

ITEM NO.8

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 (CIVIL) NO(S). 699/2016

ASHWINI KUMAR UPADHYAY

PETITIONER(S)

VERSUS

UNION OF INDIA & ANR.

RESPONDENT(S)

(IA NO 54552/2017 FOR DIRECTION AND IA NO 54637/2017 FOR DIRECTION AND IA NO 57812/2017 FOR IMPLEADMENT ARE TO BE LISTED ALONGWITH MAIN MATTER FOR INTERVENTION/IMPLEADMENT ON IA 58124/2017 AND IA NO.61324/2017-I/A FOR PERMISSION TO AMEND THE PRAYER ON BEHALF OF PET.)

Date : 01-11-2017 This matter was called on for hearing today.

CORAM :

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

For parties:

Mr. Dinesh Dwivedi, Sr. Adv.
Mr. Yashart Kant, Adv.
Mr. Krishnan Mishra, Adv.
Mr. Nishant Singh, Adv.
For Mr. R. D. Upadhyay, AOR

Mr. Gopal Sankaranarayanan, Adv.
Ms. Veera Mahuli, Adv.
Mr./Ms. Shrutanjaya Bhardwaj, Adv.
Mr. Ashwini Kumar Upadhyay, Adv.

Mr. Gopal Sankaranarayanan, Adv.
Mr. Balaji Srinivasan, AOR
Ms. Vaishnavi Subrahmanyam, Adv.
Ms. Veera Mahuli, Adv.
Mr. Shrutanjay Bharadwaj, Adv.

Mr. Vikas Singh, Sr. Adv.
Ms. Deepeika K., Adv.
Ms. Asha Upadhyay, Adv.
Mr. Kapish Seth, Adv.
For R.D. Upadhyay, Adv.

UOI

Mr. Atmaram N.S. Nadkarni, ASG
Ms. V. Mohana, Sr. Adv.
Mr./Ms. Salvador S. Rebello, Adv.
Ms. Rukhmini Bobde, Adv.
Ms. Nivedita Nair, Adv.
Ms. Sneha Prabhu Tendulkar, Adv.
Mr. Abhishek Bhardwaj, Adv.
Mr. Mukesh Kumar Maroria, AOR

Election Commission

Ms. Meenakshi Arora, Sr. Adv.
Mr. S.K. Mendiratta, Adv.
Mr. Amit Sharma, Adv.
Mr. Mohit D. Ram, AOR

Mr. Amit Sharma, Adv.
Mr. Dipesh Sinha, Adv.
Ms. Ayiala Imti, Adv.
Mr. Mohit D. Ram, Adv.

Mr. Sidharth Luthra, Sr. Adv.
Mr. Gautam Khazanshi, Adv.
Mr. Udit Arora, Adv.
Mr. Ashwini Kumar Upadhyay, Adv.

Mr. Pranav Sachdeva, AOR

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

Shri. A.N.S. Nadkarni, learned Additional Solicitor General, at the very outset, has submitted that the present is not an adversarial litigation and the Union Government would not be averse to setting up of Special Courts to try criminal cases/offences involving political persons and for utmost expeditious disposal of the same.

While taking the said statement on record we direct the Competent Authority in the Union Government to lay before the Court the following information:

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).

4. Insofar as setting up of Special Courts are concerned, setting up of Special Courts and infrastructure would be dependent on the availability of finances with the States. Without going into the controversy raised on the aforesaid score, the problem can be resolved by having a Central Scheme for setting up of Courts exclusively to deal with criminal cases involving political persons on the lines of the Fast Track Courts which were set up by the Central Government for a period of five (05) years and extended further which Scheme has now been discontinued.

5. A Scheme to give effect to the above may be laid before the Court on the next date fixed indicating the amount of funds that can be earmarked for setting up of Special Courts where-after the issue of appointment of Judicial Officers, Public Prosecutors, Court staff and other such requirement of man-power and infrastructure (which would depend on the availability of funds from the Central Government) will be dealt with by the Court, if required, by interacting with the representatives of the respective State Governments.

Shri A.N.S. Nadkarni, learned ASG has assured the Court that the above information will be laid

before the Court within a period of six weeks from today. We accordingly fix the case for further consideration on 13th December, 2017.

The Election Commission of India is also granted two weeks' time to bring on record an affidavit showing the nature of cases wherein the power under Section 11 of the Representation of the People Act, 1951 has been exercised in the past.

[VINOD LAKHINA]

AR-cum-PS

[ASHA SONI]

BRANCH OFFICER