

ITEM NO.6

COURT NO.1

SECTION PIL-W

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). 1045/2018

HARSH MANDER

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

Date : 02-05-2019 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE SANJIV KHANNA

Mr. Gourab Banerji, Sr. Adv. (A.C.)

For Petitioner(s) Mr. Prashant Bhushan, AOR (A.C.)

For Respondent(s) Mr. Tushar Mehta, S.G.
Ms. Aishwarya Bhati, Sr. Adv.
Ms. Binu Tamta, Adv.
Mr. B. V. Balaram Das, AOR

Mr. Tushar Mehta, S.G.
Mr. Shuvodeep Roy, AOR
Ms. Diksha Rai, Adv.
Ms. Palak Mahajan, Adv.
Mr. Rajat Nair, Adv.
Mr. Ankit Roy, Adv.
Mr. Rijuk Sarkar, Adv.
Ms. Manreet Kaur, Adv.
Mr. Alok Kumar, Chief Secretary, Govt. of Assam
Mr. Ashutosh Agnihotri, Commissioner-cum-Secy.,
Govt. of Assam

Mr. Debojit Borkakati, AOR
Mr. Vivek Sonkar, Adv.

For applicant Ms. Uttara Babbar, Adv.
Mr. Manan Bansal, Adv.

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

Shri Harsh Mander has handed over copies of the applications in the Court. The said applications are taken on record.

Shri Harsh Mander, who has filed Civil Writ Petition No. 1045 of 2018, by this application has sought recusal of the Chief Justice from the Bench hearing the matter on the grounds stated in his application.

Having perused the said grounds, we would like to say that a litigant should not be permitted and allowed to question a Judge on perceived bias especially after hearing has commenced and orders on different dates have been passed. Normally, this should be left to the Judge himself who is bound by the oath of office to administer justice to all persons alike without fear, favour and prejudice. The litigant, without any firm basis, cannot be permitted to raise such objection on the basis of the court hearing. To do so, would encourage parties to ask for change of the Judge in the hope that someone else is more likely to agree with them and not take a contrary view. Choosing judges in such a manner during the course of hearing would directly interfere with the administration of justice. The grounds stated by Shri Harsh Mander in his application for recusal of the Chief Justice from the Bench therefore have the potential of causing damage, harm and stall judicial adjudication. We would also observe that judicial functions, sometimes, involve performance of unpleasant and difficult tasks, which require asking questions and soliciting answers to arrive at a just and fair

decision. If the assertions of bias as stated are to be accepted, it would become impossible for the Judge to seek clarifications and answers. {see observation of Kurian Joseph, J. in Supreme Court Advocates-on-Record Association v. Union of India (Recusal Matter), (2016) 5 SCC 808}. Therefore, it would be in the institutional interest for the present Bench to hear the matter which we propose to do on the next date fixed. We dismiss the recusal petition on the above-stated grounds. The application for permission to appear and argue as petitioner in person also stands disposed of.

Further, while keeping Civil Writ Petition No. 1045 of 2018 pending, we direct the Registry to strike off the name of Shri Harsh Mander as the petitioner and substitute Supreme Court Legal Services Committee as the petitioner instead.

Shri Prashant Bhushan, learned counsel, who is present in Court and was earlier appearing for Shri Harsh Mander, has agreed to appear as an amicus curiae in Civil Writ Petition No. 1045 of 2018.

The matter be listed on 09.05.2019.

(SUSHIL KUMAR RAKHEJA)
AR CUM PS

(ANAND PRAKASH)
BRANCH OFFICER