

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

FRIDAY, THE TWENTY FOURTH DAY OF NOVEMBER TWO THOUSAND AND
TWENTY THREE

:PRESENT:
THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE T.VINOD KUMAR

SUOMOTU WRIT PETITION NO: 11 OF 2023

Between:

In re.

(Expeditious disposal of criminal cases, against elected members of parliament and legislative assembly)

Petitioner

AND

1. Union of India,, Represented by its under Secretary, Ministry of Law and Justice, Central Secretariat, New Delhi.
2. State of Telangana, represented by its Chief Secretary, Dr. B.R Ambedkar Secretariat, Hyderabad.
3. State of Telangana, represented by its Principal Secretary, Home (Courts) Department, Secretariat, Hyderabad.
4. Director General of Police,, State of Telangana, Lakdikapul, Hyderabad.
5. State of Telangana, represented by its Secretary, Law Department, Secretariat, Hyderabad.
6. The Registrar General,, High Court for the State of Telangana, Hyderabad.
7. The Joint Director,, Central Bureau of Investigation, Kendriya Sadan, Koti, Hyderabad.

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in compliance with the orders of the Hon'ble the Chief Justice dt 10/11/2023 and for the reasons stated in the E-mail dated 09-11-2023 received from Ms. Uttara Babbar, Advocate-on-Record Supreme Court of India, New Delhi, herein, this Court may be pleased to issued an appropriate writ order or orders more particularly one in the nature of writ of Mandamus by directing the designated courts as under:

(i) To issue instructions to the designated Courts functioning in the State to give priority for disposal in the following order:

(a) first to criminal cases against MP's and MLA s punishable with death or life imprisonment then

(b) cases punishable with imprisonment for 5 years or more, and then hear

(c) other cases and not to adjourn the cases except for rare and compelling reasons.

(ii) The Registry may be directed to list the cases before the Special Bench in which orders of stay of trial have been passed to ensure that appropriate orders, including vacation of stay orders are passed to ensure commencement and conclusion of trial.

(iii) Registry be directed to address a letter to the designated Special Court in the cadre of District Judge for vacation of stay orders are passed to ensure commencement and conclusion of trial and for ensuring sufficient infrastructure facility and for adopting such technology as is expedient for effective and efficient functioning.

The petition coming on for hearing, upon perusing the Petition and the E-mail dt. 09-11-2023 filed in support thereof and upon hearing the arguments of Sri B. Narasimha Sharma, Addl. Sol. Gen., for the Respondent No.1 and Sri S. Mujib Kumar, GP attached to the office of Addl. Advocate General for the Respondent Nos.2 to 5 and Sri G. Vidya Sagar, Senior Counsel for the Respondent No.6 and Sri and the Court made the following.

ORDER:

Mr. B. Narasimha Sharma, learned Additional Solicitor General of India for respondent No.1.

Mr. S. Mujib Kumar, learned Government Pleader attached to the office of learned Additional Advocate General for respondent Nos.2 to 5

Mr. G. Vidya Sagar, learned Senior Counsel for respondent No.6.

2) This writ petition under Article 32 of the Constitution of India was filed before the Supreme Court seeking the following reliefs:-

1. Expeditious disposal of criminal cases against elected Members of Parliament and Legislative Assemblies; and
2. Validity of Section 8 of the Representation of People Act, 1951.

3) By an order dated 09.11.2023, the Supreme Court has formulated certain guidelines for expeditious disposal of cases against elected Members of Parliament and Legislative Assemblies and the writ petition insofar as it pertains to first prayer has been disposed of. It has been held that pendency of cases against MPs and MLAs have a direct bearing on political democracy and there is a compelling need to make an endeavour to ensure that these cases are taken up on priority basis and are decided expeditiously. It has further been held that even the political representative – be it Member of Parliament or a Member of Legislative Assembly involved in prosecution would also seek quick disposal of the case pending against him/her.

4) The guidelines given by the Supreme Court read as under:

- (i) Learned Chief Justices of the High Courts shall register a suo-motu case with the title, "*In Re: designated courts for MPs/MLAs*" to monitor early disposal of criminal cases pending against the Members of Parliament and Legislative Assemblies. The suo-motu case may be heard by the Special Bench presided by the Learned Chief Justice or a bench assigned by them.

(ii) The Special Bench hearing the suo-motu case may list the matter at regular intervals as is felt necessary. The High Court may issue such orders and/or directions as are necessary for expeditious and effective disposal of the subject cases. The Special Bench may consider calling upon the Advocate General or the Public Prosecutor to assist the Court.

(iii) The High Court may require the Principal District and Sessions Judge to bear the responsibility of allocating the subject cases to such court or courts as is considered appropriate and effective. The High Court may call upon the Principal District and Sessions Judge to send reports at such intervals as it considers expedient.

(iv) The designated courts shall give priority:

- (i) first to criminal cases against MP's & MLA's punishable with death or life imprisonment then to;
- (ii) cases punishable with imprisonment for 5 years or more, and then hear;
- (iii) other cases.

The Trial Courts shall not adjourn the cases except for rare and compelling reasons.

(v) The learned Chief Justices may list cases in which orders of stay of trial have been passed before the Special Bench to ensure that appropriate orders, including vacation of stay orders are passed to ensure commencement and conclusion of trial.

(vi) The Principal District and Sessions Judge shall ensure sufficient infrastructure facility for the designated courts and also enable it to adopt such technology as is expedient for effective and efficient functioning.

(vii) The High Courts shall create an independent tab on their website providing district-wise information about the details of the year of filing, number of subject cases pending and stage of proceedings. We make it clear that while monitoring the subject cases, the Special Bench may pass such orders or give such additional directions as are necessary for early disposal of the subject cases.

5) In pursuance of the aforesaid guidelines, this Special Bench has been constituted and we direct the Registry to register this writ petition as "In Re: designated courts for MPs/MLAs".

6) In the order dated 09.11.2023, the Supreme Court has referred to the present status of cases on the pendency against MPs and MLAs in the State of Telangana. The relevant extract reads as under:

| Sr. No. | State/UT | Case in Dec.2018 | Cases in Dec. 2021 | Cases as in November 2022 | | |
|---------|-----------|------------------|--------------------|---------------------------|-------------------|---------------------|
| | | | | Total cases | More than 5 years | Case load per judge |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1. | Telangana | 99 | 50 | 17 | 4 | Between 1 to 16 |

7) We therefore issue the following directions:

(1) The Registry is directed to collate the data with regard to pendency of criminal cases pending against MPs and MLAs.

(2) The aforesaid data shall be filed in the form of status report with regard to category of offences registered against each of such MPs and MLAs on or before the next date of hearing.

List on 15.12.2023.

//TRUE COPY//

SD/- A.V.S. PRASAD
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Registrar (Judicial-I), High Court for the State of Telangana at Hyderabad
2. The Under Secretary, Union of India, Ministry of Law and Justice, Central Secretariat, New Delhi.
3. The Chief Secretary, State of Telangana, Dr. B.R Ambedkar Secretariat, Hyderabad.
4. The Principal Secretary, Home (Courts) Department, State of Telangana, Secretariat, Hyderabad.
5. Director General of Police,, State of Telangana, Lakdikapul, Hyderabad.
6. The Secretary, Law Department, State of Telangana, Secretariat, Hyderabad.
7. The Registrar General,, High Court for the State of Telangana, Hyderabad.
8. The Joint Director,, Central Bureau of Investigation, Kendriya Sadan, Koti, Hyderabad. (2 to 8 by RPAD)
9. One CC to SRI B. Narasimha Sharma, Addl. SOLICITOR GEN. OF INDIA Advocate [OPUC]
10. One CC to Sri G. Vidya Sagar, Senior Counsel (OPUC)
11. Two CCs to Advocate General, High Court at Hyderabad. (OUT)
12. Two CCs to Sri S. Mujib Kumar, GP, High Court at Hyderabad. (OUT)
13. Two spare copies

HIGH COURT

HCJ & TVKJ

DATED:24/11/2023

LIST ON 15-12-2023

ORDER

SUOMOTUWP.No.11 of 2023

DIRECTION

