directed to take steps to ensure that all the vacancies are filled up expeditiously as per the schedule laid down in our order dated 4th January, 2007.

Re: State of Jharkhand

As per the affidavit filed on behalf of the High Court dated 13th April, 2010, regular appointments to the post of District Judge are held up because of the pendency of the writ petition (C) No. 4159/2008 and SLP(C) CC No. 4161 of 2009. As regards the vacancies in the cadres of Civil Judge (Senior and Junior Divisions), it is stated that two vacancies have recently been created in the cadre of Civil Judge (Senior Division) and insofar as the filling up of 65 vacancies in the cadre of Civil Judge (Junior Division) is concerned, the main entrance examination was held on 2nd September, 2009 by the State Public Service Commission and the result is awaited. However, as per the status report filed by the State Government vide affidavit dated 20th September, 2010, the recommendations made by the Public Service Commission in terms of their letter dated 3rd September, 2010, have been received and appointment letters would be issued after getting police verification. We direct

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the State Government to have the process of police verification completed within four weeks from today so that appointment letters are issued without any further delay.

Re: State of Maharashtra

Although in the affidavit dated 16th August, 2010, it is stated that the process of selection under limited competitive examination (42) and by promotion (13) had been initiated but learned counsel appearing for the High Court states that 60 appointments in the said two categories have already been made. As regards, the filling up of vacancies of District Judges (Direct), it is stated that names of 12 selected

candidates had been forwarded to the State Government

for further action in the month of June, 2010.

Learned

counsel appearing for the State submits that she has

not received any instructions in this regard. We

direct the State Government to issue appointment

letters, as expeditiously as possible and not later

than four weeks from today, if the appointments are

otherwise in order.

Learned counsel appearing for the High Court

states that all the vacant posts of Civil Judge (Senior

Division) have been filled up and process for filling

up of vacancies in the cadre of Civil

Judge(Junior Division) has already been initiated and

in fact written examination has already been held.

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Re: State of Bihar

It has been brought to our notice by the

learned Amicus Curiae that 217 posts of Civil Judge

(Junior Division) advertised by the Bihar Public

Service Commission on 9th August, 2008, have not yet

been filled up because of the controversy on the  
question of amendment in the recruitment rules,

suggested by the State Government with regard to the  
provision for reservation for SC/ST and OBC candidates.

It is clear from our order dated 23rd September, 2008,

that the process of recruitment had to be undertaken

immediately "as per existing rules". In light of the

said order, there was no occasion for the State or for

the Public Service Commission to hold any doubt on the

question of applicability of rules for filling up the

existing 217 vacancies. We have been informed that

preliminary examination for said recruitments had been

held on 31st December, 2009, but the results were not announced because of the aforesaid controversy. We direct that insofar as these 217 vacancies are concerned, the process of recruitment already initiated shall be expedited and completed, preferably within six months. This exercise shall be completed notwithstanding any interim orders by any Court.

We would also request the High Court as well as the State Government to ensure that the issue of

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provision for reservations, as suggested, is resolved expeditiously.

I.A. Nos. 91 and 92 of 2010  
I.A. Nos. 91 and 92 are dismissed.

[ Charanjeet Kaur ]  
Court Master

[ Kusum Gulati ]  
Court Master