

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

RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO.660 OF 2005

STATE OF KARNATAKA

Petitioner(s)

VERSUS

SECRETARY, M/O WATER RESOURCES & ORS.

Respondent(s)

(With office report)

Date: 29/08/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE P.P. NAOLEKAR

HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Petitioner(s)

Mr. F.S. Nariman, Sr. Adv.

Mr. S.S. Javali, Sr. Adv.

Mr. Sanjay R. Hegde, Adv.

Mr. Subhash Sharma, Adv.

Mr. Brijesh Kallappa, Adv.

For Respondent(s)

No.1

Mr. A. Sharan, ASG

Mr. S.W.A. Qadri, Adv.

Mr. D.S. Mahra, Adv

No.2

Mr. A. Sharan, ASG

Mr. S.W.A. Qadri, Adv.

Mr. V.K. Verma, Adv.

No.3 Mr. T.N. Rao,Adv.

No.4 Mr. D.M. Nargolkar,Adv.

For applicant(s) Mr. D.N. Goburdhan,Adv.

(Smt.(Dr.) Najma Ms. Pinky Anand,Adv.

Heptullah)

UPON hearing counsel the Court made the following

O R D E R

This Writ Petition has been filed by the State of Karnataka in the

month of December, 2005, impleading

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therein Secretary, Ministry of Water Resources, Government of India and

Secretary, Ministry of Urban Development, Government of India apart from

the States of Andhra Pradesh and Maharashtra praying therein (i) to issue

appropriate directions to the said respondents to complete the renovation of

the building for the office of Krishna Water Disputes Tribunal (in short "the

Tribunal") together with all facilities so as to enable the Tribunal to commence

its sittings in January, 2006,(ii) to direct the respondents to provide all

infrastructural facilities, viz., computers, faxes, photocopying machines, etc., to

the Tribunal, on or before 09.01.2006 and (iii) to allot suitable and appropriate

accommodation in New Delhi for the residence of the Hon'ble Chairman, who

was a sitting Judge of the Supreme Court and the two Members who were at

the time of the constitution of the Tribunal sitting Judges of High Court.

It was disclosed in the Writ Petition that by Notification dated, 2nd April, 2004 issued by the Government of India, the Tribunal was constituted for adjudicating Inter-State River Water Disputes over river Krishna and the river valley thereof. Although the Tribunal was constituted by the above Notification in April, 2004 and accommodation for its office was provided, but for a period of more than 11/ 2 years the Tribunal could not become functional to an appreciable extent and was not able to hold its regular sittings as neither infrastructure for the office nor residential accommodation was provided to the Chairman and Members and for attending the meeting for the disposal of some urgent interlocutory application(s), they had to travel from their respective States to Delhi, causing enormous financial burden to the Exchequer. As period of more than one year and six months expired in this manner and it was not possible for the Tribunal to hold its regular sitting, the same necessitated filing of the present Writ Petition before this Court.

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When the Writ Application was placed before this Court on 05.01.2006, notice to the Union of India was issued and in addition, dasti service was also ordered to be effected. Upon receipt of the notice in the Month of March, 2006 a counter affidavit was filed on behalf of the Secretary, Ministry of Water Resources, Government of India passing their buck upon

the Ministry of Urban Development on whose behalf no affidavit was filed .

Thereafter when the case was placed on 17.04.06, this Court having not appreciated attitude of the Ministry of Water Resources directed the learned Additional Solicitor General to see that counter affidavit is filed on behalf of the Ministry of Urban Development, whereupon only an affidavit could be filed on their behalf to the effect that government accommodation could not be provided as types VII and VIII bungalows were not lying vacant. On 07.07.06 when the case was listed before this Court, by that time infrastructure could be provided only for office of the Tribunal, but as till then, no accommodation was provided for the residence of the Hon'ble Chairman and any of the two Members, the Court reacted very sharply and while adjourning the matter to 13th July, 2006 told the learned Additional Solicitor General that if in the meantime the accommodation was not allotted either to the Chairman or to any of the two Members, it shall take serious view of the matter and take all persons responsible to task. It was only then on 13.07.06 further affidavit was filed on behalf of the Ministry of Urban Development stating therein that so far as the Chairman was concerned, a Type VIII Bungalow, i.e., Bungalow No. 4, Akbar Road was allotted, which was at that time in occupation of Smt.(Dr.) Najma Heptullah, Member of Parliament (Rajya Sabha) and a Type VII Bungalow, Bungalow No. AB-06, Pandara Road to one of the Members of the Tribunal, Shri Justice S.P. Srivastava. So far as another Member, Shri Justice D.K. Seth is concerned, it was stated in the affidavit that he

informed the Ministry that he did not want any Government accommodation at present and shall make request for the same when required. As the Bungalow No. 4, Akbar Road was not vacant the case was adjourned to 27.07.06 with a clear direction that all possible efforts shall be made at every level so that the said bungalow is vacated within two weeks.

On 27.07.06 an application was filed for intervention on behalf of Smt.(Dr.)Najma Heptullah stating therein that she was allotted Bungalow No.

16, Teen Murti Lane which was in occupation of another Member of Parliament Shri Jaswant Singh, Leader of Opposition in Rajya Sabha on whose behalf a statement was made that he shall vacate the bungalow in his occupation between 20th and 25th August, 2006 as would appear from letter annexed to the application. It was stated that after the said bungalow is vacated, about 10 to 15 days' time would be taken for renovation work, as

such, Smt.(Dr.)Najma Heptullah would be able to vacate bungalow No. 4, Akbar Road by 10th September, 2006. The case was directed to be placed on 29th August, 2006 to ensure that Bungalow No. 16, Teen Murti Lane is vacated before that date.

In the meantime, an application was filed on behalf of the Ministry of Urban Development for clarification of our orders dated, 13th and 27th July, 2006 and seeking permission of this Court to exchange Bungalow No. 4, Akbar

Road with Bungalow No. 11, Thyagaraja Marg which was at that time in the pool of Supreme Court, which was granted on 22nd August, 2006 and consequently the Ministry of Urban Development was permitted to allot Bungalow No. 11, Thyagaraja Marg to the Chairman of the Tribunal in place of Bungalow No. 4, Akbar Road.

Today the matter has been placed before us as directed on 27.07.06

and we have been informed by the learned Additional Solicitor General that Shri Jaswant Singh, Leader of the Opposition in Rajya Sabha has already vacated Bungalow No. 16, Teen Murti Lane.

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As Smt.(Dr.) Najma Heptullah stated that she would vacate the Bungalow No. 4, Akbar Road by 10th September, 2006, let this case be placed for further orders on 12th September, 2006. All concerned including Secretary, Ministry of Urban Development are directed to see that Bungalow No.16, Teen Murti Lane is made ready latest by 9th September, 2006, so that Smt.(Dr.) Najma Heptullah may shift there on 10th September, 2006, failing which this Court would be compelled to take harsh action against the delinquent officials/staff of the Ministry.

The present case depicts chaotic state of affairs prevalent in the Central as well as different State Governments. Under Central and State Acts various Tribunals/Fora for exercising judicial/quasi-judicial powers are

required to be constituted. Sometimes they are constituted, but at times not

constituted at all in the exercise of powers conferred under relevant Statutes

and in case so constituted its functionaries are either not appointed or

enormous delay is caused in their appointment, in case the functionaries are

appointed the Tribunals/Fora do not become functional because of lack of

infrastructure, e.g., building, furnishing, non-sanctioning or non-appointment

of the staff, not providing Government Bungalows to its functionaries and

several other reasons. The instances of non-filling of the vacancies in the said

Tribunals/Fora for years together after falling vacant are also not uncommon

for which there does not appear to be any reason whatsoever excepting the

lethargy, whim, caprice and fancy of the concerned Government and/or its

functionaries. We find, at times, difficulties are being felt in the proper

functioning of the Tribunals/Fora, e.g., causing unnecessary delay in disposing

of the matter pending before it without any reasonable excuse for which

direction may be required to be given to the concerned Government for

taking appropriate measures including changing constitution of the

Tribunals/Fora by replacing

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the existing personnel with new ones so that without any reasonable delay

matter may be decided by Tribunals/Fora. Many times, we find that

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different States even in Civil and Criminal Courts, subordinate to the

concerned High Court vacancies remain unfilled for years together for which

there can be no justification whatsoever at any level resulting in mounting of arrears of cases.

Subordinate It is a matter of great concern that in District and

Courts throughout the country, 2860 posts of Judicial Officers were lying

vacant as on 24th July, 2006 in different States and Union Territories details of

which are given hereunder:-

S.No ies	Name of State/Union Territory	Sanctioned Strength	Working Strength	Vacanc
1. 779	Uttar Pradesh	2172	1393	
2. 67	Andhra Pradesh	827	760	
3. 249	Maharashtra	1610	1361	
4. 109	West Bengal	706	597	
5. 22	Chhatisgarh	235	213	
6. 125	Delhi	394	269	
7. 56	Gujarat	913	857	
8. 17	Assam	285	268	
9. 3	Maghalaya	10	7	
10. 23	Tripura	83	60	
11. 6	Manipur	34	28	

12.	Nagaland	24	25
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13.	Himachal Pradesh	118	112
6			
14.	Jammu & Kashmir	191	180
11			
15.	Jharkhand	447	404
43			
16.	Karnataka	809	676
133			
17.	Kerala	420	393
27			
18.	Tamil Nadu	762	723
39			
19.	Pondicherry	22	16
6			
20.	Madhya Pradesh	935	781
154			
21.	Orissa	477	441
36			
22.	Bihar	1352	845
507			
23.	Punjab	328	250
78			
24.	Haryana	307	224
83			
25.	Chandigarh	20	17
3			
26.	Rajasthan	821	717
104			
27.	Sikkim	15	7
8			
28.	Uttaranchal	265	99
166			
	TOTAL	14582	11723
2860			

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We do not appreciate the attitude of different Governments and

its functionaries who as well are responsible for the mounting arrears of

cases in Civil & Criminal Courts apart from Tribunals/Fora constituted under various enactments. We feel that it would be just and expedient to give certain directions for better administration of justice and to control the arrears of cases in District and Subordinate Courts/Tribunals/Fora, therefore, it would be necessary to hear Central Government, Governments and Public Service Commissions of all the States and Union Territories, High Courts, the Tribunals/Fora constituted both under Central as well as State enactments.

Issue notices to the Union of India through its Cabinet Secretary, Governments of all the States and Union Territories through their respective Chief Secretaries/Administrators, Chairmen, Public Service Commissions of all the States and Union Territories, Registrar General of all the High Courts, Registrar [Administration] of Orissa High Court and Tribunals/Fora constituted under Central and State enactments through their respective Administrative Heads. It is made clear that so far as the Tribunals/Fora, as referred to above, functioning within the jurisdiction of High Courts are concerned, the High Court concerned shall issue notices to them on behalf of this Court. Needless to say that copy of this order is to be sent along with the notice.

Place the matter on 31st October, 2006.

Let a copy of this order be made over to the learned counsel appearing on behalf of the petitioner as well as learned Additional Solicitor General by tomorrow.

[Alka Dudeja]

Court Master

[Madhu Saxena]

Court Master