

ITEM NO.64

COURT NO.9

SECTION IV-A

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

MA No.1151 of 2018 in CA No.2368/2011

(Arising out of impugned final judgment and order dated 20-03-2018
in C.A. No.2368/2011 passed by the Supreme Court Of India)

B.K. PAVITRA & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No.66814 of 2018 - For placing on record Compliance Orders)

WITH

MA No.1152/2018 in C.A. No.2369/2011 (IV-A)

W.P.(C) No.764/2018 (X)

(IA No.88163/2018 - For grant of Interim Relief)

W.P.(C) No.769/2018 (X)

(IA No.88278/2018 - For grant of Interim Relief)

W.P.(C) No.791/2018 (X)

(IA No.90624/2018 - For grant of Interim Relief)

W.P.(C) No.823/2018 (X)

(IA No.94270/2018 - For grant of Interim Relief)

W.P.(C) No.827/2018 (X)

(IA No.94669/2018 - For grant of Interim Relief)

W.P.(C) No.850/2018 (X)

(IA No.98464/2018 - For grant of Interim Relief)

W.P.(C) No.875/2018 (X)

W.P.(C) No.872/2018 (X)

(IA No.101719/2018 - For grant of Interim Relief; and, IA
No.101721/2018 - For exemption from filing OT)

W.P.(C) No.901/2018 (X)

W.P.(C) No.879/2018 (X)

Date : 12-10-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT

HON'BLE MR. JUSTICE K.M. JOSEPH

Counsel for the Parties:

Dr. Rajeev Dhavan, Sr. Adv.

Mr. Kumar Parimal, Adv.

Mr. Smarhar Singh, Adv.

Ms. Kiran Suri, Sr. Adv.
Mr. S.J. Amith, Adv.
Dr. (Ms.) Vipin Gupta, Adv.
Mr. Kanu Agarwal, Adv.
Mr. D. Kumanan, Adv.
Ms. Aishwarya Kumar, Adv.
Mr. Pulkit Tare, AOR

Mr. Mukul Rohatgi, Sr. Adv.
Mr. Basava Prabhu S. Patil, Sr. Adv.
Mr. Devadatt Kamat, AAG
Mr. V.N. Raghupathy, AOR
Mr. Parikshit P. angadi, Adv.
Mr. Aditya Bhat, Adv.
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Mr. Javeddur Rahman, Adv.
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Mr. Sudhir Naagar, AOR
Mr. Naveen R. Nath, AOR
Ms. Christi Jain, AOR

UPON hearing the counsel the Court made the following

O R D E R

1. After the judgment was rendered by this Court in *B.K. Pavitra & Others v. Union of India & Others*, (2017) 4 SCC 620, contempt petitions were filed submitting *inter alia* that the directions issued in the judgment were not followed. Those contempt petitions were disposed of by order dated 20.03.2018 making certain observations.
2. According to the contempt petitioners, the directions issued by this Court were still not being followed in its entirety and as such they had prayed for consequential reliefs by filing Miscellaneous Applications.
3. The Karnataka Extension of Consequential Seniority to Government Servants Promoted on the basis of Reservation (to the Posts in the Civil Services of the State) Act, 2017 came into force on 23.06.2018.

4. On 28.6.2018, stand was taken by the State in affidavit filed in this Court that with the above enactment, the basis or the foundation of the judgment stood taken away. Later, independent writ petitions were filed challenging the validity of the aforesaid legislation which are still pending consideration by this Court.

5. While the matters were under consideration, learned Advocate General for the State of Karnataka appeared before this Court on 27.7.2018. During the course of hearing, it was suggested by the Court that pending consideration by this Court, status-quo may not be altered, which suggestion the learned Advocate General orally agreed and accepted.

6. It must be put on record that a decision has since than been rendered by this Court in *Jarnail Singh & Others v. Lachhmi Narain Gupta & Others*, reported in 2018 (11) SCALE 510.

7. Today, Mr. Mukul Rohatgi learned Senior Counsel appearing for State of Karnataka submitted that since there is a legislation passed by the Karnataka Legislature, and, secondly, in view of the decision of this Court in *Jarnail Singh (supra)*, the State would no longer go by the oral assurance of the learned Advocate General and must not be bound to the assurance given by the learned Advocate General on the earlier occasion. The stand taken by Mr. Rohatgi is supported by learned Senior Counsel Mr. Dinesh Dwivedi, Ms. Indira Jaising and Mr. Basava Prabhu S. Patil.

8. Dr. Rajiv Dhawan and Ms. Kiran Suri, learned Senior Counsel appearing for the other side however submitted that the intent of the Legislation was only to nullify the effect of the judgment and, as such, going by the decisions of this Court starting from *Shri Prithvi Cotton Mills Ltd. & Another v. Broach Borough Municipality & Others*, (1969) 2 SCC 283, and, *Madan Mohan Pathak & Another v. Union of India & Others*, (1978) 2 SCC 50, it was not open to render the judgment of this Court ineffective, without taking away the basis or foundation of the judgment which was not so done in the present matter.

9. Since the matters are of urgent nature, we deem it appropriate to list these matters for final hearing on 23.10.2018. We must record that the pleadings stand exchanged between the parties and matters are ripe for consideration.

(MUKESH KUMAR)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER