

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s).754/2016

TEHSEEN S. POONAWALLA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

[I.A.No.113796/2017 - Appropriate Orders/Directions;
I.A.No.121361/2017 - Clarification/Direction;
I.A.No.20073/2018 - Clarification/Direction;
I.A.No.121734/2017 - Exemption from filing O.T.;
I.A.No.121358/2017 - Exemption from filing O.T.;
I.A.No.127557/2018 - Exemption from filing O.T.;
I.A.No.126621/2018 - Exemption from filing O.T.;
I.A.No.128348/2018 - Extension of time;
I.A.No.36761/2017 - Impleadment;
I.A.No.116511/2018 - Intervention Application;
I.A.No.2/2017 - Intervention Application;
I.A.No.6718/2018 - Intervention Application;
I.A.No.121355/2017 - Intervention/Impleadment;
I.A.No.113794/2017 - Intervention/Impleadment;
I.A.No.9068/2018 - Permission to file additional documents/facts;

WITH

[ITEM NO.5.1 - W.P.(C) No.764/2016 (PIL-W)];
[ITEM NO.5.2 - W.P.(C) No.768/2016 (PIL-W)];
[ITEM NO.5.3 - W.P.(C) No.732/2017 (PIL-W)];
[ITEM NO.5.4 - W.P.(CrI.) No.122/2017 (PIL-W)];
[CONMT.PET.(C) No.1497/2018 in W.P.(C) No.754/2016 (PIL-W)
(FOR ADMISSION)];

AND

[ITEM NO.6 - CONMT.PET.(C)NO.1986/2017 IN W.P.(C)NO.732/2017
(FOR ADMISSION AND I.A.NO.141628/2017-EXEMPTION FROM FILING O.T.)].

Date : 24-09-2018 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Mr. Sanjay R. Hegde, Sr. Adv.
Mr. Anas Tanwir, Adv.
Mr. Fuzail Ahmad Ayyubi, Adv. [AOR]
Mr. Ebaad, Adv.
Mr. Jawad, Adv.

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Ms. Indira Jaising, Sr. Adv.
Mr. Shadan Farasat, Adv. [AOR]
Ms. Warisha Farasat, Adv.
Ms. Rudrakshi Deo, Adv.
Mr. Paras Nath Singh, Adv.

Mr. Colin Gonsalves, Sr. Adv.
Ms. Mangla Verma, Adv.
Mr. Satya Mitra, Adv. [AOR]

For Respondent(s)/
Applicant (s)

Mr. K.K. Venugopal, AG
Ms. Binu Tamta, Adv.
Ms. Rukhmini bobde, Adv.
Ms. L. Charanya, Adv.
Mr. B.V. Balaramdas, Adv. [AOR]
Mr. Raj Bahadur Yadav, Adv.
Mr. B. Krishna Prasad, Adv. [AOR]

Rajasthan

Mr. Tushar Mehta, ASG
Mr. Shiv Mangal Sharma, Adv. AAG
Mr. Puneet Parihar, Adv.
Mr. Rohit K. Singh, Adv. [AOR]

Mr. Siddhartha Luthra, Sr. Adv.
Ms. Archana Pathak Dave, Adv. [AOR]
Mr. Santosh Kumar, Adv.

Mr. Sidharth Luthra, Sr. Adv.
Mr. Ayush Anand, Adv.
Mr. P.S. Sudheer, Adv. [AOR]
Mr. Santosh Kumar, Adv.
Mr. Bharat Sood, Adv.

Ms. Supriya Juneja, Adv. [AOR]
Ms. Varsha Poddar, Adv.
Mr. Subodh S. Patil, Adv. [AOR]

Mr. Sangram S.S., Adv.
Mr. V. Batra, Adv.
Mr. Shree Pal Singh, Adv. [AOR]

Meghalaya

Mr. Ranjan Mukherjee, Adv. [AOR]
Mr. K.V. Kharlingdoh, Adv.
Mr. Daniel Stone Lyngdoh, Adv.

J & K

Mr. M. Shoeb Alam, Adv. [AOR]
Mr. Ujjwal Singh, Adv.
Mr. Mojahid Karim Khan, Adv.

Nagaland

Ms. K. Enatoli Sema, Adv. [AOR]
Mr. Amit Kumar Singh, Adv.

A&N Admn.	Ms. G. Indira, Adv. [AOR] Mr. Mirnal Kathi Mondal, Adv.
Chhattisgarh	Mr. Atul Jha, Adv. Mr. Sandeep Jha, Adv. Mr. Dharmendra Kumar Sinha, Adv. [AOR]
Uttarakhand	Mrs. D. Bharathi Reddy, Adv. [AOR] Ms. Gitanjali N. Sharma, Adv. Ms. Vidyottma, Adv. Ms. Rachna Gandhi, Adv. Mr. Chanchal Kumar Ganguli, Adv. [AOR]
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Uttar Pradesh	Ms. Aishwarya Bhati, AAG Mr. Rajeev Kumar Dubey, Adv. Mr. Kamendra Mishra, Adv. [AOR]
Karnataka	Mr. V.N. Raghupathy, Adv. [AOR] Mr. Parikshit P. Angadi, Adv.
Jharkhand	Mr. Tapesht Kumar Singh, Adv. [AOR] Mr. Aditya Pratap Singh, Adv. Mr. Mohd. Waquas, Adv. Mr. B.V. Balaram Das, Adv. [AOR]
Madhya Pradesh	Mr. Sunny Choudhary, Adv. [AOR]
Goa	Mr. Shishir Deshpande, Adv. [AOR] Mr. Santosh S. Rebello, Adv. Mr. Anrag Sharma, Adv.
Odisha	Mr. Sanjeeb Panigrahi, Adv. [AOR] Mr. Mohammed Shaffi Mather, Adv.
Tamil Nadu	Mr. M. Yogesh Kanna, Adv. [AOR] Mr. S. Partha Sarathi, Adv. Mr. Raja Rajeshwaran, S., Adv.

Punjab	Ms. Jaspreet Gogia, Adv. [AOR] Mrs. Anil Katiyar, Adv. [AOR] Mr. D. Mahesh Babu, Adv. [AOR] Mr. Adarsh Upadhyay, Adv. [AOR]
Puducherry	Mr. V.G. Pragasam, Adv. [AOR] Mr. S. Prabu Ramasubramanian, Adv. Mr. S. Manuraj, Adv. Mr. Arjun Garg, Adv. [AOR]
Himachal Pradesh	Mr. Abhinav Mukerji, Adv. [AOR][AAG] Mrs. Bihu Sharma, Adv. Ms. Pratishtha Vij, Adv.
Andhra Pradesh	Mr. Guntur Prabhakar, Adv. [AOR] Ms. Prerna Singh, Adv. Mr. Gopal Singh, Adv. [AOR]
Kerala	Mr. C.K. Sasi, Adv. [AOR] Ms. Nayantara Roy, Adv.
Tripura	Mr. Shuvodeep Roy, Adv. [AOR] Mr. Rituraj Biswas, Adv.
Assam	Mr. Shuvodeep Roy, Adv. [AOR] Mr. Somnath Banerjee, Adv.
Mizoram	Mr. Pragyan Sharma, Adv. Mr. Mudit, Adv. Mr. P.V. Yogeswaran, Adv. [AOR]
Sikkim	Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. Ms. Geetanjali, Adv. for M/s. Arputham Aruna & Co., Advs. [AOR]
Haryana	Mr. Anil Grover, AAG Ms. Noopur Singhal, Adv. Mr. Sanjay Kr. Visen, Adv. [AOR]
Manipur	Mr. Leishangthem Roshmani Kh., Adv. Ms. Maibam Babina, Adv. Ms. Anupama Ngangom, Adv.

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Ms. Rashmi Singhania, Adv. [AOR]

West Bengal

Mr. Suhaan Mukerji, Adv.

Ms. Astha Sharma, Adv.

Ms. Kajal Dalal, Adv.

Ms. Dimple Nagpal, Adv.

Mr. Amit Verma, Adv.

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

W.P.(C)No.754/2016 etc.

On 07.09.2018 this Court took note of the submission advanced by Mr. K.K. Venugopal, learned Attorney General for India that the Union of India had constituted an Empowered Group of Ministers for the purpose of considering the nature of legislation to be brought in. Bearing that in mind, a direction was issued to the States and Union Territories to file their responses in consonance with our principal judgment and order dated 17.07.2018 within two weeks thence. Be it noted, by that date States of Tamil Nadu, Madhya Pradesh, Gujarat, Jharkhand, Tribura, Assam, Haryana, Uttar Pradesh, Rajasthan and Bihar and two Union Territories, namely, Lakshdweep and Puducherry had filed the Compliance Reports. It was further directed that all the States shall upload the action taken by them so that all concerned can be aware about the steps taken by the States, which are necessary for creating peace and harmony in the society and deterring individuals who take the law into their own hands.

It is submitted by Mr. Sanjay R. Hegde, learned senior counsel appearing for the petitioner that some of the States have complied with and also taken steps to create awareness for the purpose of maintaining peace and tranquility in the society and deterring the people who are engaged in moral policing. He has given a list of 12 States / Union Territories which have not filed affidavits in compliance of the abovementioned order. The list is as follows :

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- “1. Arunachal Pradesh
2. Dadra and Nagar Haveli
3. Daman and Diu
4. National Capital Territory of Delhi
5. Himachal Pradesh
6. Karnataka
7. Manipur
8. Meghalaya
9. Mizoram
10. Nagaland
11. Punjab
12. Telangana”

When we took up the matter, we have been apprised that States of Arunachal Pradesh, Himachal Pradesh, Manipur, Meghalaya, Mizoram and Punjab have either filed Compliance Report or are in the process of filing the same.

It may be noted that no one has appeared on behalf of State of Telangana. There is also no appearance on behalf of Union Territories of Dadra and Nagar Haveli; Daman and Diu; and National Capital Territory of Delhi.

As far as the States and Union Territories which have not filed Compliance Report are directed to do the same within a week hence.

Registry is directed to send a copy of the order passed today to the Chief Secretary of the National Capital Territory of Delhi and State of Telangana to do the needful.

As far as Union Territories of Dadra & Nagar Haveli and Daman & Diu are concerned, a copy of the order be sent to the respective Administrator/competent authority of the U.T. Administration for compliance of the same.

At this juncture, Mr. Sanjay Hegde, learned senior counsel submitted that he shall prepare a list of cases where no compensation has been awarded. According to him, some of

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the States/ Union Territories have framed the schemes and granted compensation but some have not. He shall prepare a separate chart in relation to each State/Union Territory and file the same before the Registry after serving a copy thereof on the counsel for the concerned States/Union Territories in the course of the day. After the chart is submitted, learned counsel for the respective State/Union Territory shall file response thereto within a week hence.

Ms. Indira Jaising, learned senior counsel has drawn our attention to Direction No.A(ix) which comes within the heading 'Preventive Measures' and has submitted that it has not been complied with. The said direction reads as under :

"(ix) The Central and the State Governments should broadcast on radio and television and other media platforms including the official websites of the Home Department and Police of the States that lynching and mob violence of any kind shall invite serious consequence under the law."

On a query being made, Mr. Venugopal, learned Attorney General for India and Mr. Tushar Mehta, learned Additional Solicitor General appearing for Central Government submitted, the same shall be done, if not already done, within a week hence. Similarly, all the State Governments shall comply with the said direction absolutely religiously within a week from today.

It has to be borne in mind that the said direction was issued so that people would realise the gravity of their act and the effect on the law and order situation. The said purpose has to be put on the high pedestal and people must realise that involving in such kind of activities will invite the wrath of law.

Contempt Petition(C)Nos.1497/2018 and 1986/2017

It is submitted by Mr. Mehta, learned Additional Solicitor General appearing for the State of Rajasthan that

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pursuant to order dated 07.09.2018 he has filed the report on 20.09.2018. A copy thereof be served on Mr. Shadan Farasat, learned counsel who is assisting Ms. Indira Jaising.

All the matters

List after two weeks.

(Subhash Chander)
AR-cum-PS

(H.S. Parasher)
Assistant Registrar