

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

Petition(s) for Special Leave to Appeal (Civil)...../2010
CC 14694-14695/2010

(From the judgment and order dated 16/07/2010 in WP No. 1872/1986
of the High Court of U.P. at Lucknow)

State of U.P. & Ors.

.... Petitioner (s)

Versus

Neeraj Chaubey & Ors.

.... Respondent(s)

(With appln(s) for permission to file SLP and prayer for interim relief and
office report)

Date: 16/09/2010 These Petitions were called on for mentioning today.

CORAM:

HON'BLE MR. JUSTICE P. SATHASIVAM
HON'BLE DR. JUSTICE B.S. CHAUHAN

For Petitioners(s)

Mr. Harish N. Salve, Sr. Adv.
Mr. Sunil Gupta, Sr. Adv.
Mr. Shail K. Dwivedi, AAG
Mr. R.K. Gupta, Adv.
Mr. Rajeev K. Dubey, Adv.
Mr. Kamalendra Mishra, Adv.

For Respondent(s)

Mr. Rakesh Dwivedi, Sr. Adv.
Mr. Vivek Raj Singh, Adv.
Mr. Karunesh S. Pawar, Adv.
Mr. Abhindra Maheshwari, Adv.
Mr. Amit Singh, Adv.
Mr. Vishwajit Singh, Adv.

UPON being mentioned the Court made the following

O R D E R

Permission to file SLPs is granted.

Taken on board.

State of U.P. and their officials aggrieved by the interim orders dated 16.07.2010 and 25.08.2010 passed in W.P. No. 1872 of 1986 by the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow have filed the above SLPs.

W.P. No. 1872 of 1986 was filed by one Dr. Neeraj Chaubey for redressal of his grievance regarding an advertisement for appointment on the post of Assistant Professor. In the said advertisement, the eligibility criteria was fixed as teaching experience of 7 years whereas according to the Statutory Rules, the teaching experience required is only 5 years. The aforesaid writ petition was not listed as per the directions of the Division Bench of the High Court which passed the impugned order. The Registry of the High Court was directed to show cause as well as a cost of Rs. 2,000/- was also awarded on the Joint Registrar of the High Court. In response to the aforesaid direction, one of the officials of the Registry in his affidavit highlighted certain problems about want of space for keeping the court records, sitting space for

officials and officers of the Registry. Taking note of the said facts, the Division Bench, in the order dated 16.07.2010, directed the State Government to submit a Status Report about sanctioning of funds for construction of new High Court Building Complex at Gomati Nagar, Lucknow. It is further seen that even after filing of Status Report and affidavit highlighting the steps taken, by the impugned order dated 25.08.2010, the same Division Bench directed the Cabinet Secretary, the Chief Secretary, the Principal Secretary (Law), State of U.P. and Member Secretary, Planning Commission and representative of Ministry of Law and Justice not below the rank of Joint Secretary, Government of India to appear in person along with the records on the next date of hearing on 20.09.2010. Questioning both the above said directions, State of U.P. filed these SLPs.

Heard Mr. Harish N. Salve, learned senior counsel for the petitioners and Mr. Rakesh Dwivedi, learned senior counsel for Oudh Bar Association.

Though Oudh Bar Association is not a party in these SLPs, but considering the importance of the issue, the said

Bar Association intends to file appropriate petition before the High Court for construction of the new High Court Building Complex at Lucknow. We heard their counsel also.

At the outset, we may point out that directions regarding construction of new High Court building and early sanction of required funds for execution of the work cannot be faulted with. In fact, the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow needs more spacious building as early as possible. However, we are concerned about the procedure adopted by the Division Bench issuing such directions in an unconnected matter treating it as PIL and keeping the issue before the same Bench.

In this regard, it is brought to our notice that the Full Bench decision of the same High Court of Allahabad, while answering the reference made to a larger bench in W.P. No. 34197 of 2010 (**Smt. Maya Dixit & Ors.** vs. **State of U.P. & Ors.**) decided on 13.09.2010, dealt with the issues involved herein.

The High Court had taken note of various judgments of this Court including **State of Maharashtra vs. Narayan**, AIR

1982 SC 1198; **Inder Mani** vs. **Matheshwari Prasad**, (1996) 6 SCC 587; **State of Rajasthan** vs. **Prakash Chand & Ors.**, (1998) 1 SCC 1, **R. Rathinam** vs. **State by DSP, District Crime Branch, Madurai District, Madurai & Anr.**, (2000) 2 SCC 391 and **Jasbir Singh** vs. **State of Punjab**, (2006) 8 SCC 294 and various judgments of High Courts and came to the conclusion that the Chief Justice is the master of roster. The Chief Justice has full power, authority and jurisdiction in the matter of allocation of business of the High Court which flows not only from the provisions contained in sub-section (3) of Section 51 of the States Re-organisation Act, 1956, but inheres in him in the very nature of things. The Chief Justice enjoys a special status and he alone can assign work to a Judge sitting alone and to the Judges sitting in Division Bench or Full Bench. He has jurisdiction to decide which case will be heard by which Bench. If the Judges were free to choose their jurisdiction or any choice was given to them to do whatever case they may like to hear and decide, the machinery of the court would collapse and the judicial work of the court would cease by generation of internal strife on account of hankering

for a particular jurisdiction or a particular case. The Court held that a Judge or a Bench of Judges can assume jurisdiction in a case pending in the High Court only if the case is allotted to him or them by the Chief Justice. Strict adherence of this procedure is essential for maintaining judicial discipline and proper functioning of the court. No departure from this procedure is permissible.

In case an application is filed and the Bench comes to the conclusion that it involves some issues relating to public interest, the Bench may not entertain it as a Public Interest Litigation but the court has its option to convert it into a Public Interest Litigation and ask the Registry to place it before a Bench which has jurisdiction to entertain the PIL as per the Rules, guidelines or by the roster fixed by the Chief Justice but the Bench cannot convert itself into a PIL and proceed with the matter itself.

In view of the decision of the Full Bench of the High Court of Allahabad, which we hold is in accordance with law and in consonance with the rules and procedure, Mr. Harish N. Salve, learned senior counsel for the petitioner-State of

U.P., seeks permission to move an application in respect of the matter in issue before the Chief Justice of the High Court for appropriate directions. We permit the State to move such application. The impugned order directing the officials to appear before the Court on 20.09.2010 shall remain stayed. The present order of stay shall continue till further orders being passed by the appropriate Bench dealing with the PIL after the orders of the Chief Justice.

Mr. Rakesh Dwivedi, representing Oudh Bar Association informed this Court that the Association intends to file an independent petition in respect of the matter in issue, namely, construction of High Court building. We make it clear that the Bar Association is free to move such writ petition before the appropriate Bench having jurisdiction over PIL.

The Special Leave Petitions are disposed of accordingly.

[Usha Bhardwaj]
Court Master

[Savita Sainani]
Court Master