

ITEM NO.1

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)

(REGARDING STATES OF UTTAR PRADESH, MAHARASHTRA, GOA, WEST BENGAL,  
CHHATTISGARH, DELHI , ARUNACHAL PRADESH, ASSAM, MIZORAN, NAGALAND,  
MANIPUR AND MEGHALAYA)

[IA 152/2016-APPLN. FOR DIRECTIONS,  
IA 153/2017-APPLN. FOR PERMISSION FOR VARIATION IN TIME ,  
IA 77756/2017- APPLN. FOR INTERVENTION  
IA 117790/2017-APPLN. FOR APPROPRIATE ORDERS/DIRECTION,  
IA 70324/2018-EXTENSION OF TIME  
IA 70330/2018-EXTENSION OF TIME]

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 : 15-11-2018 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE K.M. JOSEPH

*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.  
Mr. Mukunda Rao, Adv.  
Mr. Dhananjay Ray, Adv.  
Ms. Vrinda Bhandari, Adv.

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

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

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

Mr. Gaurav Agrawal, Adv.

SMW© 1/17

Mr. Arvind P. Datar, Sr. Adv.(AC)  
Ms. Remya Raj, Adv.

For Parties :

Mr. Tushar Mehta, SG  
Ms. Binu Tamta, Adv.  
Mr. R. Balasubramaniam, Adv.  
Ms. Swarupama Chaturvedi, Adv.  
Mr. S. Wasim A. Qadri, Adv.  
Mr. B.K. Prasad, AOR

M/o Law & Justice &  
GNCT of Delhi

Mr. Tushar Mehta, SG  
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. Balramdas, AOR

Gauhati High Court

Mr. Vijay Hansaria, Sr. Adv.  
Ms. Sneha Kalita, AOR

J&K High Court

Mr. Bharat Sangal, AOR  
Ms. Babita Kushwaha, Adv.

Calcutta High Court	Mr. Raja Chatterjee, Adv. Mr./Ms. Runamoni Bhuyan, Adv. Mr. Satish Kumar, Adv.
Calcutta High Court	Mr. Soumya Chakraborty, Sr. Adv. Mr. Kunal Chatterji, AOR
M.P. High Court	Mr. Maninder Singh, Sr. Adv. Mr. Ashita Chawla, Adv. Mr. Arjun Garg, AOR  Mr. Ankur Yadav, AOR  Mr. Vivek Singh, AOR
Patna High Court	Mr. Pravin H. Parekh, Sr. Adv. Ms. Tanya Chaudhry, Adv. Ms. Aishwarya Dash, Adv. Ms. Pratyusha Priyadarshini, Adv. For M/s. Parekh & Co.
State of W.B.	Mr. Suhaan Mukerji, Adv. Ms. Astha Sharma, Adv. Mr. Amit Verma, Adv. Ms. Kajal Dalal, Adv. Ms. Dimple Nagpal, Adv. M/s. P.L.R. Chamber & Co., AOR  Mr. R.N. Venjramni, Sr. Adv. Mr. Hitesh Kumar Sharma, Adv. Mr. S.K. Rajora, Adv. Mr. T.V. George, AOR.
State of Sikkim & HC of Sikkim	Mr. A. Mariarputham, Adv.Genl. Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. Ms. Geetanjali, Adv. M/S. Arputham Aruna And Co, AOR

State of Goa  
 Mr. Atmaram N.S. Nadkarni, ASG  
 Mr. Jai Dehadrai, Adv.  
 Mr. S.S. Rebello, Adv.  
 Ms. Shivangini Gupta, Adv.  
 Mr. C.R. Garg, Law Secy.  
 Ms. Manisha Ambwani, AOR.

Manipur High Court  
 Ms. Sneha Kalita, AOR  
 Ms. Debashree Saikia, Adv.  
 Mr. A. Guneshwar, Registrar General

Orissa High Court  
 Mr. Sibho Sankar Misra, AOR  
 Mr. M.K. Pandey, Adv.  
 Mr. Niranjana Sahu, Adv.

State of U.P.  
 Mr. Sanjay Kr. Tyagi, AOR  
 Mr. Nitin Ramesh Gokarn, Pr. Sec., PWD  
 Mr. Ajay Kr. Shukla, Sec. Finance  
 Mr. D.K. Singh, Pr. Sec., Law  
 Mr. R.D. Singh, Add. Sec., Law  
 Mr. Aviral Saxena, Adv.  
 Mr. Ajay Kr. Pandey, Adv.

Delhi High Court  
 Mr. Raju Ramachandran, Sr. Adv.  
 Mr. Naveen R. Nath, Adv.  
 Mr. K. Parameshwar, Adv.  
 Mr. M.V. Mukunda, Adv.  
 Ms. Hamsini Shankar, Adv.  
 Mr. Ishwar Mohanty, Adv.

Delhi HC  
 Mr. P.S. Narasimha, Sr. Adv.  
 Mr. Naveen R. Nath, Adv.  
 Mr. K. Parameshwar, Adv.  
 Mr. M.V. Mukunda, Adv.

GNCTD  
 Mr. Dushyant Dave, Sr. Adv.  
 Mr. Chirag M. Shroff, Adv.  
 Ms. Neha Sangwan, Adv.

State of Haryana  
 Mr. Anil Grover, AAG  
 Mr. Sanjay Kr. Visen, AOR  
 Ms. Ritu Rastogi, Adv.  
 Ms. Sasmita Tripathy, Adv.

<b>Meghalya High Court</b>	Mr. Sanjai Kumar Pathak, AOR Ms. Shashi Pathak, Adv. Mr. Arvind Kumar Pathak, Adv. With Ms. Belma Mawrie, Registrar General
<b>Jharkhand High Court</b>	Mr. Krishnanand Pandey, AOR
<b>Calcutta High Court</b>	Mr. Kunal Chatterji, AOR Ms. Maitrayee Banerjee, Adv. Mr. Saurav Gupta, Adv.
<b>UPPSC</b>	Mr. Shrish Kr. Misra, AOR Mr. Raghvendra Upadhyay, Adv.
<b>State of Jharkhand</b>	Mr. Gopal Prasad, AOR. Mr. S.K. Singh, Adv.
<b>State of Uttrakhand</b>	Ms. Rachana Srivastva, AOR Ms. Monika, Adv.
<b>State of Bihar</b>	Mr. Abhinav Mukerji, AOR. Ms. Purnima Krishna, Adv. Ms. Bihu Sharma, Adv.
<b>Chhattisgarh High Court</b>	Mr. Apoorv Kurup, AOR Mr. A.C. Boxipatro, Adv. Mr. Sidharth Shukla, Adv. With Ms. Pushpa Sahu, Secy. CPSC Mr. Amitabh Jain, ACS, Finance Mr. Ravi Shankar Sharma, Law Secy. Mr. Subodh Kumar Singh, Secy.
<b>State of Karnataka</b>	Mr. Devadatt Kamat, AAG Mr. Aditya Bhat, Adv. Mr. Rajesh Inamdar, Adv. Mr. Parikshit P. Angadi, Adv. Mr. V.N. Raghupathy, AOR
<b>State of Assam</b>	Mr. Shuvodeep Roy, AOR Mr. Somnath Banerjee, Adv.
<b>State of Tripura</b>	Mr. Shuvodeep Roy, AOR Mr. Rituraj Biswas, Adv.

State of Tripura	Mr. Shuvodeep Roy, AOR Mr. Rituraj Biswas, Adv.
State of Tripura	Mr. Shuvodeep Roy, AOR Mr. Rituraj Biswas, Adv.
State of Odisha	Mr. Shibashish Misra, AOR Mr. Ashish Kumar Sinha, Adv. Mr. Chandan Kumar Mandal, Adv.
State of Manipur	Mr. Leishangthem Roshmani, AOR Ms. Maibam Babina, Adv. Ms. Anupama Ngangom, Adv.
State of H.P.	Mr. Vikas Mahajan, AAG Mr. vinod Sharma, AOR Mr. Anil Kumar, Adv.
Uttarakhand HC	Mr. Mukesh K. Giri, Adv.
State of T.N.	Mr. M. Yogesh Kanna, AOR Mr. Raja Rajeshwaran, Adv. Ms. Sujatha Bagadhi, Adv. Mr. S. Partha Sarathi, Adv.
J & K High Court	Mr. Bharat Sangal, AOR Ms. Babita Kushwaha, Adv.
U.T. of Chandigarh	Mr. Ankit Goel, AOR
State of A.P.	Mr. Guntur Prabhakar, AOR Ms. Prerna Singh, Adv.
State of Jharkhand	Mr. Anil K. Jha, AOR
BPSC & Sikkim High Court	Ms. Anupama Sharma, Adv. Mr. Vishnu Sharma, AOR. Ms. Rangoli Seth, Adv.
State of Meghalaya	Mr. Amit Kumar, Adv Gen., Meghalaya Mr. Avijit Mani Tripathi, AOR Ms. Rekha Bakshi, Adv.
State of Meghalaya	Mr. Ranjan Mukherjee, AOR

State of Nagaland	Ms. K. Enatoli Sema, AOR Mr. Amit Kumar Singh, Adv. with Mr. Khanrinla T. Koza, Secy. Law Mr. Njamjok Konyak, Addl. Secy., Law
U.T. of Andaman & Nicobar Admn.	Mr. K.V. Jagdishvaran, Adv. Ms. G. Indira, AOR
State of Jharkhand	Mr. Tapesk Kumar Singh, Adv. Mr. Aditya Pratap Singh, Adv.  Mr. Mohit Paul, Adv. Mr. Vivek Singh, AOR
State of J&K	Mr. M. Shoeb Alam, AOR Mr. Ujjwal Singh, Adv. Mr. Mojahid Karim Khan, Adv.
State of Haryana	Dr. Monika Gusain, AOR
Guhati High Court	Mr. P.I. Jose, AOR Ms. P.S. Chandralekha, Adv.
State of Punjab	Mr. Karan Bharihoke, AOR Ms. Navkiran Bolay, Adv.
State of Kerala	Mr. G. Prakash, Adv. Mr. Jishnu M.L., Adv. Ms. Priyanka Prakash, Adv. Ms. Beena Prakash, Adv.
State of Arunachal Pradesh	Mr. Anil Shrivastav, AOR Mr. Rituraj Biswas, Adv. Mr. Satyendra Kumar Srivastav, Adv.
State of Gujarat	Ms. Hemantika Wahi, AOR
State of Telangana	Mr. S. Udaya Kumar Sagar, Adv. Mr. Mritunjai Singh, Adv.
State of Rajasthan	Mr. S.S. Shamsbery, AAG Mr. Amit Sharma, Adv. Mr. Ankit Raj, Adv. Ms. Indira Bhakar, Adv. Ms. Ruchi Kohli, AOR

State of Arunachal Pradesh	Ms. Eliza bar, Adv. Mr. A. Tewari, Adv. Mr. Shreepal Singh, AOR.
Govt. of Puducherry	Mr. V.G. Pragasam, AOR. Mr. S.Prabu Ramasubramanian, Adv. Mr. S. Manuraj, Adv.
State of Bihar	Ms. Abha R. Sharma, AOR Mr. D.S. Parmar, Adv. Mr. Mahender Singh, Adv.
Rajasthan High Court	Mr. Sunil K. Jain, AOR Mr. Punya Garg, Adv. Mr. Abhishek Jain, Adv.
Rajasthan High Court	Mr. Sunil K. Jain, AOR Mr. Punya Garg, Adv. Mr. Abhishek Jain, Adv.
State of Kerala	Mr. C.K. Sasi, AOR Ms. Nayantara Roy, Adv.
State of Chhatisgarh	Mr. Aniruddha P. Mayee, AOR Mr. A. Selvin Raja, Adv. Mr. Chirag Jain, Adv.
HC of Bombay	Mr. Aniruddha P. Mayee, AOR Mr. Chirag Jain, Adv. Mr. A. Selvin Raja, Adv.
Allahabad High Court	Mr. Ashok K. Srivastava, AOR Mr. Shaiwal Srivastava, Adv. With Mr. Faiz Alam Khan, Registrar General Mr. Mayank Kumar Jain, Registrar Mr. Jitendra Kumar Singh, OSD
State of Mizoram	Mr. Pragyan Sharma, Adv. Mr. Mudit Makhijani, Adv. Mr. Shikhar Garg, Adv. Mr. P.V. Yogeswaran, AOR with Lalzirmawia Chhangte, Secy. MPSC Melody Pachuau, Dy. Secy. L & J Dept.



**High Court of Kerala****Mr. T.G.N. Nair, Adv.****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****Mr. Sunny Choudhary, AOR****Mr. Sunil Kumar Verma, 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**

**Mr. Gopal Prasad, AOR**

**HC of M.P.**

**Mr. Mishra Saurabh, AOR**

**Mr. Naveen Kumar Pandey, Adv.**

**Ms. Vanshaja Shukla, Adv**

**Mr. Nishant Ramaantrao Katneshwarkar, AOR**

**State of Odisha**

**Mr. Som Raj Choudhury, AOR**

**Mr. Prashant Verma, 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  
Ms. G. Indira, 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  
Ms. Anitha Shenoy, AOR  
Ms. Srishti Agnihotri, Adv.  
Mr. Ashok Mathur, AOR  
Mr. Shail Kumar Dwivedi, AOR  
Mr. Kaushal Yadav, AOR

Telangana HC

Mr. Ashwani Kumar, AOR

Mr. Ardhendumauli Kumar Prasad, AOR

Mr. Sibbo Sankar Mishra, AOR

Mr. Pradeep Kumar Yadav, Adv.

Ms. Manju Jetley, AOR

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

State of Uttar Pradesh/High Court of Allahabad

Following officers are present on behalf of the State of Uttar Pradesh, High Court of Allahabad and U.P. Public Service Commission:

A. On behalf of Allahabad High Court

(i). Mr. Mohd. Faiz Alam Khan, Registrar General, Allahabad High Court.

(ii). Mr. Mayank Kumar Jain, Registrar (J), Selection and Appointment.

B. On behalf of State of Uttar Pradesh

(i) Mr. Nitin Ramesh Gokarn, Principal Secretary, P.W.D., Government of U.P.

(ii) Mr. Ajay Kumar Shukla, Secretary, Finance Department, Government of U.P.

(iii) Mr. Randheer Singh, Special Secretary, Law Department, Government of U.P. and

(iv) Mr. Sarayu Prasad Mishra, Special Secretary, Finance Department, Government of U.P.

C. On behalf of U.P. Public Service Commission:

(i) Mr. Jagdish, Secretary, U.P. Public Service Commission

Re: Higher Judicial Service

So far as the advertisement(s) dated 10<sup>th</sup> May, 2018 for 125 vacancies inclusive of retirement upto June 2019 [64+13 = 77 posts are promotional posts out of which 13 posts are to be filled up by promotion by Limited Departmental Promotion Examination and rest 64 posts by regular promotion] in the Higher Judicial Service are concerned we direct that the process initiated by the said advertisement be completed on or before 31<sup>st</sup> March, 2019, the suggested date of completion by the High Court.

In so far as advertisement dated 12<sup>th</sup> November, 2018 for 239 vacancies inclusive of retirement upto June 2019 [157+23=180 posts are reserved for promotion (23 posts by Limited Departmental Promotion Examination and 157 posts by Regular Promotion)] are concerned we direct that the said process be brought to its conclusion by publication of the result of the final selection on or before 31<sup>st</sup> July, 2019.

At this stage, we record the undertaking given by Shri Nitin Ramesh Gokarn, Principal Secretary, P.W.D., Government of Uttar Pradesh and Shri Ajay Kumar Shukla, Secretary, Finance Department, Government of U.P. that the

State of Uttar Pradesh is committed to providing necessary infrastructure including the Court Rooms to enable the additional Courts to function as and when the selection process/processes are completed.

In so far as the support staff is concerned Shri Mohd. Faiz Alam Khan, Registrar General of the High Court of Allahabad has drawn the attention of the Court to the fact that an advertisement has been published today i.e. 15<sup>th</sup> November, 2018 seeking to make recruitment against 3495 posts in Grade-III and Grade-IV (inclusive of retirement upto December 2019) on the basis of which the necessary support staff for the additional Courts will be made available as and when the process of recruitment of additional Judicial Officers is completed. We direct that the said process of recruitment to 3495 posts in Grade-III and Grade-IV be completed on or before 31<sup>st</sup> March, 2019.

It has been stated on behalf of the High Court of Allahabad that posts advertised keeps in mind the vacancies that are likely to arise on account of retirement upto June, 2019 in respect of 3495 posts of support staff are concerned and December, 2019 in respects of posts of Judicial Officers are concerned.

Re: Subordinate Judicial Service

In so far as the Subordinate Judicial Service in the State of Uttar Pradesh is concerned, as against the total vacancies of 610 posts an advertisement dated 10<sup>th</sup> September, 2018 has been issued by the U.P. State Public Service Commission to fill up the said posts and in an affidavit filed before the High Court (the High Court is also in seisin of the matter) the U.P. State Public Service Commission has undertaken to make its recommendations against the said posts on or before 20<sup>th</sup> May, 2019.

In view of the said undertaking, we direct the U.P. State Public Service Commission to act accordingly and ensure timely completion of the selection process and its recommendations i.e. on or before 20<sup>th</sup> May, 2019

States of Maharashtra and Goa/High Court of Bombay

On behalf of the State of Maharashtra, Mr. Rajendra Gajanan Bhagwat, Secretary (Legislation) Law and Judiciary is present. Mr. Surendra P. Tavade, In Charge Registrar General, Bombay High Court is also present to assist the Court.

We have perused the affidavit filed on behalf of the High Court of Bombay in response to the order of

this Court, dated 22.10.2018. So far as the States of Maharashtra and Goa are concerned, the position appears to be reasonably satisfactory, both in terms of filling up of vacancies in judicial posts and support staff, as well as, infrastructural facilities including residential accommodation. The details of the upcoming infrastructural facilities including residential accommodation for judicial officers have also been indicated. At this stage, we direct that the appointments for which recommendations have been made and such recommendations have been cleared by the Full Court, be made by the State Government forthwith and the judicial officers so appointed would start functioning without any delay. We also direct the States of Maharashtra and Goa to complete the incomplete infrastructural facilities including residential accommodation. Vacancies occurring in all cadres of services from time to time will now be filled up in accordance with the directions and guidelines including the time schedule laid down by this Court in *Malik Mazhar Sultan (3) & Anr. vs. U.P. Public Service Commission & Ors., (2008) 17 SCC 703.*



STATE OF WEST BENGAL/HIGH COURT OF CALCUTTA

On behalf of the State of West Bengal, Mr. Sandip Kumar Ray Chaudhury, Judiciary Secretary is present. Mr. Ananda Kumar Mukherjee, Registrar General, Calcutta High Court and Mr. Subho Mukherjee, Secretary, Public Service Commission, West Bengal are also present to assist the Court.

We have perused the status report dated 31<sup>st</sup> October, 2018, filed on behalf of the State of West Bengal, indicating the sanctioned strength/working strength and vacancy position in the Higher Judicial Service and Subordinate Judicial Service in the State of West Bengal.

The aforesaid report also indicates the present stage of the different recruitment processes, all of which appear to be at an advanced stage. At this stage, the Registrar General of the High Court and the Secretary, West Bengal State Service Commission, who are personally present, have informed the Court that the selections have been finalised either by making recommendations or appointment, as the case may be, in different cadres of services.

Insofar as the availability of infrastructure is concerned, details in this regard have been submitted in the affidavit filed on behalf of the High Court of Calcutta. The position with regard to court halls under construction in different districts as well as residential units are indicated in a chart annexed to the said affidavit as Annexure A. A copy of the said affidavit is available with the Standing Counsel for the State of West Bengal, who will communicate the same to the Chief Secretary, as well the Finance Secretary of the State of West Bengal. On receipt of the said details, as incorporated in Annexure A to the affidavit of Calcutta High Court, the Chief Secretary and the Finance Secretary will file separate affidavits, indicating as to when the court halls and residential units under construction would be completed and such constructions which are yet to commence, will be taken up. Needless to say, availability of court halls instead of make shift arrangements, for housing courts and earmarked residences for judicial officers is integrally connected to judicial functioning and, therefore, has to be provided by the State Government at the earliest. The Chief Secretary and the Finance Secretary will interact with all decision makers in the

State Government and revert to this Court with their stand within two weeks from today, when this matter will be taken up.

List the matter for consideration of the status with regard to the State of West Bengal on 29.11.2018.

We make it clear that at this stage, we are only requiring the Chief Secretary and the Finance Secretary to make known the stand of the State of West Bengal in the matters enumerated above by means of their respective affidavits, which if found unsatisfactory, the Court may have no option but to require the personal appearance of the Chief Secretary of the State.

STATE OF CHHATTISGARH/HIGH COURT OF CHHATTISGARH

On behalf of the State of Chhattisgarh, Mr. Jain, Additional Chief Secretary, Finance and Mr. R.S. Sharma, Law Secretary are present. Mr. Neelam Chand Sankhla, Registrar General, Chhattisgarh High Court and Ms. Pushpa Sahu, Secretary, Chhattisgarh Public Service Commission are also present to assist the Court.

We have perused the report filed on behalf of the High Court of Chhattisgarh. In the said report, it has been mentioned that 35 vacancies in Higher Judicial

Service (by promotion) will be filled up on or before 28.2.2019 and selection for 27 vacancies (by limited departmental competitive examination and direct recruitment) will be finalized on or before February, 2019. The High Court shall act accordingly and also take steps for initiation of a process of fresh recruitment in respect of all available vacancies as on date in accordance with the time schedule laid down in the decision rendered by this Court in *Malik Mazhar Sultan (3) & Anr. vs. U.P. Public Service Commission & Ors., (2008) 17 SCC 703.*

So far as the Lower Judicial Service is concerned, the High Court has mentioned in its report that appointment letters for appointment by way of promotion to the post of Civil Judge Senior Division will be issued on or before 14.12.2018 and further that as on date, there is no vacancy in the cadre of Civil Judge (Entry Level). Both the submissions are taken on record.

We are told that to finalize the appointments in the State, police verification in different states of the country would be required. The Court directs all such States to cooperate and send their reports after verification promptly and without any delay.

Insofar as the infrastructure is concerned, from the report of the Registrar General of the High Court, it appears that on 9.11.2018, a meeting was held in which several functionaries of the State including the Principal Secretary, Law & Legislative Affairs Department, were present. Following resolutions were passed in the meeting:-

- “Resolved that 428 number of staff shall be sanctioned by the government as per demand of Hon’ble High Court for newly created 50 posts of Judicial Officers by 31<sup>st</sup> of January, 2019.
- Total requirements of 690 crores for infrastructural development has been submitted by Hon’ble High Court. This fund will be made available by the government for infrastructural development in a phased manner in a period of five years.
- The construction of new court building and residential building shall be completed strictly as per government norms fix for completion of tender process and period fixed for construction of building in tender document, say 1½ years for residential building and 24 months for court building from the date of issue of Administrative approval.
- The selection process for the post of Civil Judge Class-II (LJS) shall be completed by Public Service Commission as and when the

vacancy is notified to them, strictly in accordance with the time schedule given by the Hon'ble High Court."

Pursuant thereto, an affidavit has been filed by the Additional Chief Secretary, Finance Department, Government of Chhattisgarh to the effect that 428 number of posts mentioned in the resolution of the meeting of 9.11.2018 will be created by 31.1.2019 and further that the funding of Rs.690 crores, as resolved in the said meeting dated 9.11.2018, will be made available in a phased manner during the next five financial years.

Insofar as the new Court buildings are concerned, the Secretary, Public Works Department, Chhattisgarh has filed an affidavit stating that the State Government "shall construct and complete the new Court buildings and residential buildings within a maximum period of 24 months from the date of administrative approval of the same". The High Court is requested to finalise the proposals and seek administrative approval of the State Government at the earliest. It is further stated on behalf of the State that administrative approval would be granted within a period of two months of the same being sought by the High Court.

DELHI/HIGH COURT OF DELHI

Following officers are present on behalf of NCT of Delhi and High Court of Delhi:

A. On behalf of NCT of Delhi

- (i) Mr. A.K. Mendiratta, Principal Secretary, Law, NCTD
- (ii) Mr. Manoj Parida, Additional Chief Secretary, P.W.D., Home.

B. On behalf of High Court of Delhi

- (i). Mr. D.K. Sharma, Registrar General, Delhi High Court.
- (ii). Mr. Ritesh Kr. Singh (ADJ), Officer on Special Duty, Exams, HC of Delhi

Shri D.K. Sharma, Registrar General of the Delhi High Court who has filed a status report and has also stated that the final result of the recruitment to 50 posts of Delhi Higher Judicial Service will be finalized on 30<sup>th</sup> January, 2019 and appointments will be made thereafter. Another 50 posts have been advertised yesterday i.e. 14<sup>th</sup> November, 2018. In the report it has been mentioned that selection process in respect of aforesaid 50 posts will be completed on or before 21<sup>st</sup> August, 2019.

The High Court is requested to shorten the process to the extent possible so far as the advertisement dated 14<sup>th</sup> November, 2018 is concerned.

In so far as posts in the cadre of Civil Judge Senior Division are concerned, the Registrar General of the Delhi High Court has submitted that 50 posts of Civil Judge Senior Division which are vacant will be filled up shortly and the proposal has been approved by the Screening Committee and the matter will now be placed before the Full Court at the earliest.

In so far as availability of infrastructure is concerned it has been suggested that 167 additional courts in different court complexes (47 in Karkardooma Court Complex; 16 in Saket Court Complex; 64 in Dwarka Court Complex and 40 in Rohini Court Complex] will be completed in October 2021 and December 2021 respectively.

The position is not acceptable. The Chief Secretary of the NCT of Delhi will file an affidavit within two weeks from today indicating the difficulties and the possible resolutions to ensure more prompt availability of necessary infrastructure. The matter will be considered on 29<sup>th</sup> November, 2018. If the picture that would be unfolded by



the Chief Secretary on the said date is not found satisfactory, the Court may direct infrastructure to be made available on ad hoc basis i.e. by hiring suitable rented accommodation.

So far as the man-power is concerned, the Registrar General of the Delhi High Court has submitted that the sanctioned strength in different Grades i.e. Grade-II, Grade-III and Grade-IV is adequate though about 1700 posts are presently lying vacant in different Grades. The Registrar General has further submitted that financial sanction in respect of the aforesaid posts will be sought and those posts will be filled up as and when the Judicial Officers are recruited and the need for additional man-power arises.

From the report submitted by the Registrar General of the Delhi High Court it appears that in addition to the 100 vacancies of Civil Judges which have been advertised on 28<sup>th</sup> December, 2017 and 14<sup>th</sup> November, 2018 there are yet another 100 odd vacancies which have not been subjected to any recruitment process/processes till date. The Delhi High court is requested to make an assessment of the need for filling up the aforesaid 100 odd vacancies or any part thereof and if such necessity is felt, to take immediate

steps to advertise the vacancies as may be required to be filled up and commence the recruitment process/processes forthwith.

The matter in respect of NCT of Delhi/High Court of Delhi will be considered on 29<sup>th</sup> November, 2018.

**STATES OF ARUNACHAL PRADESH, ASSAM, MIZORAM, NAGALAND/HIGH COURT OF GAUHATI**

Following officers are present on behalf of the States of Arunachal Pradesh, Assam, Mizoram, Nagaland and High Court of Gauhati”

A. On behalf of State of Arunachal Pradesh

(i) Mr. Azimul Haque - Personal Secretary to the Government of Arunachal Pradesh

(ii) Mr. Dani Belo - Secretary Law Judicial

B. On behalf of State of Assam

(i) Mr. Sanjeev Sharma, Secretary-cum-Legal Remembrancer

(ii) Mr. Raj Chakravarthy, Commissioner, PWD

(iii) Ms. Jyoti Sharma, Chief Engineer, PWD

(iv) Mr. M.R. Barbhuyia, Deputy LR

(v) Mr. Shyam Jaganathan, Commissioner-cum-Secretary, Finance Dept.

**C. On behalf of State of Mizoram**

**(i) Lalzirmawia, Secretary, Mizoram Public Service Commission**

**(ii) Melody Pachuau, Dy. Secy. Law & Judicial Deptt.**

**(iii) Mr. P.V. Yogeswaran, Adv.**

**D. On behalf of State of Nagaland**

**(i) Mrs. Khanrinla T. Koza, Secretary (Law)**

**(ii) Mr. Ngamjok Konyak, Additional Secretary (Law)**

**E. On behalf of High Court of Gauhati**

**(i) Mr. Robin Phukan, Registrar General**

We have perused the affidavit filed by the Registrar General of the High court of Guwahati explaining the vacancy position; the on-going process/processes of recruitment; and also the details with regard to the inadequacy of the infrastructure.

So far as the appointments/recruitment in different cadres of Aruchal Pradesh Judicial Service, Assam Judicial Service, Mizoram Judicial Service and Nagaland Judicial Service are concerned we find the position to be more or less satisfactory. The expected date of completion of the process of the on-going recruitment be strictly adhered to and appointments be made once the process is complete.

So far as the infrastructure is concerned, it appears that in the State of Assam 37 court buildings are required on an emergent basis to enable the Judicial Officers, who will be appointed at different levels pursuant to the several on-going processes to function. No infrastructure whatsoever is available at present. We, therefore, direct the State Government to make the necessary infrastructure available by taking suitable premises on rent/lease or to renovate/reconstruct the government accommodation as may be available. The High Court of Gauhati is requested to finalize the proposal for additional court buildings in the 37 different locations identified and mentioned in the report of the Registrar General and thereafter seek administrative approval which will be granted by the State Government immediately and without any delay.

**STATE OF MANIPUR/HIGH COURT OF MANIPUR**

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

- A. On behalf of the State of Manipur
  - (i) Secretary Law - A. Nungshitombi
- B. On behalf of the Manipur High Court
  - (i) Mr. A. Guneshwar Sharma, Registrar General

We have perused the affidavit filed on behalf of the State of Manipur and the relevant details circulated in Court in the form of a Chart.

From the above, it is clear to us that so far as the vacancies are concerned the only area which would require attention of the Court is the five (05) vacancies in the cadre of District Judge to be filled up by direct recruitment.

Having heard the learned Registrar General of the Manipur High Court and the amendment made in Rule 7 to the Manipur Judicial Service Rules, 2005 we direct the process of direct recruitment to the five (05) posts in terms of the amended Rule be initiated and completed as expeditiously as possible and, in any case, within a period of six months from today.

So far as the infrastructure is concerned, from the details submitted it appears that there is shortage of two court rooms to house Officers in the cadre of District Judge. Residential Accommodation seems to be generally available except in the capital city of Imphal where Judicial Officers are accommodated in a limited manner in the government accommodation available in the general pool.

There are instances of Judicial Officers even camping in the High Court Guest House. This is undesirable. We direct the State Government, as an immediate measure, to provide suitable accommodation to all Judicial Officers serving in the capital city of Imphal and to initiate steps and measures in association with the High Court of Manipur for permanent accommodation of Judicial Officers in the city of Imphal.

STATE OF MEGHALAYA/HIGH COURT OF MEGHALAYA

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

- A. On behalf of the State of Meghalaya
  - (i) Mr. W.Y. Khylllep, Law Secretary
- B. On behalf of the Meghalaya High Court
  - (i) Ms. Belma Mawrie, Registrar General

It is stated by the Registrar General of the High Court of Meghalaya that notwithstanding the availability of 35 posts in Grade-I of the Meghalaya Judicial Service the immediate need of the State is only in respect of five (05) posts which have been duly advertised. The recruitment process initiated by the aforesaid advertisement issued on 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> November, 2018 be finalized at the earliest.

So far as the vacancies in Grade-II are concerned, it is stated in the affidavit of the Registrar General of the Meghalaya High Court that no officer in Grade-III is eligible as on date for such promotion.

In so far as vacancies in Grade-III are concerned it has been stated that 14 vacancies available have been advertised by Advertisement dated 8<sup>th</sup> June, 2018. Recruitment process pursuant to the said advertisement be completed by the Meghalaya Public Service Commission at the earliest.

In so far as the infrastructure is concerned we direct that the court buildings including residential accommodation (mentioned in the affidavit of the Registrar General) which are presently under construction be completed in a time bound manner and all pending proposals submitted by the P.W.D. to the State Government be expedited so that adequate infrastructure is available.

In so far as the man-power is concerned, we direct that requisite man-power to man the courts including the courts which will be filled up by Officers in the future be finalized by the High Court by completing the process of

recruitment against available vacancies in different Grades of service.

The monitoring in respect of States of Uttar Pradesh (High Court of Allahabad), Maharashtra and Goa (High Court of Bombay), West Bengal (High Court of Calcutta), Chhattisgarh (High Court of Chhattisgarh), Delhi (High Court of Delhi) and the North-Eastern States i.e. States of Arunachal Pradesh, Assam, Mizoram, Nagaland, Manipur and Meghalaya (High Courts of Gauhati, Manipur, Meghalaya) was taken up today i.e. 15<sup>th</sup> November, 2018 and orders have been passed.

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 Gujarat (High Court of Gujarat), Himachal Pradesh (High Court of Himachal Pradesh), Jammu & Kashmir (High Court of Jammu & Kashmir), Jharkhand (High Court of Jharkhand), Karnataka (High Court of Karnataka) and Kerala (High Court of Kerala). 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 K.V. Vishwanathan, learned Amicus Curiae.



The matter in respect of States of Gujarat (High Court of Gujarat), Himachal Pradesh (High Court of Himachal Pradesh), Jammu & Kashmir (High Court of Jammu & Kashmir), Jharkhand (High Court of Jharkhand), Karnataka (High Court of Karnataka) and Kerala (High Court of Kerala) will be taken up on 5<sup>th</sup> December, 2018.

The Registrars General of the aforesaid High Courts i.e. High Courts of Gujarat, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka and Kerala 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 Gujarat, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka and Kerala whose cases are being considered on 5<sup>th</sup> December, 2018 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 State 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 K.V. Vishwanathan, 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

[ASHA SONI]  
ASSISTANT REGISTRAR