

ITEM NO.6

COURT NO.1

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 1867/2006

MALIK MAZHAR SULTAN AND ANR.

Appellant(s)

VERSUS

U.P. PUBLIC SERVICE COMMISSION & ORS

Respondent(s)

(Regarding State of Chattisgarh, Orissa and J & K with I.A. No. 151, Extension of time and office report)

Date : 14/07/2016 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR

Mr. Vijay Hansaria, Sr.,Adv.
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Ms. S. Janani,Adv.
Ms. Sumita Hazarika,Adv.
Ms. Usha Nandini. V,Adv.

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

We regret to say that despite specific directions issued by this Court in terms of our Order dated 04.01.2007 in Malik Mazhar Sultan and Anr. Vs. Uttar Pradesh Public Service Commission and Ors. (2008 (17) SCC 703), the process of filling up of the vacancies in different cadres in the State of Chhatisgarh has remained slow and, if we may say so, rather lethargic. We are told by learned counsel for the High Court of Chhatisgarh who is assisted by the Registrar-General of the High Court that against 10 vacancies in the direct recruits category, the process of selection was started in the year 2015 but by the time it was concluded in March, 2015 it was realised that not a single candidate emerged successful for appointment. Fresh recruitment process is, it appears, awaiting a certain notification to be issued by the State Government. Learned counsel for the High Court has not been able to point out the provision under which such a notification is a condition precedent for initiating the recruitment process afresh. Be that as it may, we see no reason why the High Court can not take up the matter with the Government for issuing any such notification, if the same is otherwise one of the requirements under the Rules. We are also informed that as against 22 vacancies in the cadre of District Judges by promotion, the High Court has completed viva voce on 3rd, 4th and 5th May, 2016 and that the process of finalising the selection is at an advance stage. We hope and trust that the Chief Justice of the High Court will make an endeavour to expedite that process especially when in a State like

Chhatisgarh where a large number of vacancies in the cadre of District Judges are lying vacant.

The position regarding vacancies in the cadre of Civil Judge (Senior Division) is no different. There are, we are told, as many as 39 vacancies in that cadre, 13 candidates against which have been selected for promotion by the concerned Standing Committee of the High Court. As regards Civil Judges (Junior Division), 30 vacancies appear to have been notified for which a preliminary examination has been held in April, 2016. A written examination is scheduled to be held on 13.08.2016 after the result of the preliminary examination is declared.

We are told by Mr. Vijay Hansaria, learned Amicus that the process of notification of the vacancies and the conduct of examination has not been consistent with the time schedule prescribed by this Court in the judgment afore-mentioned. We would, therefore, request the Chief Justice of the High Court to look into the matter personally and ensure that the directions issued by this Court for timely filling up of the vacancies and completion of the selection process are complied with. We need hardly mention that it brings no credit to any one if such large number of vacancies remain unfilled for period of time. We will appreciate if a status report about the filling up of the vacancies is filed within two months by the High Court setting out the details of the selection/promotion made against the vacancies in question and also remaining vacancies, if any, that need to be filled up.

As regards the High Court of Odisha, we are informed that available vacancies for the year 2015 in the cadre of District Judges have been filled up as the entire process has been concluded. Vacancies for the year 2016 now need to be filled up, we expect the High Court to take steps to initiate the process and conclude the same as early as possible in terms of the judgment of this Court.

As regards filling up the vacancies of the Civil Judges (Junior Division) and (Senior Division), the High Court has initiated the process which ought to be completed expeditiously. Unfilled vacancies can be notified by the High Court to avoid any delay in the matter of appointment of judicial officers. We request the Chief Justice to look into the matter personally and ensure that the process is completed as expeditiously as possible.

Insofar as the State of Jammu and Kashmir is concerned, we are informed by learned counsel appearing for the High Court that there are a total of nine vacancies and that one of the Officer is currently on deputation to the Registry of this Court. The remaining eight vacancies have to be filled up by recruitment and by promotion. 4 out of the remaining 8 vacancies have to be filled up by direct recruitment and the remaining from by promotion. As regards direct recruitment, we are told that an examination has already been held and the selection process is likely to be concluded within two months from today.

Insofar as the vacancies by promotion are concerned, we are told that Committee of Judges constituted for purposes of selection and promotion is seized of the matter and recommendations are

expected to be made within next six weeks.

That leaves us with the appointment in the cadre of Civil Judges (Senior Division), where one vacancy is available due to deputation of an Officer to State Accountability Commission and 18 vacancies in the cadre of Civil Judges (Junior Division). There are 5 anticipated vacancies up to March, 2016. The matter had been referred to the State Government but the process was challenged in the High Court in Writ Petition No. 2172 of 2015 insofar as 12 such vacancies are concerned. The High Court it appears has issued certain directions in the matter, one of which required the Public Service Commission to carry forward the process of selection and to complete the same expeditiously. We hope and trust that the Chief Justice will pursue the matter at the appropriate level to ensure that the appointments are made without any loss of time.

I.A. No. 151:

Heard.

In the light of our Orders dated 20.01.2015, 26.02.2015 and 21.10.2015, we see no reason to restrain the High Court or the Public Service Commission from filling up the available vacancies in the cadre. I.A. No. 151 is dismissed.

List the cases pertaining to the States of Maharashtra, Gujarat, Karnataka and Bihar on 23.08.2016. The Registrars-General of the said High Courts shall file status reports regarding recruitments being made against the available vacancies in those

States a week before the date of hearing with an advance copies to Mr. Vijay Hansaria, learned A.C. The Registrars-General shall remain present on that date.

(Shashi Sareen)
AR-cum-PS

(Veena Khera)
Court Master