

ITEM NO.302

COURT NO.3

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(s) (Civil) No(s). 699/2016

ASHWINI KUMAR UPADHYAY

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

(IA NO 54552/2017 FOR DIRECTION, IA NO 54637/2017 FOR DIRECTION, IA NO 57812/2017 FOR IMPLEADMENT, IA 58124/2017 FOR INTERVENTION/IMPLEADMENT, IA No.61324/2017 FOR PERMISSION TO AMEND THE PRAYER ON BEHALF OF PET. And IA NO.136819/2017 CLARIFICATION/DIRECTION)

Date : 14-12-2017 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE NAVIN SINHA

For Parties

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Mr. Yasharth Kant, Adv.

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Mr. Udit Arora, Adv.

Mr. Ashwini Kumar Upadhyay, Adv.

Mr. Kapish Seth, Adv.

Ms. Deepika Kalia, Adv.

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Mr. Sajan Poovayya, Sr. Adv.
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Mr. Pratibhanu S. Kharola, Adv.
Mr. Balaji Srinivasan, AOR
Mr. Pranav Sachdeva, AOR

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

We have perused the additional affidavit dated 11.12.2017 filed by the Additional Secretary to the Government of India, Ministry of Law and Justice, Legislative Department pursuant to the Order of this Court dated 1.11.2017.

Insofar as queries 1, 2 and 3 posed in the aforesaid order of this Court and the information sought for, further time has been prayed for by the Union of India to collect information which necessarily would involve interactions with the State Government(s) and the High Court(s).

Having regard to the fact that the information sought for by the Court would not be

readily available and, indeed, would be a matter of collection from different agencies, as mentioned in the additional affidavit, we grant two months further time to the Union of India to collect the said information and respond to the aforesaid queries 1, 2 and 3.

Insofar as issues 4 and 5 outlined in the order dated 1.11.2017 are concerned i.e. setting up of Special Courts, a scheme, though, rudimentary at this stage, has been placed before the Court the essence of which is that based on certain calculations and perspectives with regard to the time that would be taken to dispose of the 1581/1571 cases presently pending against the elected MPs/MLAs, the Union of India proposes to set up 12 Fast Track Courts combining several State(s) in respect of which jurisdiction will be exercised by one Special Court. The aforesaid Scheme has been planned as a tentative measure and it is stated at para 9 of the Additional Affidavit of the Union of India that once the further information is collected in respect of queries 1, 2 and 3, the Scheme may be suitably modified.

The Union of India in its additional affidavit has further stated that a sum of Rs.7.80 crores has been earmarked as the required expenditure for the setting up of 12 Courts and the Department of Expenditure, Ministry of Finance has granted in-principle approval to the said allocation.

Having considered the matter we direct the Union of India to proportionately allocate the aforesaid expenditure i.e. 7.80 crores to the different States in which the Special Courts are planned to be located. This should be done forthwith.

Immediately after such allocation is made and intimated to the respective State Governments, the State Governments in consultation with the High Courts will set up the Fast Track Courts (12 in all) to ensure that the said Courts start functioning from 01.03.2018. All necessary/required notification(s) shall be issued by the concerned/respective State Government(s). 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.

We further make it clear that what has been directed above is all very tentative at this stage and has been so done with a view to get the Court(s) operational and functional. As and when necessary changes are required to be made in the present directions or any additional directions are called for, the same will be issued, as may be required.

List the matter on 7th March, 2018 by which time the Special Courts (12 in number) will be expected to be get functional in the light of the directions aforementioned. On the said date the main issue arising in the proceedings will also be taken up.

(NEETU KHAJURIA)
COURT MASTER

(TAPAN KR. CHAKRABORTY)
BRANCH OFFICER