

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

Writ Petition(s)(Criminal) No. 491/2022

BILKIS YAKUB RASOOL

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

[TO BE TAKEN UP AT 2.00 P.M.]

(IA No. 189394/2022 - EX-PARTE AD-INTERIM RELIEF and IA No. 189393/2022 - EXEMPTION FROM FILING O.T.)

WITH

W.P.(Cr1.) No. 319/2022 (PIL-W)

(IA No. 120893/2022 - CLARIFICATION/DIRECTION and IA No. 125604/2022 - INTERVENTION APPLICATION and IA No. 131457/2022 - INTERVENTION/IMPLEADMENT)

W.P.(Cr1.) No. 326/2022 (PIL-W)

(IA No. 121799/2022 - APPROPRIATE ORDERS/DIRECTIONS and IA No. 121800/2022 - EXEMPTION FROM FILING AFFIDAVIT)

W.P.(Cr1.) No. 352/2022 (PIL-W)

(IA No. 132343/2022 - APPROPRIATE ORDERS/DIRECTIONS)

W.P.(Cr1.) No. 403/2022 (PIL-W)

(IA No. 149781/2022 - EXEMPTION FROM FILING O.T.)

W.P.(Cr1.) No. 422/2022 (PIL-W)

(FOR ADMISSION)

Date : 02-05-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.M. JOSEPH

HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s)

Ms. Shobha Gupta, AOR

Mr. Pratik R. Bombarde, AOR

Mr. Yogesh Yadav, Adv.

Mr. Nizam Pasha, Adv.

Ms. Rashmi Singh, Adv.

Ms. Sumita Hazarika, AOR

Ms. Vrinda Grover, Adv.

Ms. Devika Tulsiani, Adv.

Mr. Soutik Banerjee, Adv.

Mr. Aakarsh Kamra, AOR
Ms. Mannat Tipnis, Adv.

Ms. Indira Jaising, Sr. Adv.
Mr. Shadan Farasat, AOR
Mr. Paras Nath Singh, Adv.
Mr. Rohin Bhatt, Adv.
Ms. Mriganka Kukreja, Adv.
Mr. Shourya Dasgupta, Adv.
Ms. Hrishika Jain, Adv.
Mr. Aman Naqvi, Adv.
Ms. Natasha Maheshwari, Adv.

Mr. Kapil Sibal, Sr. Adv.
Ms. Aparna Bhat, AOR
Ms. Karishma Maria, Adv.
Mr. Nizam Pasha, Adv.
Mr. Adit Subramaniam Pujari, Adv.
Mr. Rishabh Parikh, Adv.
Ms. Aparajita Sinha, Adv.
Ms. Maitreya Subramaniam, Adv.

For Respondent(s)

Mr. Tushar Mehta, Solicitor General
Mr. Kanu Agrawal, Adv.
Mr. Rajat Nair, Adv.
Ms. Swati Ghildiyal, AOR
Ms. Devyani Bhatt, Adv.
Ms. Himanshi Shakya, Adv.

Mr. Annam Venkatesh, Adv.
Mrs. Shraddha Deshmukh, Adv.
Mr. Siddharth Dharamadhikari, Adv.
Mr. Arvind Kumar Sharma, AOR

Mr. Rishi Malhotra, AOR
Mr. Jaydip Pati, Adv.

Mr. Santosh Kumar, Adv.
Mr. Shrey Sharawat, Adv.
Mr. Vishal Arun, AOR

Mr. Siddharth Luthra, Sr. Adv.
Mr. Pashupathi Nath Razdan, AOR
Mr. Nachiketa Joshi, Adv.
Mr. Nikhil Jaiswal, Adv.
Mr. Divik Mathur, Adv.
Mr. Sheezan Hashmi, Adv.
Mr. Pankaj Singhal, Adv.
Mr. Ayush Agarwal, Adv.
Mr. Astik Gupta, Adv.

Ms. Maitreyee Jagat Joshi, Adv.
Mr. Vipul Abhishek, Adv.
Ms. Ayushi Mittal, Adv.
Mr. Kuldeep Kumar Shukla, Adv.

Mr. Praneet Pranav, Adv.
Mr. Alabhya Dhamija, Adv.
Ms. Megha Sharma, Adv.
Ms. Akanksha Gupta, Adv.
Mr. Ashish Singh, Adv.
Mr. Shoumendu Mukherji, AOR

Mr. Mrinal Gopal Elker, AOR
Ms. Shreya, Adv.
Mr. Sushil, Adv.

Mr. Vishnu Kant, AOR
Ms. Archana Pathak Dave, Adv.
Mr. Satya Ranjan Swain, Adv.
Mr. Sridhar Potaraju, Adv.

Mr. Santosh Kumar, Adv.
Mr. Shrey Sharawat, Adv.
Mr. Vishal Arun, AOR

Mr. Sandeep Singh, AOR

Mr. Siddharth Luthra, Sr. Adv.
Mr. Pashupathi Nath Razdan, AOR
Mr. Nachiketa Joshi, Adv.
Mr. Nikhil Jaiswal, Adv.
Mr. Divik Mathur, Adv.
Mr. Sheezan Hashmi, Adv.
Mr. Pankaj Singhal, Adv.
Mr. Ayush Agarwal, Adv.
Mr. Astik Gupta, Adv.
Ms. Maitreyee Jagat Joshi, Adv.
Mr. Vipul Abhishek, Adv.
Ms. Ayushi Mittal, Adv.
Mr. Kuldeep Kumar Shukla, Adv.

Mr. Rajan K. Chourasia, AOR

Mr. Rishi Malhotra, AOR
Mr. Jaydip Pati, Adv.

Mr. Prashant Padmanabhan, AOR

Mr. Sanjay Kumar Tyagi, Adv.
Mr. Simarjeet Singh Saluja, Adv.
Mr. Nikhil Jaiswal,, Adv.
Mr. Divik Mathur, Adv.

Ms. Prerna Dhall,, Adv.
Ms. Pratiksha Mishra, Adv.
Ms. Ronika Tater, Adv.
Ms. Rupakshi Soni, Adv.
Mr. Yashraj Singh Bundela, AOR

Mr. Narsimha Reddy, Sr. Adv.
Mr. Amit Tiwari, Adv.
Mr. Amit Sharma, Adv.
Mr. Shreyas Balaji, Adv.
Ms. Ankita Chaudhary, AOR

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

Mr. Sanjay Kumar Tyagi, learned counsel would submit that he is present before this Court because he is aware of the fact that connected cases are listed today before this Court but his client, namely, respondent No.7-*Bipin Chand Kanaiyalal* denies having received notice in W.P. (Criminal) No.491 of 2022. He would submit that a false affidavit has been filed on behalf of the petitioners in W.P. (Criminal) No.491 of 2022.

The allegation is made by Mr. Sanjay Kumar Tyagi, learned counsel appearing on behalf of the respondent No.7 that even though the respondent No.7 was not present at station and the report is to the effect that he was not present at the station and, therefore, service could not have been effected upon him, it is made to appear as if he refused service of notice. This is in respect of respondent Nos.7 and 9, he submits.

Ms. Shobha Gupta, learned counsel appearing on behalf of the petitioners in W.P.(Criminal) No.491/2022 disputes the allegations which have been raised in relation to the

service.

Mr. Rishi Malhotra, learned counsel, appears on behalf of respondent No. 3. He would submit that he does not intend to file any counter affidavit. He, no doubt, voices a preliminary objection about the maintainability. This is a matter to be gone into at the appropriate stage.

Mr. Vishal Arun, learned counsel appears for respondent No. 4. He had sought and was granted two weeks' time to file counter affidavit by order dated 18.04.2023. He would pray for a further period of two weeks' time to file counter affidavit and vakalatnama in the matters. Two weeks' time is granted to file counter affidavit.

As far as respondent No. 5 is concerned, it is pointed out by the learned counsel for the petitioner-Ms. Shobha Gupta, that the fifth respondent has refused to accept service. We record the same and treat that service as complete on respondent No. 5. There is an affidavit of service filed by learned counsel for the petitioner with regard to respondent No. 6.

In regard to respondent No. 7, Mr. Sanjay Kumar Tyagi, seeks and is granted two weeks' time to file vakalatnama and counter affidavit.

Mr. Sandeep Singh, learned counsel appears on behalf of respondent No. 8 and is granted two weeks' time as requested to file counter affidavit.

In respect of respondent No. 9, it would appear that

though, there is an affidavit of service, it has been filed with a noting on the envelop showing that respondent No. 9 had gone out. This would mean that service has not been effected on respondent no. 9. Learned counsel for the petitioner seeks and is granted a day's time to take out notice to respondent No. 9. Apart from taking out notice again to respondent No. 9 by postal service acknowledgment due, petitioner is permitted to serve respondent No. 9 through *dasti* by taking out notice through local police station. The concerned police station must necessarily cooperate for effecting service.

As far as respondent No. 10 is concerned, endorsement shows that he has refused to accept notice. Hence, the notice on the said respondent is complete.

Ms. Ankita Choudhary, learned counsel, appears on behalf of the respondent No. 11 and seeks and is granted two weeks' time to file counter affidavit and vakalatnama.

Mr. Amit Tiwari, learned counsel appears on behalf of respondent No. 12 and seeks and is granted two weeks' time to file counter affidavit.

Mr. Pashupati Nath Razdan, learned counsel appears for respondent No. 13 and would point out that counter affidavit has already been filed and we notice that Mr. Siddharth Luthra, learned senior counsel appears on behalf of respondent No.13.

Learned Solicitor General appearing on behalf of the State of Gujarat and Union of India would submit that

neither the respondent-State nor the Union of India is pressing a claim for privilege which was adverted to as can be seen from the order dated 18.04.2023.

Learned Solicitor General also would submit that Union of India and the State of Gujarat do not intend to file a review in relation to the order directing production of records and that the records would be produced when directed to do so.

In all the cases where service is incomplete, petitioners in other writ petitions will also take steps to complete service on the unserved respondents including by *dasti* service through the concerned local police station. Needless to say, the police station officers will cooperate in the matter of service of notices by *dasti* service.

List the matters for directions on 09th May, 2023.

(JAGADISH KUMAR)
COURT MASTER (SH)

(NIDHI AHUJA)
AR-cum-PS

(RENU KAPOOR)
ASSISTANT REGISTRAR