

ITEM NO.3

COURT NO.1

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(S). 699/2016

ASHWINI KUMAR UPADHYAY

PETITIONER(S)

VERSUS

UNION OF INDIA & ANR.

RESPONDENT(S)

[I.A. NO.107427/2018 - APPROPRIATE ORDERS/DIRECTIONS

I.A. NO.81287/2018 - CLARIFICATION/DIRECTION

I.A. NO.136819/2017 - CLARIFICATION/DIRECTION

I.A. NO.54637/2017 - CLARIFICATION/DIRECTION

I.A. NO.54552/2017 - DIRECTIONS

I.A. NO.107431/2018 - EXEMPTION FROM FILING O.T.

I.A. NO.61324/2017 - I/A FOR PERMISSION TO AMEND THE PRAYER ON
BEHALF OF PETITIONER

I.A. NO.81286/2018 - INTERVENTION APPLICATION

I.A. NO.58124/2017 - INTERVENTION/IMPLEADMENT

I.A. NO.57812/2017 - INTERVENTION/IMPLEADMENT

I.A. NO.127368/2018 - INTERVENTION APPLICATION

I.A. NO.127023/2018 - INTERVENTION/IMPLEADMENT

I.A. NO.130542 & 130543/2018 - STAY AND EXEMPTION FROM FILING OT

I.A.NO.146933/20180 - EXEMPTION FROM FILING OT]

Date : 01-11-2018 This matter was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE UDAY UMESH LALIT

HON'BLE MR. JUSTICE K.M. JOSEPH

Mr. Vijay Hansaria, Sr. Adv.(A/C)

Ms. Sneha Kalita, AOR

Mr. Avnish Pandey, Adv.

For parties:

Mr. Dinesh Dwivedi, Sr. Adv.

Mr. Krishnam Mishra, Adv.

Mr. Yasharth Kant, Adv.

Mr. Nishant Singh, Adv.

Mr. R. D. Upadhyay, AOR

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

UOI

Mr. Tushar Mehta, SG
 Mr. A.N.S. Nadkarni, ASG
 Ms. V. Mohana, Sr. Adv.
 Mr. Rajiv Nanda, Adv.
 Mr. Vijay Prakash, Adv.
 Mr. Arvind Kr. Sharma, AOR

Ms. V. Mohana, Sr. Adv.
 Ms. Sunita Sharma, Adv.
 Mr. R.R. Rajesh, A Dv.
 Mr. Raj Bahadur Yadav, Adv.
 Ms. Sunita Gupta, Adv.
 Mr. Arun Kr., Adv.

Mr. Mukesh Kumar Maroria, AOR

ECI

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

Mr. Balaji Srinivasan, AOR
 Mr. Siddhant Kohli, Adv.
 Ms. Pratiksha Mishra, Adv.
 Ms. Garima Jain, Adv.
 Ms. Pallavi Sengupta, Adv.

Mr. Gopal Sankaranarayanan, Adv.
 Mr. Balaji Srinivasan, AOR
 Mr./Ms. Aishwarya Kane, Adv.
 Ms. Gayatri Verma, Adv.

Mr. Pranav Sachdeva, AOR

Delhi HC

Mr. Raju Ramachandran, Sr. Adv.
 Mr. Annam D.N. Rao, Adv.
 Mr. Annam Venkatesh, Adv.
 Mr. Sudipto Sircar, Adv.
 Mr. Rahul Mishra, Adv.

	Mr. Vaibhav Srivastava, Adv. Mr. Kabir Dixit, Adv.
State of MP	Mr. Rajesh Srivastava, Adv.
State of Kerala	Mr. G. Prakash, Adv. Mr. Jishnu M.L., Adv. Mrs. Priyanka Prakash, Adv. Mrs. Beena Prakash, Adv.
Kerala HC	Mr. T.G.N. Nair, AOR Mr. Sibho Shankar Mishra, AOR Ms. Shriya Maini, Adv.
State of Sikkim	Mr. A. Mariarputham, Adv. Gen. Sikkim Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. Ms. Geetanjali, Adv. For M/s Aruputham Aruna & Co., AOR
HC of Allahabad	Mr. Sunny Choudhary, AOR
State of Rajasthan	Mr. S.S. Shamsbery, AAG, Rajasthan Mr. Amit Sharma, Adv. Mr. Ankit Raj, Adv. Ms. Nidhi Jaswal, Adv. Ms. Indira Bhakar, Adv. Ms. Ruchi Kohli, AOR
Rajasthan HC	Mr. Abhinav Mukherji, AOR Mrs. Bihu Sharma, Adv.
HP HC	Ms. Radhika Gautam, AOR
Uttarakhand HC	Ms. Radhika Gautam, AOR
Patna HC	Mr. Pravin H. Parekh, Sr. Adv. Mr. Kshtrashal Raj, Adv. Mr. Vishal Prasad, Adv. Ms. Tanya Chaudhary, Adv. Ms. Aishwarya Dash, Adv. for M/s Parekh & Co., AOR

HC of J&K	Mr. Bharat Sangal, AOR Ms. Babita Kushwaha, Adv.
HC of MP	Mr. Arjun Garg, AOR Mr. Manish Yadav, Adv. Mr. Aakash Nandolia, Adv.
HC of Jharkhand	Mr. Ambhoj Kumar Sinha, AOR
State of Arun.P.	Mr. Anil Shrivastava, AOR Mr. Rituraj Biswas, Adv. Mr. Satyendra Kumar Srivastav, Adv.
State of Jharkhand	Mr. Tapes K. Singh, AOR Mr. Aditya Pratap Singh, Adv.
State of Haryana	Mr. Samar Vijay Singh, Adv. Mr. Anil Grover, Adv. Mr. Sanjay Kumar Visen, AOR
State of Gujarat	Ms. Hemantika Wahi, AOR Ms. Jesal Wahi, Adv. Ms. Vishakha, Adv. Ms. Parul Luthra, Adv.
Govt. of Puducherry	Mr. V.G. Pragasam, AOR Mr. S. Prabu Ramasubramanian, Adv. Mr. S. Manuraj, Adv.
State of Manipur	Mr. Leishangthem Roshmani Kh., AOR Ms. Maibam Babina, Adv. Ms. Anupama Ngangom, Adv.
HC of Calcutta	Mr. Kunal Chatterjee, AOR Ms. Maitrayee Banerjee, Adv. Mr. Saurav Gupta, Adv.
State of Tripura	Mr. Shuvodeep Roy, AOR Mr. Rituraj Biswas, Adv.
UT of A & N admn.	Mr. K.V. Jagdishvaran, Adv. Ms. G. Indira, AOR
State of Nagaland	Ms. K. Enatoli Sema, AOR

State of Bihar	Mr. M. Shoeb Alam, AOR Mr. Ujjwal Singh, Adv. Mr. Mojahid Karim Khan, Adv.
State of J & K	Mr. M. Shoeb Alam, AOR Mr. Ujjwal Singh, Adv. Mr. Mojahid Karim Khan, Adv.
State of Punjab	Mr. Karan Bharihoke, AOR. Ms. Navkiran Bolay, Adv.
State of Goa	Mr. A.N.S. Nadkarni, ASG Mr. Pratap Venugopal, Adv. Ms. Surekha Raman, Adv. Mr. Santosh Rebello, Adv. Ms. Remya Raj, Adv. For M/s K.J. John & Co., Adv.
State of U.P.	Mr. Sanjay Kumar Tyagi, AOR Mr. Yogendra Pal Singh, Adv. Mr. Subash Chandran, Adv.
Chandigarh Admn.	Mr. Manoj Gorkela, Adv. Mr. Alok Singh, Adv. Mr. Prakash Sharma, Adv. Mr. Sunil Mallan, Adv. Ms. Prakriti Raj, Adv. For Gorkela Law Office, AOR
State of Mizoram	Mr. Shikhar Garg, Adv. Mr. P.V. Yogeswaran, Adv.
State of Uttarakhand	Ms. Rachana Srivastava, AOR Ms. Monika, Adv.
State of Karnataka	Mr. V.N. Raghupathy, Adv. Mr. Parikshit P. Angadi, Adv.
State of A.P.	Mr. Guntur Prabhakar, Adv. Ms. Prerna Singh, Adv.
Gauhati HC	Mr. Vijay Hansaria, Sr. Adv.(A/C) Ms. Sneha Kalita, AOR Mr. Avnish Pandey, Adv.

State of Meghalaya	Mr. Ranjan Mukherjee, Adv. Mr. Daniel Stone Lyngdoh, Adv. Mr. K.V. Kharlingdoh, Adv.
State of Assam	Mr. Shuvodeep Roy, Adv. Mr. Somnath Banerjee, Adv.
State of H.P.	Mr. Abhinav Mukerji, AAG, HP Mrs. Bihu Sharma, Adv. Mr. Siddharth Garg, Adv.
Lakshadweep	Ms. Sunita Sharma, Adv. Mr. R.R. Rajesh, Adv. Mr. Raj Bahadur, Adv. Mr. Arun Kr., Adv.
State of Chhattisgarh	Mr. A.P. Mayee, Adv. Mr. Chirag Jain, Adv.
HC of Bombay	Mr. A.P. Mayee, Adv. Mr. Chirag Jain, Adv.
Delhi HC	Mr. A.D.N. Rao, AOR Mr. Annam Venkatesh, Adv. Mr. Sudipto Sircar, Adv. Mr. Rahul Mishra, Adv.
State of W.B.	Mr. Suhaan Mukerji, Adv. Ms. Astha Sharma, Adv. Mr. Amit Verma, Adv. Ms. Kajal Dalal, Adv. Ms. Dimple Nagpal, Adv. For PLR Chambers, AOR
State of T.N.	Mr. M. Yogesh Kanna, AOR Mrs. Sujatha Bagadhi, Adv.

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

Insofar as creation of additional Special Courts and the suggestions of the learned Amicus Curiae on this aspect of the matter is concerned, Shri Tushar Mehta, learned Solicitor General has submitted that an affidavit of the Union of India may be permitted to be brought on record. The said affidavit may be filed in the course of the day.

Shri Vijay Hansaria, learned Senior Counsel who is the Amicus Curiae in the case apart from dealing with the matter of creation of Special Courts and allocation of Courts State-wise and the feasibility thereof has made a suggestion which we would like to consider. Shri Hansaria has submitted that earmarking a particular Court in each district to try criminal cases involving elected representatives both at Sessions and Magisterial level and directing such Courts to treat the said cases involving elected representatives on a priority basis could be a viable option to enable the Court to ensure timely completion of criminal proceedings against such elected representatives. Shri Hansaria, learned Amicus Curiae has drawn the attention of the Court to a form prepared by him, enclosed at Annexure 6 to the written submissions filed by him dated 23rd October, 2018. Shri Hansaria has submitted

that the requisite information be called for from all the High Courts in the country as per the said form. In this regard, Shri Hansaria has further drawn the attention of the Court to an information received by him from the Registrar (Judicial) of the Gauhati High Court furnishing the information as per the said form insofar as the State of Assam is concerned. Similar such information has been received by him in the said form in respect of States of Arunachal Pradesh and Nagaland.

We have looked into the information furnished by the Gauhati High Court in the aforesaid form. At this stage, when information from the other High Courts have been called for and are awaited we will reserve our orders in the matter and consider the suggestions of the learned Amicus Curiae on a subsequent date after the details of pending cases against elected representatives as per the form suggested by the learned Amicus Curiae is made available. For the present, we direct the Registry of this Court to forward a copy of the said form, annexed at Annexure 6 to the written submissions filed by the learned Amicus Curiae dated 23rd October, 2018, to the Registrars General of all the High Courts in the country to furnish the necessary information which will be so done on or before 27th November, 2018.

The matter be listed on 4th December, 2018.

The information/copies of the report that will be conveyed by the High Courts to the Registry of this Court shall also be endorsed to the learned Amicus Curiae.

The office of the learned Amicus Curiae would be at liberty to exchange correspondence(s) with the Registries of different High Courts seeking such information as would be necessary to give effect to the present order/directions.

On the next date fixed i.e. 4th December, 2018 the Court would consider fixing a date of hearing of the main relief (first relief) sought in the writ petition, namely, that disqualification of an elected representative following conviction in criminal case(s) should be for life time.

[VINOD LAKHINA]
AR-cum-PS

[ASHA SONI]
ASSISTANT REGISTRAR