

ITEM NO.7

COURT NO.2

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.699/2016

ASHWINI KUMAR UPADHYAY

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

IA No.107427/2018-Appropriate Orders/Directions

IA No.81287/2018-Clarification/Direction

IA No.136819/2018-Clarification/Direction

IA No.54637/2018-Clarification/Direction

IA No.54552/2018-Directions

IA No.107431/2018-Exemption from filing O.T.

IA No.61324/2017-I/A for permission to amend the prayer on behalf of Pet.

IA No.81286/2018-Intervention Application

IA No.58124/2017-Intervention/Impleadment

IA No.57812/2017-Intervention/Impleadment

Date : 12-09-2018 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE NAVIN SINHA

For Parties (s)

Mr. Sajan Poovayya, Sr. Adv.
Mr. Ashwini Kumar Upadhyay, Adv.
Mr. Pratibhanu Singh Kharola, Adv.
Mr. Priyadarshi Banerjee, Adv.
Mr. R. D. Upadhyay, AOR

Mr. Siddhartha Dave, Adv.
Mr. Ashwani Kumar Dubey, Adv.
Ms. Jentiben AO, Adv.

Mr. Raju Ramchandran, Sr. Adv.
Mr. A.D.N. Rao, Adv.
Mr. A. Venkatesh, Adv.
Mr. Rahul Mishra, Adv.
Ms. Sudipta Sircar, Adv.
Mr. Hamsim Shankar, Adv.

Mr. Atamram N.S. Nadkarni, ASG
Ms. V. Mohana, Sr .Adv.

Mr. Rajiv Nanda, Adv.
Ms. Rukhmini Bobde, Adv.
Mr. Arvind Kr. Sharma, AOR

Mr. Sibbo Sankar Mishra, AOR
Mr. Niranjan Sahu, Adv.

Mr. Mukesh Kumar Maroria, AOR

Mr. Mohit D. Ram, AOR
Ms. Monisha Handa, Adv.

Mr. Rajesh Srivastava, Adv. (State of M.P.)

Mr. Gopal Sankaranarayanan, Adv.
Mr. Balaji Srinivasan, AOR
Mr. Siddhant Kohli, Adv.
Ms. Garima Jain, Adv.
Ms. Pallavi Sengupta, Adv.
Mr. Ashwarya Kane, Adv.

Mr. G. Prakash, Adv. (Standing counsel for the State of Kerala)
Mr. Jishnu M.L., Adv.
Ms. Priyanka Prakash, Adv.
Ms. Beena Prakash, Adv.

Mr. Pranav Sachdeva, AOR

Mr. Vikram Gulati, Adv.

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

By our order dated 1.11.2017 we had issued the following directions:

"1. How many of 1581 cases involving Members of Legislative Assembly (MLAs) and Members of Parliament (MPs.) [as declared at the time of filing of the nomination papers to the 2014 Elections) have been disposed of within the time frame of one year as envisaged by this Court by order dated 10th March, 2014 passed in Writ Petition (Civil) No.536 of 2011.

2. How many of these cases which have been finally decided have ended in acquittal/conviction of MPs. and MLAs., as may be.

3. Between 2014 and 2017 (as on date) whether any further criminal case(s) has been lodged against any present or former legislator (MP/MLA) and, if so, the detail(s) thereof, including detail(s) with regard to the disposal of such case(s)."

Thereafter by order dated 14.12.2017 we had *inter alia* observed as follows:

".....The High Court(s), acting through the various trial Courts, will trace out from the case records the particular case(s) pending in the files of the respective judicial officers under the jurisdiction of the High Court(s) which are required to be dealt with by the Special Courts under the Scheme and thereafter transfer the said cases to such Special Courts(s) for adjudication."

Thereafter on 21.08.2018 we had sought certain additional information which are as follows :

- "1. Number of Special Courts set up pursuant to the order of this Court dated 14th December, 2017;
2. Whether the courts set up are Courts of Sessions or Magisterial Courts;
3. The territorial jurisdiction of

each of these Courts;

4. Number of cases pending before each of these Courts, with break-up of Magisterial and Sessions triable cases;

5. Whether the Union of India intends to set up additional number of Courts over and above the Courts that may have already been set up pursuant to the order of this Court dated 14th December, 2017. The details in this regard may also be furnished."

Pursuant thereto an additional affidavit has been filed by the Department of Justice stating therein that one special Court each has been set up in each of the States of Andhra Pradesh, Bihar, Kerala, Karnataka, Maharashtra, Madhya Pradesh, Telengana, Tamil Nadu, Uttar Pradesh and West Bengal whereas two special Courts have been set up in the National Capital Territory of Delhi. The information sought for by the Order dated 21.08.2018, extracted above, have also been laid before the Court in the form of tabular chart enclosed as Annexure II to the Additional Affidavit dated 11.09.2018. In the said affidavit it has been further stated that information from the remaining States and High Courts have not been received.

The position that emanates from the above is that the following States and Union Territories have not furnished any information in terms of the Order dated 1.11.2017 and 21.08.2018:

1. Arunachal Pradesh
2. Assam
3. Chhattisgarh
4. Goa
5. Gujarat
6. Haryana
7. Himachal Pradesh
8. Jammu & Kashmir
9. Jharkhand
10. Manipur
11. Meghalaya
12. Mizoram
13. Nagaland
14. Odisha
15. Punjab
16. Rajasthan
17. Sikkim
18. Tripura
19. Uttarakhand
20. Andamand and Nicobar Islands
21. Chandigarh
22. Dadra and Nagar Haveli
23. Daman & Diu
24. Lakshadweep
25. Puducherry

We direct the Chief Secretaries of the above mentioned States and Union Territories as well as the Registrar Generals of the High Courts in each of the States and Union Territories to lay before us full and complete updated information as required in terms of our order dated 1.11.2017 and 21.08.2018. We specifically direct the two authorities, namely, the Chief Secretaries of the States and the

Registrar Generals of the High Courts to lay before us the precise number of cases which are presently pending and required to be transferred to the Special Courts; Whether the 12 Special Courts set up are functional and whether in view of the volume of cases that would be required to be transferred to the special Courts, there is the necessity of setting up of additional Courts.

The aforesaid information be laid before us on a next date fixed i.e. 10.10.2018 (Wednesday).

We also make it clear that on receipt of the requisite information in terms of this order on the next date fixed, if so required, the Court will monitor compliance of its orders passed from time to time by clubbing a number of States together for being separately taken up on each date of hearing.

(POOJA ARORA)
COURT MASTER

(ASHA SONI)
ASSISTANT REGISTRAR