

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. for directions and exemption from filing O.T. and intervention and permission for variation in the time schedule in the time schedule with office report)(For Directions)
WITH

SLP(C) NO. 9883 of 2009

(With appln. for directions and c/delay in filing SLP and permission to file additional documents and impleadment and exemption from filing O.T. and with prayer for interim relief and office report)

Date: 16/08/2010 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K.JAIN
HON'BLE MR. JUSTICE H.L. DATTU

For appellants Mr. Vijay Hansaria, Sr. Adv. (A.C.)
Ms. Sneha, Adv.

Ms. Asha Jain Madan, Adv.
Mr. Mukesh Jain, Adv.
Ms. Chhaya Kumari, Adv.
Mr. Ejaz Maqbool, Adv.

For petitioners
In SLP 9883/09 Mr. Amit Kumar, Adv.

For Respondent(s) Mr. Lakshmi Raman Singh, Adv.

Mr. Dharmendra Kumar Sinha, Adv.

Mr. DB Vohra, Adv.

For intervenor Mr. Arvind Kr. Tiwary, Adv.
Mr. Archana Kumari, Adv.
Mr. Ranjan Dwivedi, Adv.
Mr. Rakesh Kumar Singh, Adv.
Mr. K.K. Mohan, Adv.

Mr. Prakash Kumar Singh, Adv.

....2/-

C.A.No.1867/2006 .. contd. (It. 206 Ct.No.5 Dated 16.8.2010)
:2:

M.P. High Court Mr. C.D. Singh, Adv.
Mr. Jinu Merlyn Abraham, Adv.
Mr. Shashank, Adv.
Mr. Kamendra Mishra, Adv.

State of M.P. Mr. B.S. Banthia, Adv.
Mr. M.P. Singh, Adv.
Mr. Vikas Upadhyay, Adv.
Mr. L.D. Singh, Adv.
Mr. Merlyn, Adv.
Mr. Shashank S. Parihar, Adv.

Allahabad H.Court Mr. Rakesh Dwivedi, Sr. Adv.

Mr. Ashok K Srivastava, Adv.
Mr. Amit Sthalekar, Adv.
Mr. Vijai Shekhar Singh, Adv.
Mr. Shailwal Srivastava, Adv.
Mr. Debasis Misra, Adv.

For UOI Mr. A Mariarputham, Sr. Adv.
Mr. R.K. Rathore, Adv.
Mr. C.K. Sharma, Adv.
Mrs. Anil Katiyar, Adv.

Mr. T.S. Doabia, Sr. Adv.
Mr. Manpreet S. Doabia, Adv.
Ms. Sunita Sharma, Adv.
Mr. R.K. Rathore, Adv.
Mr. Ashok Bhan, Adv.
Mr. D.S. Mahra, Adv.

High Court of A.P. Mrs. C.K. Sucharita, adv.
Ms. Nirada Das, Adv.
Mr.T.V. Ratnam, Adv.

Orissa High Court Mr. Janaranjan Das, Adv.
Mr. Swetaketu Mishra, Adv.
Mr. P.P. Nayak, Adv.

For Maharashtra Mr. S.R. Singh, Sr. Adv.
Mr. Sunita Pandit, Adv.
Mr. Sanjay Kharde, Adv.
Ms. Asha G. Nair, Adv.

For Bombay H Court Mr. Aniruddha P Mayee, Adv.
Mr. Charudatta Mahindrakar, Adv.
Mr. Sachin Sharma, Adv.
Mrs. Rucha A. Mayee, Adv.

C.A.No.1867/2006 .. contd. (It. 206 Ct.No.5 Dated 16.8.2010) ...3/-
:3:

For State of Bihar Mr.Gopal Singh, Adv.
Mr. Manish Kumar, Adv.
Mr. Rituraj Biswas, Adv.

For State of Tripura Mr. Gopal Singh, Adv.
Mr. Manish Kumar, Adv.
Mr. Rituraj Biswas, Adv.

For State of West Bengal Mr. Bhaskar P. Gupta, Sr. Adv.
Ms. Tara Chandra Sharma, Adv.
Ms. Neelam Sharma, Adv.

For Arunachal Pradesh Mr. Anil Shrivastav, Adv.
Mr. Rituraj Biswas, Adv.

For State of U.P. Mr. Ashok S. Desai, Sr. Adv.
I.A. NO. 83 Mr. T.N. Singh, Adv.
Mr. Rajeev Dubey, Adv.
Mr. Kamendra Mishra, Adv.
Mr. D.K. Goswami, Adv.
Mr. Shrish Kumar Misra, Adv.

Mr. P.I. Jose, Adv.

Mr. Pradeep Misra, Adv.

Mr. Radha Shyam Jena, Adv.

Mr. Ashok Mathur, Adv.

For UPPSC Mr. Shail Kr. Dwivedi, Addl.A.G.
Ms. Vandana Mishra, Adv.
Ms. Binu Tamta, Adv.

For Uttaranchal Ms. Rachana Srivastava, Adv.

For Karnataka Mr. Krutin R. Joshi, Adv.
Mr. Sanjay R Hegde, Adv.

For State of Manipur Mr. KH Nobin Singh, Adv.

For Delhi H Court Mr. A Mariarputham, Adv.
Mrs. Aruna Mathur, Adv.
For M/s Arputham Aruna & Co., Advs.

For NCT Delhi Ms. Kamini Jaiswal, Adv.

C.A.No.1867/2006 .. contd. (It. 206 Ct.No.5 Dated 16.8.2010) :4:
....4/-

For Sikkim HC Mr. A Mariarputham, Adv. Genl. Sikkim.
Mrs. Aruna Mathur, Adv.
Mr. Amarjeet Singh Girsra, Adv.
For M/s Arputham Aruna & Co., Advs.
Mr. Vishnu Sharma, Adv.

For State of Chhattisgarh Mr. Atul Jha, Adv.
Mr. D.K. Sinha, Adv.
Mr. Jatinder Kumar Bhatia, Adv.

For State of Rajasthan Dr. Manish Singhvi, AAG
Mr. Devanshu Kumar Devesh, Adv.
Mr. Milind Kumar, Adv.

For State of Nagaland Mr. Edward Belho, Adv.
Mr. P. Athuimei R. Naga, Adv.
Mr. K. Enatoli Sema, Adv.
Mr. Rituraj Biswas, Adv.
Ms. Sumita Hazarika, Adv.

For Haryana Mr. Manjit Singh, Adv.
Mr. Kamal Mohan Gupta, Adv.

For Goa Ms. A Subhashini, Adv.

For State of Mizoram Mr. Pragyan P. Sharma, Adv.
Mr. P. V. Yogeswaran, Adv.
Mr. R Sathish, Adv.

For Tamil Nadu/ U.T.(Pondicherry) Mr. R Venkataramani, Sr. Adv.
Mr. V.G. Pragasam, Adv.
Mr. S.J. Aristotle, Adv.
Mr. Prabu Rama Subramanian, Adv.

Calcutta High Court Mr. Jaideep Gupta, Sr. Adv.
Mr. G.S. Chatterjee, Adv.
Mr. Raja Chatterjee, Adv.
Mr. Sachin Das, Adv.

For Chandigarh Ms. S Janani, Adv.

For Patna High Court Mr. Ajay Kumar Jha, Adv.
for M/s Parekh & Co., Advs.

For Assam Mr. Riku Sarma, Adv.
Ms. Navneet Kaur, Adv.
for M/s Corporate Law Group, Advs.

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C.A.No.1867/2006 .. contd. (It. 206 Ct.No.5 Dated 16.8.2010)
:5:

For State of Kerala Mr. G. Prakash, Adv.
Ms. Beena Prakash, Adv.
Mr. V. Senthil, Adv.

For State of Punjab Mr. Ajay Pal, Adv.
Mr. Prashant Shukla, Adv.
Mr. Abhinav Ramakrishan, Adv.
Mr. Arun K Sinha, Adv.

For State of HP Mr. Naresh K. Sharma, Adv.

For Uttar Pradesh Mr. T Mahipal, Adv.

For Jharkhand Mr. Ajit Kumar Sinha, Sr. Adv.
Mr. Ambhoj Kumar Sinha, Adv.

For Meghalaya Mr. Ranjan Mukherjee, Adv.

For J & K Mr. Anis Suharawardy, Adv.

For Gujarat Ms. Hemantika Wahi, Adv.
Ms. Jesalwahi, Adv.

Mr. Y Rajagopala Rao, Adv.
Mrs. D Bharathi Reddy, Adv.
Mr. Naresh Kumar, Adv.
Mr. V.N. Raghupathy, Adv.
Mr. Rajesh Srivastava, Adv.
Mr. Sunil Kumar Jain, Adv.
Mr. S.C. Patel, Adv.
Mr. Anuvrat Sharma, Adv.
Mr. R. Nedumaran, Adv.
Mr. Siddhartha Chowdhury, Adv.
Mr. Balaji Srinivasan, Adv.
Mr. Sunil Kumar Verma, Adv.
Mr. T. V. George, Adv.

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:6:

For State of Kerala Mr. V Giri, Sr. Adv.
Mr. T.G. Narayanan Nair, Adv.

For J & K HC Mr. Bharat Sangal, Adv.
Mr. R.R. Kumar, Adv.
Ms. Vernika Tomar, Adv.

Mr. Ugra Shankar Prasad, Adv.

Ms. Bina Gupta, Adv.

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

Mr. T.N. Rao, Adv.

Mr. Nishe Rajan Shonker, Adv.

Mr. Ashwani Kumar, Adv.

Mr. Shankar Divate, Adv.

Mr. Krishnanand Pandey, Adv.

In SLP 9883/09

Mr. Shiv Ram Sharma, Adv.

Mr. Abhijit Sengupta, Adv.

In SLP 9883/09

Mr. Ajit Kumar Sinha, Sr. Adv.

Mr. Ambhoj Kumar Sinha, Adv.

I.A. No. 78/10

Mr. Sapam Biswajit Meitei, Adv.

Mr. Ashok Kr. Singh, Adv.

In SLP 9883/09

Mr. J.L. Gupta, Sr. Adv

Anil Kumar, Adv.

Mr. D.P. Singh, Adv.

Mr. Sanjay, Adv.

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

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The Special Leave Petition be de-tagged and
listed before the appropriate bench within two
weeks along with I.As.

C.A.No.1867/2006 .. contd.

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(It. 206 Ct.No.5 Dated 16.8.2010)
:7:

C.A. NO. 1867 OF 2006

Re : State of Maharashtra

Although status report with regard to the
filling up of vacant posts of the District Judges
and the Civil Judges has not been filed either by
the High Court of Bombay or the State of
Maharashtra, learned counsel appearing for the High
Court of Bombay states that as per his
instructions, 12 candidates have been selected in
the State Higher Judicial Service examination
[District Judges (Direct)] and their names have

been forwarded to the State Government for further action. He further states that the process for filling up of vacancies under the limited competitive examination (42) and the promotion quota (13) has already been initiated, but he is unable to indicate the time schedule by which the process will be completed. As regards promotions to the cadre of Civil Judge (Senior Division), learned counsel submits that 60 vacant posts have been identified and the selection process has also been completed. The list of the selected candidates is likely to be placed before the Full Court for approval in the next week. Regarding

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filling up of vacancies of Civil Judge (Junior Division), according to the learned counsel, all existing vacancies have already been filled up and an advertisement has been issued for filling up of future vacancies.

Let all these facts be placed on record by the High Court by way of an affidavit, which shall be filed within four weeks. List on 24th September, 2010.

In Re: State of Kerala

Learned counsel for the State prays for some time to file the status report. Let him do so within two weeks. List on 10th September, 2010.

In Re: State of Andhra Pradesh

Neither the High Court nor the State is represented. Even the status report has not been filed by the High Court in terms of Order dated 20th April, 2010. Accordingly, we direct the Registrar General of the High Court as also the Secretary

(Law), State of Andhra Pradesh to appear in person along with the relevant records on 10th September, 2010.

C.A.No.1867/2006 .. contd. (It. 206 Ct.No.5 Dated 16.8.2010) ...9/-

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In Re: State of Jharkhand

A letter dated 9th July 2010 has been received from the Registrar General, wherein it is stated that in the on-going process of filling up of 65 vacancies of Civil Judge (Junior Division - Munsif), interviews of successful candidates in the written examination held in 2008 were scheduled to be conducted by the Jharkhand Public Service Commission, Ranchi from 14th July, 2010 to 24th July, 2010. We are confident that by now, a final list of the successful candidates must have been drawn. We direct that the Public Service Commission shall declare the final result of the selected candidates within two weeks, if the same has not yet been done. Requisite steps for issue of appointment letters to the selected candidates shall be taken by the High Court in terms of order dated 4th January, 2007 expeditiously and a report to that effect shall be filed within four weeks. List on 24th September, 2010.

C.A.No.1867/2006 .. contd. (It. 206 Ct.No.5 Dated 16.8.2010) ...10/-
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In re: State of Bihar

Status report is awaited from the High court as also from the State. However, learned counsel appearing for the State submits that 80 vacancies

for which requisition had been sent by the High Court have since been notified and the recruitment process has been initiated. Let the State as well as the High Court file affidavits with regard to all the existing vacancies in the cadre of District Judge, Civil Judge (Senior Division) and Civil Judge (Junior Division). The affidavit shall be filed within three weeks. List on 10th September, 2010.

In re: State of Uttar Pradesh

Mr. Ashok S. Desai, learned Senior Counsel appearing for the State very fairly states that as per his instructions, appointment letters in respect of 81 promotees to the post of Additional District Judges shall be issued within a period of four weeks. As regards the appointment of the direct recruits to the post of Additional District Judges, learned counsel submits that the question of their appointment has to be considered in a little greater detail. Be listed on 10th September, 2010.

...11/-

C.A.No.1867/2006 .. contd. (It. 206 Ct.No.5 Dated 16.8.2010)
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We may clarify that the seniority of the 81 newly promoted officers vis-a-vis the direct recruits shall be subject to the final orders which may be passed at the time of consideration of the issue of appointment of direct recruits. List on 10th September, 2010.

In re: State of West Bengal

List on 10th September, 2010.

In re: Rest of the States/U.Ts.

List on 24th September, 2010.

All the High Courts and the State Governments

shall file the latest status reports within four
weeks from today.

(VINOD LAKHINA)
Court Master

(KUSUM GULATI)
Court Master