

ITEM NO.2

COURT NO.1

SECTION III-A/PIL-W

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 &amp; ANR.

APPELLANT(S)

VERSUS

U.P. PUBLIC SERVICE COMMISSION  
THROUGH ITS SECRETARY & ORS.

RESPONDENT(S)

[FOR STATE OF MADHYA PRADESH (HIGH COURT OF MP), MADRAS (HIGH COURT OF MADRAS), ODISHA (HIGH COURT OF ORISSA), BIHAR (HIGH COURT OF PATNA) AND PUNJAB AND HARYANA (HIGH COURT OF PUNJAB & HARYANA) ALONG-WITH STATE OF KARNATAKA (HIGH COURT OF KARNATAKA) AND KERALA (HIGH COURT OF KERALA)]

[IA 152/2016-APPLN. FOR DIRECTIONS,

IA 153/2017-APPLN. FOR PERMISSION FOR VARIATION IN TIME ,

IA 117790/2017-APPLN. FOR APPROPRIATE ORDERS/DIRECTION,

IA 70330/2018-EXTENSION OF TIME

IA 70324/2018-EXTENSION OF TIME

IA 77756/2017- APPLN. FOR INTERVENTION

IA 178581/2018 - INTERVENTION APPLICATION

IA 183142 AND 31/2019 - INTERVENTION AND EXEMPTION FROM FILING O.T.

APPLICATIONS

IA 186082/2018 - INTERVENTION APPLICATION

IA 8191 AND 8198 OF 2019 - INTERVENTION AND DIRECTIONS APPLICATIONS]

WITH

SMW(C) NO. 1/2017 (PIL-W)

SMW(C) NO. 2/2018 (PIL-W)

(MR. SHYAM DIVAN, SR. ADV., MR. K.V. VISHWANATHAN, SR. ADV., MR. VIJAY HANSARIA, SR. ADV. AND MR. GAURAV AGRAWAL, ADV. RESPECTIVELY HAVE BEEN APPOINTED AS AMICUS CURIAE IN THE INSTANT MATTER)

Date : 17-01-2019 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE L. NAGESWARA RAO

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

**AMICUS CURIAE**

State Of U.P.,  
Maharashtra, Goa W.B.  
Chhattisgarh, Delhi  
N.E.States (excluding  
Tripura)

Mr. Shyam Divan, Sr. Adv.  
Mr. Udayaditya Banerjee, Adv.

Gujarat, H.P.,  
J&K, Jharkhand,  
Karnataka, Kerala

Mr. K.V. Vishwanathan, Sr. Adv.  
Mr. Ravi Raghunath, Adv.

M.P., Odisha, Patna,  
Punjab & Haryana

Mr. Vijay Hansaria, Sr. Adv.  
Ms. Sneha Kalita, Adv.  
Mr. Avnish Pandey, Adv.

Rajasthan, Sikkim,  
Telangana, A.P.,  
Tripura, Uttarakhand

Mr. Gaurav Agrawal, Adv.

SMW© 1/17

Mr. Arvind P. Datar, Sr. Adv.(AC)[N/P]  
Ms. Remya Raj, Adv.

**For Parties :**

TNPSC

Ms. Purbitaa Mitra, Adv.  
Mr. K.V. Vijayakumar, AOR

State of Karnataka &  
HC of Karnataka

Mr. V.N. Raghupathy, AOR  
Mr. Parikshit P. Angadi, Adv.  
Mr. Md. Apzal Ansari, Adv.  
Mr. K.P. Singh, Adv.  
Mr. C.B. Gururaj, Adv.

High Court of Kerala

Mr. P.N. Ravindran, Sr. Adv.  
Mr. T.G. Narayanan. Nair, Adv.  
With  
Shri K. Haripal, Registrar General  
Shri Venu Karunakaran, Registrar (Vig.)

State of Kerala

Mr. G. Prakash, Adv.  
Mr. Jishnu M.L., Adv.  
Ms. Priyanka Prakash, Adv.  
Ms. Beena Prakash, Adv.

KPSC	Mr. Vipin Nair, Adv. Mr. P.B. Suresh, Adv. Mr. Karthik Jayashankar, Adv.
State of Kerala	Mr. C.K. Sasi, AOR Ms. Nayantara Roy, Adv.
State of Gujarat	Ms. Hemantika Wahi, AOR Ms. Jesal Wahi, Adv.
HC Gujarat	Mr. A.P. Mayee, AOR Mr. Chirag Jain, Adv.
State of H.P.	Mr. Vikas Mahajan, AAG Mr. vinod Sharma, AOR Mr. Anil Kumar, Adv.
H.P. High Court	Mr. Ashok Mathur, AOR
HC of P & H	Mr. P.S. Patwalia, Sr. Adv. Mr. Ashok Mathur, Adv.
J&K High Court	Mr. Bharat Sangal, AOR
State of J&K	Mr. M. Shoeb Alam, AOR Mr. Ujjwal Singh, Adv. Mr. Gautam Parbhakar, Adv. Mr. Mojahid Karim Khan, Adv.
Jharkhand High Court	Mr. Krishnanand Pandey, AOR Mr. Rao K.R., Adv.
Jharkhand PSC	Mr. Jamnesh Kumar, Adv. Mr. Himanshu Shekhar, AOR
State of Jharkhand	Mr. Jayesh Gaurav, Mr. Gopal Prasad, AOR.
State of Jharkhand	Mr. Anil K. Jha, AOR
State of Jharkhand	Mr. Tapesk Kumar Singh, Adv. Mr. Aditya Pratap Singh, Adv.

State of W.B. Mr. Suhaan Mukerji, Adv.  
 Ms. Astha Sharma, Adv.  
 Mr. Amit Verma, Adv.  
 Mr. Abhishek Manchanda, Adv.  
 Ms. Kajal Dalal, Adv.  
 Ms. Dimple Nagpal, Adv.  
 M/s. P.L.R. Chamber & Co., AOR

Calcutta High Court Mr. Soumya Chakraborty, Sr. Adv.  
 Mr. Kunal Chatterji, AOR  
 Mr. Saurav Gupta, Adv.

M/o Law & Justice &  
 GNCT of Delhi Mr. Tushar Mehta, SG  
 Mr. Aman Lekhi, ASG  
 Mr. S. Wasim A. Qadri, Adv.  
 Mr. R. Balasubramaniam, Adv.  
 Ms. Binu Tamta, Adv.  
 Ms. Swarupama Chaturvedi, Adv.  
 Mr. A.K. Sharma, AOR  
 Mr. B.V. Balaram Das, AOR

Mr. Aman Lekhi, ASG  
 Mr. Aishwarya Bhati, Adv.  
 Ms. Binu Tamta, Adv.  
 Mr. R. Balasubramaniam, Adv.  
 Mr. S. Wasim A. Qadri, Adv.  
 Ms. Swarupama Chaturvedi, Adv.  
 Mr. Arvind Kr. Sharma, AOR  
 Mr. Pankaj Pandey, Adv.  
 Mr. A.K. Sharma, Adv.

Gauhati High Court Mr. Vijay Hansaria, Sr. Adv.  
 Ms. Sneha Kalita, AOR

M.P. High Court Mr. Maninder Singh, Sr. Adv.  
 Mr. Arjun Garg, AOR  
 Mr. Devansh Srivastava, Adv.  
 Mr. Prabhas Bajaj, Adv.  
 Ms. Kanika Saran, Adv.

Mr. Ankur Yadav, AOR

Mr. Vivek Singh, AOR

Patna High Court	Mr. Pravin H. Parekh, Sr. Adv. Mr. Kshatrashal Raj, Adv. Mr. Vishal Prasad, Adv. Ms. Tanya Chaudhry, Adv. Ms. Pratyusha Priyadarshini, Adv. For M/s. Parekh & Co.
	Mr. R.N. Venjrani, Sr. Adv. Mr. Hitesh Kumar Sharma, Adv. Mr. S.K. Rajora, Adv. Mr. T.V. George, AOR.
State of Sikkim	Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. M/S. Arputham Aruna And Co, AOR
State of Goa	Mr. Jai Dehadrai, Adv. Mr. S.S. Rebello, Adv. Ms. Shivangini Gupta, Adv. Mr. Sidharth Arora, Adv. Mr. Prashant Sristi, Adv. Ms. Manisha Ambwani, AOR.
Manipur High Court	Ms. Sneha Kalita, AOR
Orissa High Court	Mr. Sibho Sankar Mishra, AOR Mr. Niranjana Sahu, Adv.
State of U.P.	Mr. Rajesh Kumar Singh, Adv. Mr. Prakash Gautam, Adv. Mr. Amit Sharma, Adv. Mr. Sanjay Kr. Tyagi, AOR
GNCTD	Mr. Chirag M. Shroff, AOR. Ms. Neha Sangwan, Adv. Mrs. Mahima C. Shroff, Adv.
State of Haryana	Mr. Sanjay Kr. Visen, AOR
Meghalaya High Court	Mr. Sanjai Kumar Pathak, AOR Ms. Shashi Pathak, Adv. Mr. Arvind Kumar Pathak, Adv.
UPPSC	Mr. Shrish Kr. Misra, AOR
State of Uttrakhand	Ms. Rachana Srivastva, AOR

State of Bihar	Mr. Abhinav Mukerji, AOR. Mrs. Bihu Sharma, Adv. Ms. Pratishtha Vij, Adv.
Chhattisgarh High Court	Mr. Apoorv Kurup, AOR
State of Tripura	Mr. Shuvodeep Roy, AOR Mr. Kabir Shankar Bose, Adv.
State of Assam	Mr. Shuvodeep Roy, AOR Mr. Somnath Banerjee, Adv.
State of Odisha	Mr. Surya Prasad Misra, Adv. Gen., Odisha Mr. Shibashish Misra, AOR
State of Manipur	Mr. Leishangthem Roshmani, AOR Ms. Maibam Babina, Adv. Ms. Anupama Ngangom, Adv.
Uttarakhand HC	Mr. Mukesh K. Giri, Adv.
State of T.N.	Mr. M. Yogesh Kanna, AOR Mr. Raja Rajeshwaran, Adv.
U.T. of Chandigarh	Mr. Ankit Goel, AOR
State of A.P.	Mr. Guntur Prabhakar, AOR Ms. Prerna Singh, Adv. Mr. Prashant Mathur, Adv.
BPSC & Sikkim High Court	Mr. Vishnu Sharma, AOR. Ms. Anupama Sharma, Adv. Ms. Rangoli Seth, Adv.
State of Meghalaya	Mr. Amit Kumar, Adv. Gen., Meghalaya Mr. Avijit Mani Tripathi, AOR
State of Meghalaya	Mr. Ranjan Mukherjee, AOR Mr. Upendra Mishra, Adv. Mr. K.V. Kharlyngdoh, Adv.
State of Nagaland	Ms. K. Enatoli Sema, AOR Mr. Amit Kumar Singh, Adv.

<b>U.T. of Andaman &amp; Nicobar Admn.</b>	<b>Mr. K.V. Jagdishvaran, Adv. Ms. G. Indira, AOR</b>
<b>State of Haryana</b>	<b>Mr. Alok Sangwan, AAG Dr. Monika Gusain, AOR</b>
<b>Guhati High Court</b>	<b>Mr. P.I. Jose, AOR Ms. P.S. Chandralekha, Adv.</b>
<b>State of Punjab</b>	<b>Mr. Karan Bharihoke, AOR Mr. Siddant Sharma, Adv. Ms. Navkiran Bolay, Adv.</b>
<b>State of Arunachal Pradesh</b>	<b>Mr. Anil Shrivastav, AOR Mr. Rituraj Biswas, Adv. Mr. Satyendra Kumar Srivastav, Adv.</b>
<b>State of Telangana</b>	<b>Mr. S. Udaya Kumar Sagar, Adv. Mr. Mritunjai Singh, Adv.</b>
<b>State of Rajasthan</b>	<b>Mr. Amit Sharma, Adv. Mr. Ankit Raj, Adv. Ms. Ruchi Kohli, AOR</b>
<b>State of Arunachal Pradesh</b>	<b>Mr. A. Tewari, Adv. Ms. Eliza bar, Adv. Mr. Shreepal Singh, AOR. Mr. Riju Mani Talukdar, Adv.</b>
<b>Govt. of Puducherry</b>	<b>Mr. R. Venkataramani, Sr. Adv. Mr. V.G. Pragasam, AOR. Mr. S.Prabu Ramasubramanian, Adv. Mr. S. Manuraj, Adv. Mr. Praveen Vignesh, Adv.</b>
<b>State of Bihar</b>	<b>Ms. Abha R. Sharma, AOR Mr. D.S. Parmar, Adv. Ms. Sujeeta Srivastava, Adv.</b>
<b>Rajasthan High Court</b>	<b>Mr. Sunil K. Jain, AOR Mr. Punya Garg, Adv. Ms. Anusha Agarwal, Adv.</b>

State of Chhatisgarh	Mr. Aniruddha P. Mayee, AOR Mr. Chirag Jain, Adv.
HC of Bombay	Mr. Aniruddha P. Mayee, AOR Mr. Chirag Jain, Adv.
Allahabad High Court	Mr. Ashok K. Srivastava, AOR
State of Mizoram	Mr. Pragyan Sharma, Adv. Mr. Mudit Makhijani, Adv. Mr. Shikhar Garg, Adv. Mr. P.V. Yogeswaran, AOR
	Mr. Ejaz Maqbool, AOR
	Mr. Debasis Misra, AOR
	Mr. Lakshmi Raman Singh, AOR
	Mr. Y. Raja Gopala Rao, AOR
	Mr. Ugra Shankar Prasad, AOR
	Mr. Tara Chandra Sharma, AOR
	Mr. T.V. Ratnam, AOR
	Mr. T. Mahipal, AOR
	Mr. Suwendu Suvasis Dash, AOR
State of MP	Mr. Sunny Choudhary, AOR with Mr. Satendra singh, P.S., Law
	Mr. Sunil Kumar Verma, AOR
	Mr. Sunil Kumar Jain, AOR
	Ms. Sumita Hazarika, AOR
	Mr. Siddhartha Chowdhury, AOR
	Mr. Shail Kumar Dwivedi, AOR
	Ms. Sarla Chandra, AOR
	Ms. S. Janani, AOR



Mr. S.C. Patel, AOR

Mr. Rana Ranjit Singh, AOR

Mr. Rajesh Srivastava, AOR

Mr. Radha Shyam Jena, AOR

Mr. R. Sathish, AOR

Mr. R. Nedumaran, AOR

Mr. Prakash Kumar Singh, AOR

Ms. Purnima Jauhari, Adv.

Mr. Pradeep Misra, AOR

Mr. Parijat Sinha, AOR

Mr. Naresh Kumar, AOR

Mr. Naresh K. Sharma, AOR

Ms. Naresh Bakshi, AOR

Mr. Milind Kumar, AOR

Mr. Merusagar Samantaray, AOR

Mr. M.R. Shamshad, AOR

Mr. Krishnayan Sen, AOR

Mr. Mukesh Kumar Maroria, AOR

Mr. Shree Pal Singh, AOR

Mr. Gopal Singh, AOR

Ms. Manisha Ambwani, AOR

Mr. Vinod Sharma, AOR

HC of M.P.

Mr. Mishra Saurabh, AOR

Mr. Naveen Kumar Pandey, Adv.

Ms. Vanshaja Shukla, Adv

State of Mah.

Ms. Deepa M. Kulkarni, Adv.

Mr. Nishant Ramaantrao Katneshwarkar, AOR

**State of Odisha**

**Mr. Som Raj Choudhury, AOR**  
**Mr. Prashant Kumar, Adv.**

**Mr. Rohit K. Singh, AOR**

**Mr. Shreekant N. Terdal, AOR**

**Mr. Arun K. Sinha, AOR**

**Mr. K. K. Mohan, AOR**

**Mr. Jagjit Singh Chhabra, AOR**

**Mr. R. Sathish, AOR**

**Mr. Kamlendra Mishra, AOR**

**Ms. A. Subhashini, AOR**

**Mr. Avijit Bhattacharjee, AOR**

**Mr. B. S. Banthia, AOR**

**Mr. Ajay Pal, AOR**

**Ms. Asha Jain Madan, AOR**

**Mr. Kamal Mohan Gupta, AOR**

**Mr. Kamini Jaiswal, AOR**

**for M/S. Corporate Law Group, AOR**

**Mr. S. C. Patel, AOR**

**Mrs. D. Bharathi Reddy, AOR**

**Mr. Anuvrat Sharma, AOR**

**Ms. Asha Gopalan Nair, AOR**

**Mr. B. Balaji, AOR**

**Mr. Abhijit Sengupta, AOR**

**Mr. Jatinder Kumar Bhatia, AOR**

**Telangana HC**

Ms. Anitha Shenoy, AOR  
 Mr. Kaushal Yadav, AOR  
 Mr. Ashwani Kumar, AOR  
 Mr. Ardhendumauli Kumar Prasad, AOR  
 Ms. Manju Jetley, AOR  
 Ms. Ranjeeta Rohatgi, AOR  
 Mr. Naveen R. Nath, AOR  
 Mr. Ashok Arora, Adv.  
 Mr. Yadav Narender Singh, AOR  
 Mr. Anandan, Adv.  
 Mr. Maninder Singh, Sr. Adv.  
 Ms. Sakshi Kakkar, AOR  
 Mr. Shakti Singh, Adv.  
 Ms. Kanika Saran, Adv.

**Intervenor(s)**

Mr. Gaichangpou Gangmei, AOR  
 Mr. Abhishek R. Shukla, Adv.  
 Mr. Kahorngam Zimik, Adv.  
 Mr. Ashok Kumar Singh, AOR

**RG, Madras HC**

Mr. Anandh Kannan N., AOR  
 Mr. Huzefa Ahmadi, Sr. Adv.  
 Ms. Mayuri Raghuvanshi, AOR  
 Mr. Vyom Raghuvanshi, Adv.  
 Mr. Shikhar Kacker, Adv.

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

Re: State of Madhya Pradesh (High Court of Madhya Pradesh):

Following officers are present on behalf of the  
 State of Madhya Pradesh and High Court of Madhya  
 Pradesh:

**A. On behalf of State of Madhya Pradesh**

(i) Shri Satyendra Kumar Singh, Principal Secretary,  
Department of Law and Legislative Affairs.

(ii) Shri R.C.S. Bisen, Additional Secretary, Law  
Department

(iii) Shri Vijay Singh Verma, Project Director, Project  
Implementation Unit, P.W.D.

(iv) Renu Pant, Secretary, M.P. P.S.C.

**B. On behalf of High Court of Madhya Pradesh**

(i) Shri Arvind Shukla, Registrar General

(ii) Shri Shyam Bihari Verma, Registrar, Inspection  
and Litigation

(iii) Shri Sanat Kumar Kashyap, Registrar, Work and  
Infrastructure

**Vacancies:**

The affidavits filed by the State of Madhya Pradesh through the Principal Secretary, Government of Madhya Pradesh and the High Court of Madhya Pradesh through the Registrar General of the High Court respectively have been placed on record.

Shri Vijay Hansaria, learned Amicus Curiae has submitted/compiled a short note highlighting the

position with regard to vacancies, infrastructure, residential accommodation and supporting staff. We have perused the same. It appears that, as on date, all the posts of 'District Judge' cadre except 22 posts which are earmarked as a 'direct recruit' quota have not been filled up as in the qualifying examination only 6 (six) candidates had qualified and have been subsequently selected.

In these circumstances, we direct that appointment of 6 (six) selected candidates be made within a month and the remaining vacancies against the 'direct recruit' quota be filled up and that the fresh selection process, which is stated to have been already initiated, for 22 unfilled vacancies and anticipated vacancies be concluded within the outer limit spelt out in the directions issued by this Court in Malik Mazhar Sultan (3) & Anr. vs. U.P. Public Service Commission & Ors.<sup>1</sup>.

Insofar as the posts of Civil Judge Senior Division are concerned, the vacancies, as on date, are only 5 (five). The same be filled up by promotion.

1. (2008) 17 SCC 703

So far as the cadre of Civil Judge Junior Division is concerned, out of 328 vacancies a recruitment process for 140 posts had been initiated on 1<sup>st</sup> August, 2018 and on 12<sup>th</sup> January, 2019 the selection has been completed and 113 candidates have been found qualified. The appointments of the said qualified candidates be made forthwith and, in any case, within a period of two months from today. The remaining vacancies including the anticipated vacancies, if any, have already been advertised. The process be completed within an outer limit as spelt out in the directions of this court in Malik Mazhar (3) (supra).

Infrastructure:

So far as the court rooms are concerned, the picture that emanates from the note/chart prepared by the learned Amicus Curiae, on the basis of the affidavits filed/instructions received, is that the existing number of court halls available, as on date, i.e. 1439 adequately takes care of the working strength of the judiciary in the State as on date.

The affidavits filed also indicate that 237 court rooms are presently under construction and are expected to be completed within a year or so. We

direct that the process of completion of construction of the said 237 court rooms be completed within an outer limit of one year from today.

The construction of the court rooms which are at the tender stage (i.e. 235) and at the proposal stage (i.e. 135) also be expedited so that the State judiciary as and when it functions in full strength does not face any difficulties in availability of the court rooms.

So far as the residential accommodation is concerned, from the note/chart prepared by the learned Amicus Curiae it appears that at present 254 quarters are under construction and 50 and 8 are at the tender and proposal stage. The said constructions be completed at the earliest.

The note/chart of the learned Amicus Curiae further suggests that over and above the available quarters i.e. 1054 and those under construction and at the tender and proposal stage there is a further requirement of 655 quarters/residential accommodation.

While there is 100% reimbursement of rent, the learned Judges stay in rented house/houses which is not

a very healthy situation conducive to judicial work. We, therefore, direct the State of Madhya Pradesh to take up the matter in conjunction with the High Court and process and finalize necessary plans, proposals, etc. to enable all Judicial Officers to be provided with appropriate accommodation so as to enable them to effectively discharge their judicial duties.

So far as the supporting staff is concerned, the note/chart of the learned Amicus Curiae would suggest that no directions in this regard would be required at this stage.

The learned Amicus Curiae has also drawn the attention of the Court that in terms of the letter of the Central Government dated 15<sup>th</sup> December, 2015 the funding of Centre and State for infrastructure in subordinate judiciary is required to be in the ratio of 60:40. The note/chart of the learned Amicus Curiae also indicates that in the last three years i.e. from 2015-16 to 2017-18 while the State has contributed a sum of Rs.227.38 crore for infrastructure development the contribution from the Centre is Rs.100.05 crore.

Shri Tushar Mehta, learned Solicitor General, who is present in Court, is requested by the Court to



look into the matter to ensure that the requisite funds from the Centre in the proportion/ratio as spelt out in the Central Government's letter dated 15<sup>th</sup> December, 2015 are made available including the arrears amounts to enable the order of this Court to be implemented in letter and spirit.

We permit the learned Amicus Curiae to make a mention of the matter with regard to the State of Madhya Pradesh (High Court of Madhya Pradesh) as and when necessity arises.

Re: State of Tamil Nadu (High Court of Madras)

Following officers are present on behalf of the State of Tamil Nadu and High Court of Madras:

- A. On behalf of State of Tamil Nadu
- (i) Mr. S.S. Poovalingam, Secretary, Law Department
  - (ii) Mr. K. Nandakumar, IAS, Secretary, TNPSC
  - (iii) Mrs. T. Vaidegi, Deputy Secretary, Home Department
  - (iv) Mr. R. Sridhar, Under Secretary, Home Department
- B. On behalf of High Court of Madras
- (i) Shri C. Kumarappan, Registrar General

The affidavits have been filed on behalf of the High Court of Madras as well as of the State of Tamil Nadu.

The core of the affidavits has been condensed by the learned Amicus Curiae in a note/chart which we have perused.

In so far as the cadre of District Judge is concerned, the number of vacancies, as on date, is stated to be 95 out of which 54 are to be filled by Regular Promotion; 11 by Limited Competitive Examination; and 31 by Direct Recruitment.

In the affidavit(s) filed, it has been stated that while the exercise of filling up 54 posts in the cadre of District Judge by regular promotion is concerned has been completed, the further action in the matter will be taken once the process of Limited Competitive Examination is over which is likely to be done by the end of January, 2019.

We direct the High Court of Madras and the State of Tamil Nadu to fill up the aforesaid vacant posts i.e. 54 + 11 latest by the end of March 2019.

Insofar as 31 posts earmarked for the direct recruitment is concerned, it has been stated that the said vacancies have been notified on 13<sup>th</sup> January, 2019 and the process of selection and appointment is likely to be completed by the end of August, 2019.

So far as the posts to be filled up by direct recruitment is concerned, the State and the High Court, undoubtedly, will follow the time schedule laid down by this Court in Malik Mazhar (3) (supra) and complete the same by actual appointment of eligible candidates.

Insofar as the cadre of Civil Judge Senior Division is concerned, there are 56 existing vacancies and 64 anticipated vacancies in the said cadre i.e. a total of 120. On 7<sup>th</sup> August, 2018, 106 vacancies were notified and it is stated that the said process is likely to be completed by the end of January, 2019.

Taking note of the aforesaid statement made in the affidavit(s) filed, we direct completion of the process and appointment to the cadre of Civil Judge Senior Division by promotion by the end of February, 2019.

Insofar as the cadre of Civil Judge Junior Division is concerned, it appears that as against 232 vacancies at that point of time 320 vacancies were notified on 9<sup>th</sup> April, 2018. The additional vacancies, it is stated, arose in anticipation of the creation of additional posts which have since been created (80 in number).

From the note/chart of the learned Amicus Curiae it appears that as against 320 notified posts 209 appointments have been made.

So far as the court rooms and residential accommodation are concerned, there is a further requirement over and above what is presently available including the premises taken on rent for accommodation of the Judicial Officers. The details in this regard are spelt out in the note/chart of the learned Amicus Curiae.

Having considered the matter we direct that the requisite steps in this regard be taken. In this regard, specifically, we take note of the submissions made on behalf of the State Government that for construction of additional court rooms the State is committed to sanction Rs. 414 crores and for residential accommodation a total of Rs. 231 crore in the next five years. The State of Tamil Nadu, therefore, is directed to act accordingly.

Insofar as support staff is concerned, the note/chart of the learned Amicus Curiae projects an actual requirement, as on date, of over 6000 additional

hands. Out of the said requirement, the recruitment of 2962 support staff is under the purview of the Public Service Commission and, on instructions of the Secretary of the Tamil Nadu Public Service Commission, the learned Amicus Curiae states that 2100 candidates will be recommended for appointment in the next two months. We direct the Tamil Nadu Public Service Commission to act accordingly and the Government of Tamil Nadu to take necessary follow up action.

Insofar as the vacancies numbering in 3534 which are required to be filled up by the District Judges of the State are concerned, there appears to be some lethargy and inaction.

While it is not necessary for us to go into the reasons for the same, we request the High Court to issue necessary directions to the District Judges to expedite the process of recruitment and complete the same as expeditiously as possible and, in any case, within six months from today.

We are told by the Registrar General of the High Court that there is a Monitoring Committee of the Hon'ble Judges of the High Court which is looking into the matter. We request the said Committee to

continuously monitor the process of appointment of support staff by the District Judges of the State.

For the present, no further order would be called for insofar the support staff is concerned.

The learned Amicus Curiae will be at liberty to make a mention of the matter, if so required, at any point of time.

Re : UT of Puducherry

Following officers are present on behalf of the UT of Puducherry :

- (i) Ms. J. Juliet Pushpa, Law Secretary
- (ii) Mr. Devesh Singh, Secretary, PWD

The compilation/note/chart with regard to different aspects of the case as made by the learned Amicus Curiae insofar as Union Territory of Puducherry is concerned leads us to be satisfied that no immediate order is required.

Re: State of Bihar

Following officers are present on behalf of the State of Bihar and the High Court of Patna:

A. On behalf of State of Bihar

- (i) Shri A.K. Jain, Law Secretary,
- (ii) Shri Akhilesh Kumar Jain, Secretary cum Legal Remembrancer Law, State of Bihar, Patna

- (ii) Shri Amit Kumar, Joint Secretary, PWD
  - (iii) Shri Jai Singh, Special Secretary/MD  
Revenue Department
  - (iv) Shri Gurfan, Deputy Secretary, GAD, Bihar
  - (v) Shri Keshav Ranjan Prasad, Secretary, Bihar  
Public Service Commission
- B. On behalf of High Court of Patna
- (i) Shri Bidhu Bhusan Pathak, Registrar General
  - (ii) Shri Arjun Kumar Jha, Registrar

We have perused the chart/note prepared by the learned Amicus Curiae on the basis of the affidavits filed and also the information conveyed to the learned Amicus Curiae in the course of the meeting that he held with the aforesaid officers.

So far as the cadre of District Judge is concerned, the note of the learned Amicus Curiae would go to show that 94 appointments have been made by promotion in December, 2018 and a fresh process for filling up of 91 vacancies against the promotional quota will be initiated shortly. We direct all concerned to initiate the said process at the earliest.

Insofar as the quota earmarked to be filled up by limited competitive examination is concerned, as against 53 vacancies, 26 vacancies were notified on 16<sup>th</sup> January, 2018 and process for filling up the said posts is presently on and likely to be completed. We direct the same to be completed on or before 28<sup>th</sup> February, 2019. Another 27 vacancies are required to be filled up against the aforesaid quota. We direct that the proposal for filling up the said vacancies be taken up at the earliest.

Insofar as 13 posts required to be filled up by direct recruitment is concerned, the note of the learned Amicus Curiae would show that the said posts have been advertised on 14<sup>th</sup>/15<sup>th</sup> January, 2019 and a statement has been made on behalf of the High Court that the process would be completed by the end of June, 2019. We direct the completion of the said process within the aforesaid time schedule.

Insofar as the cadre of Civil Judge (Senior Division) is concerned, it is stated that 273 vacancies (125 existing and 148 anticipated) are required to be filled up and eligible number of persons to fill up the said posts by promotion would be about 155. We direct



that the process of promotion to be initiated immediately and to be completed on or before 31<sup>st</sup> May, 2019. The High Court, if the need arises, may also consider granting adhoc promotion to Civil Judges (Junior Division) to man the vacancies in the cadre of Civil Judge (Senior Division) by appropriate relaxation of the period of qualifying service in deserving cases.

Insofar as the cadre of Civil Judge (Junior Division) is concerned, we are told that the process initiated in August, 2018 for 349 vacancies is likely to be completed by June, 2019 and further that a fresh process for 182 vacancies would be initiated shortly. We, therefore, direct the said exercise to be done on priority basis.

So far as the court rooms are concerned, the note of the learned Amicus Curiae would go to show that against the working strength of 1208, availability of court rooms is to the tune of 1355. Further more, 270 court rooms are under construction and in the note of the learned Amicus Curiae, it has been pointed out that 202 of the said 270 court rooms are likely to be completed within six months and remaining 68 in about two years. We direct the aforesaid work to be completed in terms of the statement made.

So far as the residential accommodation is concerned, there appears to be shortfall to the extent of 573. The State of Bihar has undertaken before the Court that of the 295 units under construction, 63 would be completed within six months, 80 within one year and 152 within two years. We direct the concerned department i.e. P.W.D. in the State of Bihar to adhere to the time schedule and ensure completion of the constructions in terms of the above time frame.

Insofar as the rent of the residential accommodation is concerned, it is stated in the note of the learned Amicus Curiae that instead of full reimbursement of rent in the State of Bihar, 20% of the basic pay is reimbursed by way of rent allowance so far as the officers in Patna are concerned and for rest of the State, it is 10% of the basic pay. Keeping in mind the market conditions and the basic pay, a fixed percentage like 20% and 10% thereof of the basic pay may not match the rent that a judicial officer is required to pay. The State of Bihar will consider within a period of four weeks as to whether full reimbursement of actual rent paid by a judicial officer should be reimbursed to him as is the prevailing practice in several other States.

Insofar as support staff is concerned, the figures presented before us in the note appears to be somewhat inconsistent. Be that as it may, it appears that while the process for filling up over a thousand posts of stenographers is presently under process, the High Court has submitted a proposal to the State Government for creation of 3773 Class III posts and 1877 Class IV posts, which according to the High Court is required to effectively man the courts at the district and subordinate level including such courts which will be set up in future. The State of Bihar to look into the matter and ensure the sanction of additional posts as required, even if it be in phases or by instalments.

The issue with regard to the additional posts to be sanctioned by the State Government shall be highlighted in the status report of the State Government and the High Court to be filed within two months from today.

Re: State of Punjab

Following officers are present on behalf of the State of Punjab and the High Court of Punjab & Haryana:

A. On behalf of State of Punjab

(i) Shri Kumar Rahul, Secretary, Department of Home Affairs and Justice

(ii) Shri Charanjit Khanna, Superintendent, Department of Home Affairs and Justice (Judicial-I Branch)

B. On behalf of High Court of Punjab & Haryana

(i) Shri Harnam Singh Thakur, Registrar General

(ii) Shri Sanjay Sachdeva, OSD Litigation

Vacancies:

So far as the vacancies in the cadre of District Judge are concerned, we direct that the vacancies in the said cadre by limited competitive examination or direct recruitment be filled up at the earliest and the process which is stated to be at different stages be brought to its conclusion latest by 28<sup>th</sup> February, 2019.

So far as the cadre of Civil Judge (Junior Division) is concerned, the selected candidates as against the vacancies notified in the year 2016 be appointed forthwith after completion of all formalities. The 75 vacancies assessed by the High Court as on today be advertised immediately and the process be completed as per the time schedule in Malik Mazhar (3) (supra).

So far as the court rooms are concerned, we direct that the court rooms under construction be completed at the earliest.

So far as the residential accommodation is concerned, we direct the State of Punjab to submit the concrete plan by which it proposes to meet the housing requirements of the judicial officers of the State. No specific order would be called for with regard to the support staff.

Re: State of Haryana

Following officers are present on behalf of the State of Haryana and the High Court of Punjab & Haryana, Chandigarh:-

A. On behalf of the State of Haryana

(i) Mr. Alok Nigam, Additional Chief Secretary to Government of Haryana, PWD (H&R) Department.

(ii) Mr. Nitin Kumar Yadav, Secretary to Government of Haryana, Personnel Department.

(iii) Mr. Rajiv Rattan, Special Secretary to Government of Haryana, Home-II Department.

(iv) Dr. Shaleen, Additional Secretary to Government of Haryana, Finance Department.

(v) Mr. Nishant Kumar Yadav, Secretary, HPSC.

(vi) Mrs. Matreyi Gupta, Chief Architect.

(vii) Mr. Rakesh Manocha, E.I.C., PWD (B&B)

**B. On behalf of the High Court of Punjab & Haryana, Chandigarh**

(i) Mr. Harnam Singh Thakur, Registrar General, High Court of Punjab & Haryana, Chandigarh.

The vacancies in the cadre of District Judge required to be filled up by the Limited Departmental Competitive Examination (L.D.C.E.) and by direct recruitment are stated to be at different stages of completion and the date of likely completion has been mentioned as 28.2.2019. Both processes may be completed on or before the said date i.e. 28.2.2019.

As far as the cadre of Civil Judge (Junior Division) is concerned, the process of filling up 109 vacancies is presently underway and the date for completion thereof is stated to be 30.4.2019. The said process be completed on or before the said date i.e. 30.4.2019.

So far as the Court rooms and residential accommodation are concerned, the construction which is underway be completed within the time schedule as

mentioned in the affidavit of the Registrar General of the High Court, which recites the decisions taken in a joint meeting with the State Government and also in the meeting that the learned Amicus Curiae has had with the Registrar General of the High Court and the officers of the State.

So far as the support staff is concerned, the position does not appear to be very cute. However, we take note of the fact that on 7.1.2019, 352 posts were advertised. The said process be completed at the earliest.

Re: Union Territory of Chandigarh

Following officers are present on behalf of the Union Territory of Chandigarh:-

(i) Mr. Bhartendu Shandilya, Dy. Resident Commissioner, U.T. of Chandigarh.

(ii) Mr. Yashpal Gupta, Superintending Engineer, Capital Project, U.T. of Chandigarh.

Having looked at the note prepared by the learned Amicus Curiae, no orders would be called for in the case of the Union Territory of Chandigarh.

Re: State of Odisha

Following officers are present on behalf of the State of Odisha and the High Court of Orissa:-

**A. On behalf of the State of Odisha**

- (i) Mr. Subhakanta Mishra, Special Secretary (Home)
- (ii) Mr. Sashikant Mishra, Principal Secretary (Law).
- (iii) Mr. K.C. Mallik, Special Secretary (O.P.S.C.)

**B. On behalf of the High Court of Orissa**

- (i) Mr. R.K. Patnaik, Registrar General, High Court of Orissa.

The vacancies in the cadre of District Judge against the quota earmarked for being filled up by Limited Departmental Competitive Examination (L.D.C.E.) and direct recruitment (12 and 6 respectively) which were stated to be underway be completed within the time schedule indicated in the affidavits filed i.e. by 15.3.2019.

Insofar as the cadre of Civil Judge (Senior Division) is concerned, as on 24.12.2018, promotions to the cadre of District Judge had been made and further promotions by way of L.D.C.E. are likely to be made in the immediate future. We direct that the consequential vacancies for the cadre of Civil Judge (Senior Division) be filled up by initiating the requisite process at the earliest.



The process of appointment by direct recruitment against the post of Civil Judge (Junior Division), which is underway be completed on or before the end of June, 2019, which is the time line indicated in the affidavit filed.

So far as the Court halls/Court rooms are concerned, 211 Court rooms which are stated to be under construction, 94 of them are likely to be completed in six months and 82 in one year. We direct that the said Court halls be made ready within the time schedule. The steps also be taken for making available the additional number of Court rooms required which is stated to be 272. The details regarding initiation of the process for constructing the additional Court rooms (272) and the progress in the said regard be placed before the Court by means of a status report of the competent authority of the State of Odisha within three months from today.

So far as the residential accommodation is concerned, the deficit seems to be in the region of 361. It is further stated that 192 units are under construction, all of which will be completed within one

year. The time schedule mentioned above be adhered to and compliance report of the progress made be filed alongwith the status report with regard to the Court rooms. The case of the State of Odisha will be considered after three months.

Insofar as the rent for the residential accommodation is concerned, it is stated in the note of the learned Amicus Curiae that instead of full reimbursement of rent in the State of Odisha, 20% of the basic pay is reimbursed by way of rent allowance so far as the officers in Bhubaneswar are concerned and for rest of the State, it is 10% of the basic pay. Keeping in mind the market conditions and the basic pay, a fixed percentage like 20% and 10% thereof of the basic pay may not match the rent that a judicial officer is required to pay. The State of Odisha will consider within a period of four weeks as to whether full reimbursement of actual rent paid by a judicial officer should be reimbursed to him as is the prevailing practice in several other States.

Re: States of Kerala and Karnataka

On a mention by Mr. K.V. Vishwanathan, learned senior counsel, the issues with regard to the States of Kerala and Karnataka will be considered on 22.1.2019.

Re: State of West Bengal

The status report filed on behalf of the State of West Bengal pursuant to the order dated 6.12.2018 has been placed before us by Shri Shyam Divan, learned Amicus Curiae. A copy of the same has also been furnished to the learned Counsel for the High Court of Calcutta. The time schedule for completion of different works concerning infrastructure, manpower etc. be completed and the Registrar General of the High Court shall be at liberty to interact with the authorities of the State with regard to the progress of the different items of work required to be completed.

I.A. No. 8198/2019 in Civil Appeal No. 1867/2006 (for intervention)

We are not inclined to entertain this application. But we leave it open to the applicant to file a separate writ petition or take out any other such proceedings as he may think fit. I.A. is accordingly disposed of.

In the next group the vacancy position, infrastructure availability and the position with regard to the man-power will be undertaken in respect of States of Rajasthan (High Court of Rajasthan),

Sikkim (High Court of Sikkim), Telangana (High Court of Telangana), Andhra Pradesh (High Court of Andhra Pradesh), Tripura (High Court of Tripura) and Uttarakhand (High Court of Uttarakhand). The High Courts functioning in the aforesaid States are directed to file their report/counter/response within two weeks from today with a copy to Shri Gaurav Agrawal, learned Amicus Curiae.

The matter in respect of States of Rajasthan (High Court of Rajasthan), Sikkim (High Court of Sikkim), Telangana (High Court of Telangana), Andhra Pradesh (High Court of Andhra Pradesh), Tripura (High Court of Tripura) and Uttarakhand (High Court of Uttarakhand) will be taken up on 19<sup>th</sup> February, 2019.

The Registrars General of the aforesaid High Courts i.e. High Courts of Rajasthan, Sikkim, Telangana, Andhra Pradesh, Tripura and Uttarakhand will be present in Court in person to assist this Court. Needless to say the Registrars General are expected to be fully acquainted with all aspects of the on-going selections, vacancies, infrastructure, etc. so as to be able to answer all such queries that may be put to them by the Court.

We also direct the Chief Secretaries of the aforesaid States concerned i.e. States of Rajasthan, Sikkim, Telangana, Andhra Pradesh, Tripura and Uttarakhand whose cases are being considered on 19<sup>th</sup> February, 2019 to depute a suitable officer(s) who is/are conversant with all details of the issue(s) involved and competent to take decision(s) in the matter in Court, if necessary.

For such of the States where the recruitment is undertaken by the State Public Service Commissions, the Secretary of the State Public Service Commissions shall also be associated in the interaction between the Registrars General and the Authorized Officer(s) of the States and the Secretaries of such State Public Service Commissions will also be present in Court on the next date fixed.

The Registrars General of the High Courts, the Secretaries of the State Public Service Commissions and the Officer(s) to be authorized by the Chief Secretaries of the States concerned will interact between themselves at their respective places of

posting to ensure prompt and timely appointments against the vacant posts and to draw up a plan/scheme to fill up the deficiency/deficiencies in infrastructure and manpower which would be presented to the Court on the next date fixed. The Registrars General of the concerned High Courts, the Secretaries of the State Public Service Commissions as well as the Authorized Officer(s) of the States concerned will thereafter interact with Shri Gaurav Agrawal, learned Amicus Curiae so as to enable the learned Amicus Curiae to present the result/position before the Court in as precise a manner as possible.

[VINOD LAKHINA]  
AR-cum-PS

[ANAND PRAKASH]  
BRANCH OFFICER