

Chief Justice's Court

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 15895 of 2015

Petitioner :- In Re

Respondent :- Zila Adhivakta Sangh Allahabad

Counsel for Petitioner :- Anshu Singh, Arun Kumar, Dinesh Kumar Misra, Hare Krishna Mishra, Mir Sayed, Nitin Gupta, Pradeep Kumar Tiwari, Pranshu Kumar

Counsel for Respondent :- A.K. Bajpai, Ajai Shankar Pathak, Anupam Kumar, Ashutosh Dwivedi, Ayub Khan, C S C, C.P. Upadhyay, Chandra Kumar Singh, D.K. Tiwari, Daya Shankar Mishra, Diwakar Rai Sharma, H.N. Singh, Hemendra Pratap Singh, Jyotish Awasthi In Person, Mohd. Asif, Mohit Bihari Mathur, Mumtaz Ahmad Siddiqui, P.K. Jain, Pranesh Dutt Tripathi, R.D. Sahi, R.K. Singh, Rakesh Pandey, Ratnakar Upadhyay, Ritesh Srivastava, S.C. Mishra, Sanjay Mishra, Sanjay Singh, Sanjiv Kumar Pandey, Santosh Kumar Pandey, Santosh Kumar Tripathi, Shishupal Sharma, Siddharth Nandan, Sudhir Dixit, Suresh Chandra Pandey, Swetashwa Agrawal, Tahir Husain, V.C. Srivastava, Vineet Kumar Singh

Hon'ble Munishwar Nath Bhandari, Acting Chief Justice

Hon'ble Pritinker Diwaker, J.

Hon'ble Naheed Ara Moonis, J.

Hon'ble Manoj Misra, J.

Hon'ble Mrs. Sunita Agarwal, J.

Hon'ble Surya Prakash Kesarwani, J.

Hon'ble Manoj Kumar Gupta, J.

In pursuance of the order dated 22.09.2021, affidavits have been filed by the respective departments. A detailed statement on the issues and action on them has also been submitted before us.

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Learned Additional Advocate General submits that a joint meeting for upgrading safety measures for the High Court has taken place recently in the presence of the representative of the Electronics Corporation of India Ltd. To make security system foolproof, the State Government has agreed in principle that the Electronic Corporation of India would be roped in for installation of CCTV cameras and their maintenance. A special team of experts would be deputed for regular monitoring of the security system and related issues. Since the matter pertaining to the security of the High Court has been deliberated by the Committee, we expect that the appropriate action shall be taken, as agreed by the State, expeditiously.

On the other issues, the Court does not find any desirous action of the State Government whether it is related to the infrastructure of the High Court or allotment of land for construction of the Courts and residential buildings for the Subordinate Courts.

On the directions of this Court dated 10.05.2019 in the present PIL regarding creation of the plan/blue prints for the entire subordinate judiciary, for availability of Court rooms, chambers, ancillary amenities and residences for the judicial officers, nothing much has been proceeded. It has been brought on record that in compliance of the order dated 01.09.2021 in this petition, a communication dated 02.09.2021 was sent by the Chief Secretary (Finance) to the Chief Secretary (Government of U.P.), highlighting the need for local/field inspection of the districts to point out the infirmities relating to infrastructure issues by a team constituted by the Law department. It appears that in furtherance of the said communication, the District Magistrate/District Judges were requested to furnish information regarding status of infrastructure facilities on the prescribed proforma vide government order dated 03.09.2021. It is stated during the course of argument that the Special

Secretaries Law Department had visited various districts to make spot inspection and submit their reports. It is also submitted that on the basis of the said reports received by the inspection teams and that of the District Magistrate/District Judge, a note in the form of proposal has been prepared and sent to the finance department for consideration. No effective decision of the concerned department has been brought before us.

The District Magistrates being the Custodian of the records of the districts are required to identify the lands at the local level for their allotment to the Subordinate Courts both for the Court complexes and residential accommodations for the judicial officers. The Administrative Committee of this Court had directed the District Judges to co-ordinate with the District Magistrates to identify such lands which are needed and can be made available for creation of adequate infrastructure in the Subordinate Courts. No effective action has been taken in the matter though repeated reminders have been sent. In many districts, process of acquisition has not been completed though much time has been elapsed.

The lack of infrastructure and the basic amenities required for effective functioning of the Subordinate Courts interferes in the dispensation of speedy and timely justice to the litigants. It is the obligation of the State Government to come out with the effective action to resolve the problems faced by the Subordinate Courts both on account of the lack of staff and the adequate spaces/buildings for running the Courts. New districts have been created over the years resulting in creation of more Courts but no steps much less effective steps have been taken to provide sufficient spaces/buildings with adequate staff and other related infrastructure for smooth running of the newly created Courts.

One of the issues is lack of sensitivity in establishment of the POCSO Courts. As per the mandate of the Protection of Children

from Sexual Offences Act' 2012, Special Courts have been created to take cognizance and try the offences defined under Chapter II & III of the Act' 2012. The legislative mandate is that the Special Courts shall create a child friendly atmosphere and ensure that the identity of the child is not disclosed at any time during the course of trial. The time period given for completion of evidence is thirty days from the date of taking cognizance of the offence and the special Courts have to conclude the trial, as far as possible, within a period of one year from the date of taking cognizance. The Act prescribes that the Special Courts have to ensure that the child is not exposed to the accused at the time of recording of the evidence. The conduct of the Trial-in-camera, in an appropriate case, to create a fear-free atmosphere for the child, is also one of the procedures provided under the Act to meet its objectives. The requirement, thus, is that separate Court complex/campus is to be created for the Special POCSO Courts so that the child is not exposed to the adversarial atmosphere of the normal Courts, where accused of other heinous crimes and other litigants may also be present for trials. In the State of U.P., no break through has been made in this regard. The Special POCSO Courts designated by the State Government are forced to work in the common Court premises with no special facility for the child victim. No waiting areas nor even washroom facilities are available to the children attending the proceeding in the Special Courts.

For the lack of basic infrastructure, for which the judiciary is dependent upon the State Government, the progress of the Court proceedings are adversely affected.

Another issue relating to the working of the Land Acquisition and Rehabilitation Tribunal had been brought before the State Government. It was brought to the notice of the State Government that out of 13 Land Acquisition Tribunals created in the State of U.P.,

adequate number of cases do not exist so as to utilize the precious judicial time of the Presiding Officers manning these tribunals. The suggestion was given to transfer cases relating to Old Land Acquisition Act' 1894 (land acquisition reference pending in different Subordinate Courts) so as to ensure optimum utilization of the resources. No decision of the State Government is forthcoming though the inaction on the part of the State was sought to be defended by giving lame excuses in the Court.

We express our dissatisfaction in the manner in which the officers of the State are progressing on the serious issues pertaining to functioning of the Courts in the State of U.P.

At this stage, learned Advocate General intervened to submit that few days time may be granted so that he may personally monitor all the issues raised in this petition.

On a recent issue pertaining to the notification of the Rules for providing certain benefits to the Retired Judges which include the service of the Orderly, the matter is pending for almost two years. Recently the State Government was informed about the notification of the Rules for different High Courts in the Country, the recent one issued by the State of Telangana. The benefits given to the retired Judges of the Telangana High Court are far better than what has been proposed by this Court yet no final decision has been taken. The Apex Court in the case of **P. Ramakrishnam Raju Vs. Union of India, (2014) 12 SCC 1** had issued directions to frame the Rules for providing equivalent benefits to the Retired Judges of different High Courts, for providing not only the service of the Orderly but also for security-guard and secretarial assistance, etc. Learned Advocate General, however, has assured that immediate decision on the said issue would be taken on or before the next date of listing and on all other issues he will coordinate with the officers of the concerned departments, be it the District Magistrates at the local level or the

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Senior most officers of the Secretariat/departments of the State Government.

A proposal was also made for appointment of a Nodal Officer to act as a bridge between the Registrar General, High Court Allahabad and several departments of the Secretariat of the State Government. It was assured by the learned Advocate General that he will ensure acceptance of the said proposal and the appointment of the Nodal Officer shall be intimated to the Court on the next date fixed.

On the assurance given by the learned Advocate General, we adjourn the matter for the day. Let this petition be listed on 27.10.2021 at 10:00 A.M.

Order Date :- 7.10.2021
Himanshu/Shubham

(Munishwar Nath Bhandari, A.C.J.)

(Pritinker Diwaker, J.)

(Naheed Ara Moonis, J.)

(Manoj Misra, J.)

(Sunita Agarwal, J.)

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(Surya Prakash Kesarwani, J.)

(Manoj Kumar Gupta, J.)