



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7002 OF 2021

WITH

INTERIM APPLICATION (St.) 28461 OF 2023

Panchksharayya s/o Channayya Mathapati & Ors. ...Petitioners
Versus
The Union of India & Ors. ...Respondents

AND

WRIT PETITION NO. 1744 OF 2023

Harish B. Bhoite ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

Mr. Satish B. Talekar a/w Ms. Madhavi Ayyappan, Mr. Shubham Gurav,
for Petitioner.

Mr. J. M. D'Silva, for Applicant.

Dr. Milind Sathe, Sr. Advocate a/w Mr. Rahul Nerlekar, for Respondent
No.4 in WP No.7002 of 2021 and for Respondent Nos. 2 to 5 in WP
No.1744 of 2023.

Ms. Kavita Solunke AGP for State/Respondent No.1 in WP No.1744 of
2023.

Mr. Sumit Khaire i/b Mr. Shriram Choudhari, for Respondent No.5 in
WP No. 7002 of 2021.

Ms. Mamta Sadh a/w Mr. Mustafa Shamim, Ms. Apeksha Sharma, Ms.
Devika Kakoo i/b Shamim & Co., for Respondent Nos. 6 to 10 in WP No.
7002 of 2021.

CORAM : G. S. KULKARNI &
JITENDRA JAIN, JJ.

DATE : NOVEMBER 29, 2023.

Kiran Kawre

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November 29, 2023

P.C.:

1. On 20 September 2023, we had passed a detailed order, considering the plea as urged on behalf of the petitioners so as to implement the directions of the Supreme Court in paragraph 12.9 in its decision in the case “**All India Judges Association Vs. Union of India**” (2018 (17) SCC 555).

2. In paragraph 2 of our order, we had quoted the categorical directions of the Supreme Court in regard to the regularization of the services of the Court Managers. We also noted the contentions as urged on behalf of the petitioners that it was almost about 5 years that the order of the Supreme Court were not being implemented, we had accordingly made the following observations and also the consequent directions in paragraph 13 of our order, which read thus:

9. Prima facie we see substance in the contention of Mr. Talekar.

10. Responding to Mr. Talekar’s submissions, Mr. Nerlekar, submits that the proceedings be adjourned so that further appropriate decision can be taken to comply the orders of the Supreme Court. In our view, the request of Mr. Nerlekar would be fair and proper, as in our prima facie opinion, the course of action to be adopted would be to make a proposal for regularization of the services of the Court Managers, who were so appointed and were working on the date on which the Supreme Court passed the said orders i.e. 2 August 2018. There cannot be any other reading of the directions of the Supreme Court.

11. In the aforesaid circumstances, further appropriate steps need to be taken by the State Government to comply with the mandate of the orders of Supreme Court, when such proposal is made by the High Court.

12. At a later stage Dr. Sathe, learned Senior Counsel has appeared for the High court, who states that the High Court is taking all steps to implement the orders of the Supreme Court, and it is for such purpose the Rules are being framed to consider the other aspects in relation to the post of Court Manager namely of promotional avenues, pay scale etc. We are of the opinion that if it is being thought appropriate, such issues can certainly be considered by the High Court, in forwarding a proposal for regularization of the Court Managers who were so appointed, however, on these considerations the regularization proposal ought not to be delayed any further in implementing the mandate of the orders passed by the Supreme Court, as any regularization in service, is bound to be on terms and conditions as may be prescribed under the rules. Also learned Counsel for both, the State Government as also the High Court, would agree that the directions of the Supreme Court are directions plainly in relation to the regularization of the appointments of the Court Managers.

13. Thus, in our opinion, what is of immediate urgency is to make a proposal to the State Government for regularization of the service of the Court Manager who were already appointed. To enable the respondents to take appropriate steps in this regard, we adjourn the proceedings for four weeks.”

3. It is on such backdrop, the proceedings are before us today. Dr. Sathe, learned Senior counsel for the High Court has drawn our attention to a letter dated 3 October 2023, addressed by Shri Manoj S. Sharma Registrar Inspection-I, High Court (Appellate Side), to the Principal Secretary and RLA Government of Maharashtra, which is in pursuance of our order dated 20 September 2023. In such letter a reference has been made to the proposal dated 4 May 2019 as made by the High Court to the State Government in pursuance of the direction of the Supreme Court in the case of *All India Judges Association* (supra). There is also a reference to the clarification as sought by the Government and the response of the High Court vide letter dated 22 November 2019. Such letter is taken on

record and marked “X” for identification. In the context of such letter, we are of the opinion that the directions of the Supreme Court in the *All India Judges Association’s* case as noted by us are paramount and they are required to be implemented by the respondents in letter and spirit, and it is in such context, we had made the observations in the order in question.

4. We note from the letter dated 3 October 2023 of Shri. Manoj S. Sharma, Registrar Inspection-I, High Court (Appellate Side) that the proposal is pending with the State Government from 4 May 2019 as received from the High Court, and in such context a clarification was sought by the State Government from the High Court so as to take further steps to bring about the regularization of the Court Managers. However, in this regard the observations as made by us in paragraph 12 are quite clear. Any framing of the rules and which is stated to be the subject matter pending before the General Rules Committee, in our opinion, cannot stand in the way for the State Government to take an appropriate decision and comply orders passed by the Supreme Court in awarding regularization as directed by the Supreme Court. This was also recorded to be an agreed position on behalf of the State Government and also the High Court that the directions of the Supreme Court are directions plainly in relation to the regularization of the appointment of the Court Managers.

5. In the aforesaid circumstances, we have no alternative but to adjourn the present proceedings for a period of two weeks from today, however, with a direction to the State Government to take a decision on the proposal as sent by the High Court dated 4 May 2019 as also the subsequent reminder dated 3 October 2023, in the light of our order dated 20 September 2023.

6. Needless to observe that the benefit of the regularization shall be subject to the service conditions as may be fixed by the General Rule Committee, which is in regard to the duty list, cadre, pay scale etc.

7. We may also observe that it would not be permissible for the State Government, to not take a decision on the regularization proposal on any conditions which are extraneous to the orders passed by the Supreme Court, and the orders passed by the Supreme Court are required to be implemented in letter and spirit. We accordingly adjourn the proceedings to **13 December 2023 (HOB)**.

8. We may also observe that a contention is urged by Ms. Sadh who appears on behalf of the Respondent Nos.6 to 10 that the orders of the Supreme Court in *All India Judges Association* (supra) case in para 12.9 would become applicable only in the event there are sanctioned posts of Court Managers and not otherwise. She would submit that this would be the requirement as per the decision of the Supreme Court in the case of

Secy, State of Karnataka Vs. Umadevi & Ors. [(2006)4 SCC 1]. We are afraid to accept such contention. The orders of the Supreme Court as noted by us in para 2 of our order dated 20 September 2023 are clear. On the contrary the Supreme Court has observed that the Court Managers post is necessary in District Court, which presupposes that such posts are required to be created and in the context of such Court Managers who are already appointed and who are working on Ad-hoc basis. We therefore do not find any substance in such contention as urged by Ms. Sadh. The contention is rejected.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]