

ITEM NO.32

COURT NO.4

SECTION 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

Writ Petition (Civil) No.457/2022

HARSH AJAY SINGH

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With IA No.86869/2022-STAY APPLICATION)

WITH W.P.(C) No.458/2022 (PIL-W)

(With IA No.86881/2022-EX-PARTE STAY and IA No.86882/2022-
PERMISSION TO APPEAR AND ARGUE IN PERSON)

W.P.(C) No.473/2022 (PIL-W)

(With IA No.89235/2022-STAY APPLICATION)

Date : 19-07-2022 These petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s)

WP 457/2022

Ms. Kumud Lata Das, AOR
Ms. Ritu Rastogi, Adv.
Mr. Rajiv Kumar Sinha, Adv.

WP 458/2022

Petitioner-in-person

WP 473/2022

Mr. V.K. Shukla, Sr. Adv.
Mr. Rohit Pandey, Adv.
Mr. Vaibhav Maheshwari, Adv.
Mr. Varad Dwivedi, Adv.
Ms. Munisha Anand, Adv.

**Mr. Rohit Gautam, Adv.
Ms. Shashi Kiran, AOR
Mr. Ankit Sharma, Adv.**

**For Respondent(s) Mr. Tushar Mehta, SG
Mr. K.M. Nataraj, ASG
Ms. Aishwarya Bhati, Adv.
Mr. Rajat Nair, Adv.
Mr. Shailesh Madiyal, Adv.
Mr. Mayank Pandey, Adv.
Mr. Arvind Kumar Sharma, AOR**

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

- 1 A batch of three petitions, invoking the jurisdiction of this Court under Article 32 of the Constitution has been instituted for challenging or, as the case may be, seeking directions in respect of Agnipath scheme notified by the Union Government on 14 June 2022.
- 2 Mr V K Shukla, senior counsel, Ms Kumud Lata Das and Mr Manohar Lal Sharma, counsel appear on behalf of the petitioners. Mr Tushar Mehta, Solicitor General appears on behalf of the respondent with Mr K M Nataraj and Ms Aishwarya Bhati, Additional Solicitors General.
- 3 Petitions under Article 226 of the Constitution have been filed before several High Courts either questioning the validity of the Agnipath scheme or as the case may be, seeking directions to the Union Government and the Armed forces to complete the recruitment process which was initiated earlier.
- 4 The Solicitor General has placed on the record a consolidated chart of the position as it pertains to the invocation of the jurisdiction of several High Courts under Article 226 of the Constitution.
- 5 The High Courts in which writ petitions under Article 226 have been instituted are the High Courts of Delhi, Kerala, Patna, Punjab & Haryana and

Uttarakhand. Certain proceedings have been instituted before the Armed Forces Tribunal at Kochi.

- 6 A multiplicity of writ petitions in different High Courts on the subject would not either be desirable or proper from the perspective of certainty and uniformity. One option would be for this Court to consolidate and transfer all pending proceedings to it. Adopting such a course of action in the present case would, however, deprive the Court of the benefit of a considered view of the High Court on various aspects bearing on the validity of the scheme and its implementation, which are addressed in the petitions filed before several High Courts.
- 7 The chart which has been tendered by the Solicitor General indicates that the Delhi High Court is seized of the following proceedings:
 - 1 CWP No 10422 of 2022
 - 2 CWP No 10023 of 2022
 - 3 CWP No 10386 of 2022
 - 4 CWP No 10231 of 2022
 - 5 CM No 30337/2022 and CM No 30344/2022 in CWP No 12949 of 2021.
- 8 Mr Prashant Bhushan, counsel who is appearing in some of the proceedings before the Delhi High Court has submitted that in the petition in which he appears before the Delhi High Court, the validity of the scheme is not directly under challenge and one of the reliefs sought is the completion of the enrollment process which had already been initiated. The above relief would overlap with some of the reliefs which have been sought before this Court in the petitions which have been presented by Mr V K Shukla, senior counsel and Ms Kumud Lata Das, counsel.

- 9 In this backdrop, the three petitions which have been instituted before this Court, namely, Writ Petition (Civil) No 457 of 2022, Writ Petition (Civil) No 458 of 2022 and Writ Petition (Civil) No 473 of 2022 shall stand transferred to the Delhi High Court and be renumbered as petitions under Article 226 of the Constitution. Ordinarily, we would have disposed of these petitions by granting liberty to the petitioners to move the Delhi High Court afresh. We are desisting from following that course of action in order to obviate any further delay in the withdrawal of the petitions and the filing of fresh petitions before the Delhi High Court.
- 10 The Registrar (Judicial) shall transmit the records of the above three petitions under Article 32 of the Constitution to the Registrar (Judicial) of the Delhi High Court so that the petitions can be renumbered and be placed in terms of the administrative directions of the Chief Justice of the Delhi High Court.
- 11 As noted above, several petitions have also been filed before the High Courts of Kerala, Patna, Punjab & Haryana and Uttarakhand. A copy of the present order shall be placed on the record of the proceedings in each of the High Courts by the counsel appearing on behalf of the Union of India in those proceedings. The High Courts shall furnish an option to the petitioners who have moved those petitions under Article 226 to either have their petitions transferred in pursuance of the present directions or, in the alternative, keep those petitions pending while granting liberty to the petitioners to intervene in the proceedings before the Delhi High Court. In the event that the petitioners desire to opt for the former course of action, the petitions before the High Courts shall be transferred to the Delhi High Court for being heard together with the pending proceedings and the proceedings which are being transferred. Should the petitioners not desire to follow that course of action, the High Courts shall keep those petitions pending and the petitioners before the High Courts would be at liberty to intervene before the Delhi High Court so that they have an opportunity of espousing their contentions before the

Delhi High Court in the pending proceedings.

- 12 In the event that any petitions are filed hereafter, the same course of action which has been set out above, shall be followed by the concerned High Courts after a copy of this order is placed on the record. All the petitioners would be at liberty to move applications before the Delhi High Court. We request the Delhi High Court to set down the petitions for expeditious disposal after hearing the parties.
- 13 The Union of India shall ensure that a copy of this order is immediately placed before the Registrar (Judicial) of the concerned High Courts. The Registrars (Judicial) shall place the order before the Chief Justices of the High Courts where the petitions are pending, or whether they may be filed hereafter, so that necessary directions can be issued by the assigned Bench according to the roster, consistent with the above directions.
- 14 On the request of Ms Kumud Lata Das, counsel for the petitioner, Writ Petition (Civil) No 477 of 2022 is taken on the Board and shall also stand transferred to the High Court of Delhi in terms of the above direction.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
Court Master