

ITEM NO.9

COURT NO.1

SECTION III-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 1867/2006

MALIK MAZHAR SULTAN & ANR.

Appellant(s)

VERSUS

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

Respondent(s)

(Counsel for the High Courts/States- Odisha- Mr. Sibbo Shankar Mishra, Mr. Shibashish Mishra, Madhya Pradesh- Mr. Arjun Garg/Ms Mrinal Gopal Elker, Patna- Mr. Gaurav Agrawal/ Mr Samis Ali Kgan, Madras- Anand Kannan/Dr. Joseph Aristotle S., Punjab- Mr. Ajay Pal, Haryana- Dr. Monika Gusain and Mr. Vijay Hansaria (A.C.) require to appear on 02-02-2023

IA No. 152/2016 - APPLICATION FOR DIRECTIONS

IA No. 71428/2020 - APPLICATION FOR PERMISSION

IA No. 153/2017 - APPLICATION FOR PERMISSION FOR VARIATION IN TIME

IA No. 108508/2020 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 103233/2020 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 53466/2022 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 117790/2017 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 99519/2020 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 134427/2020 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 35106/2022 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 110757/2020 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 177295/2018 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 6328/2020 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 143127/2021 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 139131/2019 - CLARIFICATION/DIRECTION

IA No. 126264/2019 - CLARIFICATION/DIRECTION

IA No. 186742/2019 - CLARIFICATION/DIRECTION

IA No. 124030/2020 - CLARIFICATION/DIRECTION

IA No. 4970/2022 - CLARIFICATION/DIRECTION

IA No. 108486/2019 - CLARIFICATION/DIRECTION

IA No. 23882/2020 - CLARIFICATION/DIRECTION

IA No. 157310/2021 - CLARIFICATION/DIRECTION

IA No. 148352/2019 - CLARIFICATION/DIRECTION

IA No. 190483/2022 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 31928/2019 - EXEMPTION FROM FILING O.T.

IA No. 139037/2019 - EXEMPTION FROM FILING O.T.

IA No. 31/2019 - EXEMPTION FROM FILING O.T.

IA No. 97891/2019 - EXEMPTION FROM FILING O.T.

IA No. 139136/2019 - EXEMPTION FROM FILING O.T.

IA No. 70330/2018 - EXTENSION OF TIME

IA No. 81776/2019 - EXTENSION OF TIME

IA No. 70324/2018 - EXTENSION OF TIME

IA No. 135200/2020 - EXTENSION OF TIME

IA No. 29839/2019 - EXTENSION OF TIME
 IA No. 187810/2019 - EXTENSION OF TIME
 IA No. 99499/2020 - EXTENSION OF TIME
 IA No. 153897/2019 - EXTENSION OF TIME
 IA No. 200525/2022 - EXTENSION OF TIME
 IA No. 13841/2020 - EXTENSION OF TIME
 IA No. 148502/2021 - EXTENSION OF TIME
 IA No. 190482/2022 - EXTENSION OF TIME
 IA No. 37616/2021 - INTERVENTION APPLICATION
 IA No. 6643/2022 - INTERVENTION APPLICATION
 IA No. 186082/2018 - INTERVENTION APPLICATION
 IA No. 113777/2019 - INTERVENTION APPLICATION
 IA No. 183142/2018 - INTERVENTION APPLICATION
 IA No. 178581/2018 - INTERVENTION APPLICATION
 IA No. 108485/2019 - INTERVENTION APPLICATION
 IA No. 6324/2020 - INTERVENTION/IMPLEADMENT
 IA No. 139035/2019 - INTERVENTION/IMPLEADMENT
 IA No. 134414/2020 - INTERVENTION/IMPLEADMENT
 IA No. 186736/2019 - INTERVENTION/IMPLEADMENT
 IA No. 124029/2020 - INTERVENTION/IMPLEADMENT
 IA No. 109148/2020 - MODIFICATION
 IA No. 190106/2019 - MODIFICATION OF COURT ORDER
 IA No. 81229/2022 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES)

WITH

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

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 Mathur/Mr Ajay Pal& Dr. Monika Gusain,& Mr. Vijay Hansaria (A.C.)

IA No. 135297/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 118504/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 54188/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 46287/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 111743/2019 - EXEMPTION FROM FILING O.T.
 IA No. 65608/2019 - EXEMPTION FROM FILING O.T.
 IA No. 6713/2019 - EXEMPTION FROM FILING O.T.
 IA No. 46288/2020 - EXEMPTION FROM FILING O.T.
 IA No. 65607/2019 - EXTENSION OF TIME
 IA No. 77659/2019 - INTERVENTION APPLICATION)

SMW(C) No. 1/2017 (PIL-W)
 [MR. ARVIND DATAR, SR. ADV (A.C.)]

Date : 02-02-2023 These matters were called on for hearing today.

CORAM :

**HON'BLE THE CHIEF JUSTICE
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HON'BLE MR. JUSTICE J.B. PARDIWALA**

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

STATE OF ODISHA

- 1 The Centrally Sponsored Scheme¹ which has been implemented by the Department of Justice, Ministry of Law and Justice, Government of India was extended from 1 April 2017 to 31 March 2020 with a Central share of Rupees Three Thousand Three Hundred and Twenty Crores (Rs 3320 Crores).
- 2 The Union Government has approved the continuance of the CSS for another five years from 2021-22 to 2025-26 with a financial outlay of Rupees Nine Thousand Crores [including the Central share of Rupees Five Thousand Three Hundred and Nine Crores (Rs 5309 Crores)].
- 3 The fund sharing pattern in the scheme is 90:10 as between the Centre and the States for eight North Eastern and two Himalayan States and 60:40 for the remaining States.
- 4 According to the note which has been submitted by the Amicus Curiae, an amount of Rs 60.40 Crores under the CSS was allocated in terms of an action plan dated 26 July 2022 of the High Court of Orissa which was in response to a communication dated 29 April 2022 of the Joint Secretary, Government of India (Department of Justice) and a letter dated 10 May 2022 of the Home Department, Government of India.

1 "CSS"

- 5 The data which has been made available to the Court by Ms Aishwarya Bhati, Additional Solicitor General indicates that for the financial year 2019-20 an amount of Rs 35.69 Crores was released to the State of Odisha. Thereafter, for the financial years 2020-21, 2021-22 and 2022-23 no amounts were released.
- 6 According to the note submitted by the Department of Justice, the utilisation certificates for the unspent balance of Rs 22.44 Crores for the financial year 2019-20 has not been submitted. On the other hand, the Amicus Curiae has drawn attention to a communication dated 17 December 2022 of the Additional Secretary to the Government of Odisha in the Home Department to the Ministry of Law and Justice, Government of India indicating that the State Government has utilized more than 75 per cent of the central assistance released during the financial year 2018-19 and 2019-20 and that utilization certificates have been furnished to the Union Government. Hence, the State Government has sought release of the central assistance in favour of the State of Odisha during financial year 2022-23.
- 7 There is evidently a mismatch between the data which has been submitted by the Department of Justice on the one hand and the communication dated 17 December 2022 of the State Government noted above. In order to reconcile the actuals, we direct that within a period of two weeks, a meeting shall be convened on a virtual platform between the :
- (i) Department of Justice, Ministry of Law and Justice, Government of India;
 - (ii) Law Secretary to the Government of Odisha;
 - (iii) Additional Secretary, Home Department, Government of Odisha; and
 - (iv) Registrar General, High Court of Orissa.

- 8 The purpose of the meeting shall be to ensure a reconciliation of the utilization certificates stated to have been submitted by the Government of Odisha. Once this exercise is completed, this Court shall be apprised, on the next date of listing, of the balance which is allocable to the State of Odisha for the financial year 2022-23 and the date by which it shall be released.
- 9 Upon the requirement of the utilization certificates being duly fulfilled, it is necessary that the amount is released at the earliest to the SNA Account so that the amount would not lapse with the impending end of the financial year on 31 March 2023.
- 10 It needs to be clarified that the amount of Rs 60.40 Crores will have to be shared in the ratio 60:40 between the Union Government and the Government of Odisha. The breakup of this figure is evaluated at Rs 36.24 Crores (Central Share) and Rs 24.16 Crores (State Share) in a communication dated 3 December 2022 of the Registrar (Vigilance), High Court of Orissa to the OSD-cum-Additional Secretary to the Government of Odisha, Home Department.
- 11 Once the position is clarified, as in the manner of the release of the central share by the Central Government, the State of Odisha shall also release its part of the share to the SNA Account for utilization.
- 12 The next aspect which requires to be considered is the demand of funds amounting to Rupees 722.4868 Crores which has been made under the State Sector Scheme for the financial year 2023-24 for infrastructure development of the District Judiciary, to the State Government in the Home Department.
- 13 On this aspect, we direct that the Finance Secretary to the Government of Odisha, shall file an affidavit within a period of two weeks indicating the steps which have been taken to meet the demands of the High Court and setting out clearly the period within which the funds shall be transferred to the SNA Account.

- 14 During the course of the District Judges' Conference 2022, it was resolved that the District Judges in coordination with the District Administration shall identify suitable sites for construction of residential quarters for Judicial Officers and staff and construction of transit accommodation.
- 15 A communication dated 13 April 2022 was addressed to all the District Judges. Likewise all the District Judges have been directed by the High Court to submit certificates regarding the availability of litigation free land for undertaking the construction of new court buildings and residential quarters.
- 16 We direct the Registrar General, High Court of Orissa and the Law Secretary to the Government of Odisha to file a joint affidavit within a period of two weeks indicating:
- (i) The exercise which has been carried out of identifying land sites for the purpose of construction of court buildings and residential quarters in pursuance of the communications of the High Court noted above;
 - (ii) The date of communication of the requests by the High Court to the State Government; and
 - (iii) The timelines within which the requests of the High Court shall be addressed.
- 17 The Chief Secretary, Government of Odisha shall convene a meeting with the Law Secretary to the Government of Odisha and the Registrar General, High Court of Orissa for the purpose of verification of the aspects which have been noted above and a comprehensive statement shall be filed in this Court before the next date of listing in regard to the timelines within which land shall be provided for construction of court buildings and residential quarters in terms of the requests made by the High Court.

STATE OF BIHAR

- 18 In order to facilitate the issues pertaining to the State of Bihar being resolved till the next date of listing in terms of the time schedule already prescribed, we have requested Mr Gaurav Agrawal, Amicus Curiae to visit Patna on 5 February 2023. The Registrar General of the High Court of Judicature at Patna shall take steps to convene a meeting with the Chief Secretary, Government of Bihar (or in his absence any other senior Secretary of the Government of Bihar conversant with matters pertaining to the proposals for finance and infrastructure for the State Judiciary) and a representative of the Bihar Public Service Commission. An effort shall be made at this meeting to resolve the outstanding issues and a composite statement shall be filed before this Court on the status of the matter on this aspect.
- 19 As requested by Mr Vijay Hansaria, Amicus Curiae, the Union Public Service Commission(UPSC) is deleted from the array of parties in view of the notice dated 7 March 2008 issued by the Registry of this Court.
- 20 List the matters on 7 February 2023.

(MANISH ISSRANI)
COURT MASTER(SH)

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR