

ITEM NO.2

COURT NO.1

SECTION III-A

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

CIVIL APPEAL NO(S). 1867/2006

MALIK MAZHAR SULTAN & ANR.

APPELLANT(S)

VERSUS

U.P. PUBLIC SERVICE COMMISSION
THROUGH ITS SECRETARY & ORS.

RESPONDENT(S)

(REGARDING STATES OF UTTAR PRADESH, MAHARASHTRA, GOA, WEST BENGAL,
CHHATTISGARH, DELHI , ARUNACHAL PRADESH, ASSAM, MIZORAN, NAGALAND,
MANIPUR AND MEGHALAYA)

[IA 152/2016-APPLN. FOR DIRECTIONS,
IA 153/2017-APPLN. FOR PERMISSION FOR VARIATION IN TIME ,
IA 77756/2017- APPLN. FOR INTERVENTION
IA 117790/2017-APPLN. FOR APPROPRIATE ORDERS/DIRECTION,
IA 70324/2018-EXTENSION OF TIME
IA 70330/2018-EXTENSION OF TIME]

WITH

SMW(C) NO. 1/2017 (PIL-W)

SMW(C) NO. 2/2018 (PIL-W)

(MR. SHYAM DIVAN, SR. ADV., MR. K.V. VISHWANATHAN, SR. ADV., MR.
VIJAY HANSARIA, SR. ADV. AND MR. GAURAV AGRAWAL,ADV. RESPECTIVELY
HAVE BEEN APPOINTED AS AMICUS CURIAE IN THE INSTANT MATTER)

Date : 05-12-2018 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE K.M. JOSEPH

AMICUS CURIAE

State Of U.P.,
Maharashtra,Goa W.B.
Chhattisgarh, Delhi
N.E.States (excluding
Tripura)

Mr. Shyam Divan, Sr. Adv.
Mr. Udayaditya Banerjee, Adv.

Gujarat, H.P.,
J&K, Jharkhand,
Karnataka, Kerala

Mr. K.V. Vishwanathan, Sr. Adv.
Mr. Ravi Raghunath, Adv.

M.P., Odisha, Patna,
Punjab & Haryana

Mr. Vijay Hansaria, Sr. Adv.
Mr. Avnish Pandey, Adv.
Ms. Sneha Kalita, Adv.

Rajasthan, Sikkim,
Telangana, A.P.,
Tripura, Uttarakhand

Mr. Gaurav Agrawal, Adv.

SMW© 1/17

Mr. Arvind P. Datar, Sr. Adv.(AC)
Ms. Remya Raj, Adv.

For Parties :

State of Gujarat

Ms. Hemantika Wahi, AOR
with
Mr. M.K. Dave, Law Secretary
Mr. H.H. Varma, Deputy Secy, Legal Deptt.

HC Gujarat

Mr. A.P. Mayee, AOR
Mr. Chirag Jain, Adv.

State of H.P.

Mr. Vikas Mahajan, AAG
Mr. Vinod Sharma, AOR
Mr. Aakash Verma, Adv.

H.P. High Court

Mr. Ashok Mathur, AOR

J&K High Court

Mr. Gaurav Pachnanda, Sr. Adv.
Mr. Bharat Sangal, AOR
Ms. Babita Kushwaha, Adv.

State of J&K

Mr. M. Shoeb Alam, AOR
Mr./Ms. M.S. Fauzia Shakil, Adv.
Mr. Ujjwal Singh, Adv.
Mr. Mojahid Karim Khan, Adv.

Jharkhand High Court

Mr. Krishnanand Pandey, AOR
with
Mr. Ambuj Nath, Registrar General

Jharkhand PSC	Mr. Jamnesh Kumar, Adv. Mr. Himanshu Shekhar, AOR
State of Jharkhand	Mr. Jayesh Gaurav, Mr. Gopal Prasad, AOR. Mr. S.K. Singh, Adv.
State of Jharkhand	Mr. Anil K. Jha, AOR
State of Jharkhand	Mr. Tapesk Kumar Singh, Adv. Mr. Aditya Pratap Singh, Adv.
State & HC of Karnataka	Mr. V.N. Raghupathy, AOR Mr. Parikshit P. Angadi, Adv.
High Court of Kerala	Mr. P.N. Ravindran, Sr. Adv. Mr. T.G.N. Nair, Adv. With Shri K. Haripal, Registrar General Shri Venu Karunakaran, Registrar (Vig.)
State of Kerala	Mr. G. Prakash, Adv. Ms. Priyanka Prakash, Adv. Mr. Jishnu M.L., Adv. Ms. Beena Prakash, Adv.
KPSC	Mr. Vipin Nair, Adv. Mr. P.B. Suresh, Adv. Mr. Karthik Jayashankar, Adv. Mr. Anshumaan Bahadur, Adv.
State of Kerala	Mr. C.K. Sasi, AOR Ms. Nayantara Roy, Adv.
State of W.B.	Mr. Suhaan Mukerji, Adv. Ms. Astha Sharma, Adv. Mr. Amit Verma, Adv. Mr. Abhishek Manchanda, Adv. Ms. Kajal Dalal, Adv. Ms. Dimple Nagpal, Adv. M/s. P.L.R. Chamber & Co., AOR
Calcutta High Court	Mr. Soumya Chakraborty, Sr. Adv. Mr. Kunal Chatterji, AOR

**M/o Law & Justice &
GNCT of Delhi**

Mr. Tushar Mehta, SG
Mr. S. Wasim A. Qadri, Adv.
Mr. R. Balasubramaniam, Adv.
Ms. Binu Tamta, Adv.
Ms. Swarupama Chaturvedi, Adv.
Mr. A.K. Sharma, AOR
Mr. B.V. Balaram Das, AOR

Mr. Aman Lekhi, ASG
Mr. Aishwarya Bhati, Adv.
Mr. R. Balasubramaniam, Adv.
Ms. Binu Tamta, Adv.
Mr. S. Wasim A. Qadri, Adv.
Ms. Swarupama Chaturvedi, Adv.
Mr. Pankaj Pandey, Adv.
Mr. A.K. Sharma, Adv.
Mr. Raj Bahadur, Adv.
Mr. B.V. Balaram Das, AOR

Gauhati High Court

Mr. Vijay Hansaria, Sr. Adv.
Ms. Sneha Kalita, AOR

M.P. High Court

Mr. Arjun Garg, AOR

Mr. S.R. Singh, Sr. Adv.
Mr. Mangal Prasad, Adv.
Ms. Sunita Pandit, Adv.
Mr. Ujjawal Pandey, Adv.
Mr. Ankur Yadav, AOR

Mr. S.R. Singh, Sr. Adv.
Mr. Vivek Singh, AOR
Mr. Swastik Dalai, Adv.

Patna High Court

For M/s. Parekh & Co.

Mr. R.N. Venjrani, Sr. Adv.
Mr. Hitesh Kumar Sharma, Adv.
Mr. S.K. Rajora, Adv.
Mr. T.V. George, AOR.

State of Sikkim & HC of Sikkim	Mr. A. Mariarputham, Adv.Genl. Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. Ms. Geetanjali, Adv. M/S. Arputham Aruna And Co, AOR
State of Goa	Mr. Jai Dehadrai, Adv. Mr. S.S. Rebello, Adv. Ms. Shivangini Gupta, Adv. Ms. Manisha Ambwani, AOR.
Manipur High Court	Ms. Sneha Kalita, AOR
Orissa High Court	Mr. Sibho Sankar Misra, AOR Mr. M.K. Pandey, Adv. Mr. Niranjana Sahu, Adv.
State of U.P.	Mr. Prakash Gautam, Adv. Mr. Sandeep Singh, Adv. Mr. Sanjay Kr. Tyagi, AOR Mr. Rajesh Kumar Singh, Adv.
GNCTD	Mr. Chirag M. Shroff, AOR.
State of Haryana	Mr. Sanjay Kr. Visen, AOR
Meghalaya High Court	Mr. Sanjai Kumar Pathak, AOR Ms. Shashi Pathak, Adv. Mr. Arvind Kumar Pathak, Adv.
UPPSC	Mr. Shrish Kr. Misra, AOR
State of Uttrakhand	Ms. Rachana Srivastva, AOR Ms. Monika, Adv.
State of Bihar	Mr. Abhinav Mukerji, AOR. Mrs. Bihu Sharma, Adv. Ms. Pratishtha Vij, Adv.
Chhattisgarh High Court	Mr. Apoorv Kurup, AOR
State of Tripura	Mr. Shuvodeep Roy, AOR Mr. Rituraj Biswas, Adv.

State of Odisha	Mr. Shibashish Misra, AOR Mr. Ashish Kumar Sinha, Adv. Mr. Chandan Kumar Mandal, Adv.
State of Manipur	Mr. Leishangthem Roshmani, AOR Ms. Maibam Babina, Adv. Ms. Anupama Ngangom, Adv.
Uttarakhand HC	Mr. Mukesh K. Giri, Adv.
State of T.N.	Mr. M. Yogesh Kanna, AOR Ms. Sujatha Bagadhi, Adv. Mr. Raja Rajeshwaran, Adv. Mr. S. Partha Sarathi, Adv.
U.T. of Chandigarh	Mr. Ankit Goel, AOR
State of A.P.	Mr. Guntur Prabhakar, AOR Ms. Prerna Singh, Adv. Mr. Prashant Mathur, Adv.
BPSC & Sikkim High Court	Ms. Anupama Sharma, Adv. Mr. Vishnu Sharma, AOR. Ms. Rangoli Seth, Adv.
State of Meghalaya	Mr. Avijit Mani Tripathi, AOR Ms. Rekha Bakshi, Adv.
State of Meghalaya	Mr. Ranjan Mukherjee, AOR Mr. K.V. Kharlyngdoh, Adv.
State of Nagaland	Ms. K. Enatoli Sema, AOR Mr. Amit Kumar Singh, Adv.
U.T. of Andaman & Nicobar Admn.	Mr. Mirnal Kanthi Mondal, Adv. Mr. K.V. Jagdishvaran, Adv. Ms. G. Indira, AOR
State of Haryana	Mr. Alok Sangwan, AAG Dr. Monika Gusain, AOR
Guhati High Court	Mr. P.I. Jose, AOR Ms. P.S. Chandralekha, Adv.
State of Punjab	Mr. Karan Bharihoke, AOR Mr. Kaushal Narayan Mishra, Adv. Ms. Navkiran Bolay, Adv.

State of Arunachal Pradesh	Mr. Anil Shrivastav, AOR Mr. Rituraj Biswas, Adv. Mr. Satyendra Kumar Srivastav, Adv.
State of Telangana	Mr. S. Udaya Kumar Sagar, Adv. Mr. Mritunjai Singh, Adv.
State of Rajasthan	Mr. Amit Sharma, Adv. Mr. Ankit Raj, Adv. Ms. Indira Bhakar, Adv. Ms. Nidhi Jaswal, Adv. Ms. Ruchi Kohli, AOR
State of Arunachal Pradesh	Mr. A. Tewari, Adv. Ms. Eliza bar, Adv. Mr. Shreepal Singh, AOR. Mr. Riju Mani Talukdar, Adv.
Govt. of Puducherry	Mr. V.G. Pragasam, AOR. Mr. S.Prabu Ramasubramanian, Adv. Mr. S. Manuraj, Adv.
State of Bihar	Ms. Abha R. Sharma, AOR Mr. D.S. Parmar, Adv. Ms. Sujeeta Srivastava, Adv. Mr. Mahender Singh, Adv.
Rajasthan High Court	Mr. Sunil K. Jain, AOR Mr. Punya Garg, Adv. Mr. Abhishek Jain, Adv.
State of Chhatisgarh	Mr. Aniruddha P. Mayee, AOR Mr. A. Selvin Raja, Adv. Mr. Chirag Jain, Adv.
HC of Bombay	Mr. Aniruddha P. Mayee, AOR Mr. Chirag Jain, Adv. Mr. A. Selvin Raja, Adv.
Allahabad High Court	Mr. Ashok K. Srivastava, AOR

State of Mizoram

**Mr. Pragyan Sharma, Adv.
Mr. Mudit Makhijani, Adv.
Mr. Chandan Goswami, Adv.
Mr. P.V. Yogeswaran, AOR**

Mr. Ejaz Maqbool, AOR

Mr. Debasis Misra, AOR

Mr. Lakshmi Raman Singh, AOR

Mr. Y. Raja Gopala Rao, AOR

Mr. Ugra Shankar Prasad, AOR

Mr. Tara Chandra Sharma, AOR

Mr. T.V. Ratnam, AOR

Mr. T. Mahipal, AOR

Mr. Suwendu Suvasis Dash, AOR

Mr. Sunny Choudhary, AOR

Mr. Sunil Kumar Verma, AOR

Ms. Sumita Hazarika, AOR

Mr. Siddhartha Chowdhury, AOR

Mr. Shail Kumar Dwivedi, AOR

Ms. Sarla Chandra, AOR

Ms. S. Janani, AOR

Mr. S.C. Patel, AOR

Mr. Rana Ranjit Singh, AOR

Mr. Rajesh Srivastava, AOR

Mr. Radha Shyam Jena, AOR

Mr. R. Sathish, AOR

Mr. R. Nedumaran, AOR

Mr. Prakash Kumar Singh, AOR
Ms. Purnima Jauhari, Adv.

Mr. Pradeep Misra, AOR

Mr. Parijat Sinha, AOR

Mr. Naresh Kumar, AOR

Mr. Naresh K. Sharma, AOR

Ms. Naresh Bakshi, AOR

Mr. Milind Kumar, AOR

Mr. Merusagar Samantaray, AOR

Mr. M.R. Shamshad, AOR

Mr. Krishnayan Sen, AOR

Mr. Mukesh Kumar Maroria, AOR

Mr. Shree Pal Singh, AOR

Mr. Gopal Singh, AOR

Ms. Manisha Ambwani, AOR

Mr. Vinod Sharma, AOR

HC of M.P.

Mr. Mishra Saurabh, AOR
Mr. Naveen Kumar Pandey, Adv.
Ms. Vanshaja Shukla, Adv

Mr. Nishant Ramaantrao Katneshwarkar, AOR

State of Odisha

Mr. Som Raj Choudhury, AOR
Mr. Prashant Verma, Adv.

Mr. Rohit K. Singh, AOR
Mr. Shreekant N. Terdal, AOR
Mr. Arun K. Sinha, AOR
Mr. K. K. Mohan, AOR
Mr. Jagjit Singh Chhabra, AOR
Mr. R. Sathish, AOR
Mr. Kamlendra Mishra, AOR
Ms. A. Subhashini, AOR
Mr. Avijit Bhattacharjee, AOR
Mr. B. S. Banthia, AOR
Mr. Ajay Pal, AOR
Ms. Asha Jain Madan, AOR
Mr. Kamal Mohan Gupta, AOR
Mr. Kamini Jaiswal, AOR
for M/S. Corporate Law Group, AOR
Mr. S. C. Patel, AOR
Mrs. D. Bharathi Reddy, AOR
Mr. Anuvrat Sharma, AOR
Ms. Asha Gopalan Nair, AOR
Mr. B. Balaji, AOR
Mr. Abhijit Sengupta, AOR
Mr. Jatinder Kumar Bhatia, AOR

Telangana HC

Ms. Anitha Shenoy, AOR

Mr. Kaushal Yadav, AOR

Mr. Ashwani Kumar, AOR

Mr. Ardhendumauli Kumar Prasad, AOR

Ms. Manju Jetley, AOR

Mr. Sunny Choudhary, AOR

Ms. Ranjeeta Rohatgi, AOR

Mr. Naveen R. Nath, AOR

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

Re: State of Gujarat/High Court of Gujarat

Following officers are present on behalf of
the State of Gujarat and High Court of Gujarat:

A. ON BEHALF OF STATE OF GUJARAT

(i) Mr. M.G. Dave, Law Secretary, Government of
Gujarat

(ii) Mr. H.H. Varma, Deputy Secretary (Legal) to
Government of Gujarat

B. ON BEHALF OF HIGH COURT OF GUJARAT

(i) Mr. P.R. Patil, Registrar General

Re: Vacancies:

28 vacancies fall against the direct recruitment quota (25%) had been subjected to a selection process which has finally culminated in 16 recommendations which are likely to be made to the State Government for appointment in the next few days. The process be brought to its conclusion.

Insofar as promotion(s) to the cadre of District Judge is concerned (i.e. 65% quota) as against 35 available vacancies 34 recommendations have been made and the said recommendations are awaiting the consideration of the Competent Authority for issuance of appointment orders. The said process be expedited.

Insofar as the vacancies against the Limited Departmental Competitive Examination for promotion to the post of District Judge cadre (i.e. 10% quota) are concerned, apparently no candidate has been found suitable. The said process be repeated along with the unfilled vacancies against the direct recruit quota as well as future vacancies against the said quota.

In so far as the posts of Civil judge Senior Division are concerned, the number of vacancies is 123. 60 officers have been promoted from the feeder cadre of Civil

Judge to the next higher cadre of Civil Judge Senior Division.

The Registrar General of the Gujarat High Court who is present as well as Shri K.V. Vishwanathan, learned Amicus Curiae has made a statement that all the 123 vacancies in the cadre of Civil Judge Senior Division could not be filled up as this would have led to vacuum in the feeder cadre of Civil Judge.

Insofar as feeder cadre of Civil Judge is concerned, admittedly out of 139 vacancies 75 have been subjected to a selection process which is underway. The said selection process be completed within a period of three months from today.

Even if the 75 posts which are presently being considered for being filled up are to be actually filled up the number of vacancies would still be 124 vacancies (i.e. $139 - 75 = 64 + 60$) which are occurred on promotion from the feeder cadre of Civil Judge to the cadre of Civil Judge Senior Division.

The High Court will initiate the process of recruitment for the aforesaid posts i.e. 124 ($139 - 75 = 64 + 60$) in the first week of January, 2019 and report compliance to this Court on the next date fixed.

Re: Infrastructure

Insofar as infrastructure is concerned, the statements made in the affidavit would indicate that as against the total sanction strength of Judges i.e. 1506 the working strength of Judicial Officers is 1147. The total number of Court rooms available is 1424 and Court Rooms under construction is 212.

So far as residential accommodation is concerned, the total number of Bungalows/Quarters available is 1260 whereas 82 additional bungalows/quarters are under construction.

From the above it is clear that the position with regard to availability of Court Rooms and residential accommodation for Judicial officers in the State of Gujarat is satisfactory.

So far as the Court staff is concerned, in the aforesaid affidavit details of vacancies in different cadres have been indicated. A statement has been made as against the total vacancies of 2293 which is required to be filled up by direct recruitment that a recruitment process has been started for a total number of 2409 posts. The Registrar General of the High Court has stated that all the said vacancies will be filled up within a period of six months from today.

In view of what has been recorded above, no further orders with regard to filling up of vacancies of Judicial Officers in the State of Gujarat and also directions in respect of infrastructure, etc. is concerned is required for the present.

Re: State of Himachal Pradesh/High Court of Himachal Pradesh

Following officers are present on behalf of the State of Himachal Pradesh and High Court of Himachal Pradesh:

A. On Behalf Of State Of Himachal Pradesh

(i) Mr. Rakesh Sharma, Sp. Secretary, Home

B. On Behalf Of High Court Of Himachal Pradesh

(i) Mr. Rajiv Bhardwaj, Registrar General

C. On Behalf Of Public Service Commission

(i) Mr. H.S. Choudhari, Secretary

We have considered the affidavit filed on behalf of the State of Himachal Pradesh as well as the affidavit of the Registrar General of the Himachal Pradesh High Court.

Insofar as the vacancies and infrastructure is concerned, the position appears to be satisfactory.

The posts in different cadres which are minimal in number have been advertised and are being subjected to on-going selection process/processes.

Insofar as the infrastructure and man-power for manning the Court are concerned the position again appears to be satisfactory.

No further orders, therefore, will be called for except that the on-going selection process/processes be expedited and completed at the earliest.

The vacancies in the different cadres of Court Staff should also be filled up at the earliest.

Re: State of Jammu & Kashmir/High Court Jammu & Kashmir

Following officers are present on behalf of the State of Jammu & Kashmir and High Court of Jammu & Kashmir:

A. On Behalf Of State Of Jammu & Kashmir

- (i) Mr. Aachal Sethi, Law Secretary,
- (ii) Mr. Wasim Ahmed, Asst. Legal Remembrancer

B. On Behalf Of High Court Of Jammu & Kashmir

- (i) Mr. Sanjay Dhar, Registrar General

C. On Behalf Of Public Service Commission

- (i) Mr. Vinay Samotra, Dy. Secretary

Re: Vacancies

11 posts in the District Judge cadre (Higher Judicial Service) are presently vacant out of which

appointments against 4 (four) posts are at an advanced stage. Advertisements have been issued to fill up 7 (seven) vacancies and as a stop-gap measure ad-hoc promotions to the said post have been made and the incumbents will revert to their original posts once the advertised posts (i.e. 7) are filled up.

Insofar as posts of Civil Judge Senior Division are concerned, there are 16 (sixteen) vacancies which will be filled up as and when the on-going process for appointment to the lower feeder cadre of Civil Judge (42 posts) is completed which the Court directs the Public Service Commission to be completed by the end of April, 2019.

Re: Infrastructure

Insofar as the infrastructure is concerned, the affidavit of the Registrar General of the High Court indicates that there is presently a shortage of 88 court halls and 92 residential units out of which construction in respect of 31 court halls and 35 residential units are underway. The time-lines by which the said constructions are likely to be completed has been indicated in paragraph 4 of the Additional Affidavit of the Registrar General of the High Court dated 3rd December, 2018.

Insofar as man-power is concerned, there are about 418 vacancies in different cadres of subordinate staff which the Registrar General of the High Court has assured the Court that such of the vacancies that are required to man the additional Courts that will start working once the vacant posts are filled up will also be completed within a period of three months from today. The said process be expedited and completed at the earliest.

Re: State of Jharkhand/High Court of Jharkhand

Following officers are present on behalf of the State of Jharkhand and High Court of Jharkhand:

A. On behalf of State of Jharkhand

- (i) Mr. K.K. Khandelwal, Additional Chief Secretary
- (ii) Mr. Sanjay Prasad, Pr. Law Secy.
- (iii) Mr. Sunil Kumar, Secy., Building Const. Depart.

B. On behalf of High Court of Jharkhand

- (i) Mr. Ambuj Nath, Registrar General

C. On behalf of Public Service Commission

Mr. R.R. Roy,

Re: Vacancies:

20 vacancies in the cadre of District Judge is presently available for being filled up by direct recruitment; 54 vacancies in the same cadre are available for being filled up by regular promotion; and 23 vacancies

are available for being filled up on the basis of Limited Departmental Competitive Examination.

Insofar as the direct recruitment to the cadre of District Judge is concerned, 17 vacancies out of 20 have been subjected to a selection process which is likely to be completed in January 2019 as stated by the Registrar General of the Jharkhand High Court. Remaining 3 vacancies of the direct recruitment quota will be advertised by the High Court forthwith as stated by the Registrar General.

So far as 54 posts available for being filled up by regular promotion is concerned, the Registrar General of the High Court has submitted that the process of calling for judgments is on and the same is likely to be completed by the High Court by the end of March 2019.

Insofar as 23 posts in the cadre of District Judge to be filled up by Limited Departmental Competitive Examination are concerned, it has been stated in the affidavit that presently no officer in the rank of Civil Judge Senior Division is available to take part in the competitive examination in view of the absence of minimum qualifying service in the Civil Judge Senior Division.

The High Court will examine as to how many of these posts to be filled by Limited Departmental Competitive Examination, for the present, can be taken from the vacancies to be filled up by regular promotion and add the same number to the 54 posts to be filled up by regular promotion.

So far as the 56 posts of Civil Judge Senior Division is concerned, it is stated by the learned Registrar General of the High Court that the process of selection for promotion to the said posts from the feeder post i.e. Civil Judge will be completed by February, 2019.

Insofar as the cadre of Civil Judge Junior Division is concerned, the vacancies are 85. It is stated by the Registrar General of the High Court that on 12th November, 2018, 107 posts have been advertised and the process is likely to be completed by August, 2019.

The High Court shall expedite each of the process indicated above and complete the same as early as possible to ensure that requisite number of judges to man the vacant posts are available without any delay.

Re: Infrastructure

Details with regard to availability of the court halls and residential accommodations have been furnished in the affidavit of the Registrar General. We have perused the same. The Registrar General has stated that if the constructions which are presently going on are completed as per Schedule indicated the infrastructure for court halls as well as residential accommodations would be adequate keeping in mind the number of Judicial Officers in the cadre and the persons who have gone on deputation.

Insofar as the man-power for manning the Courts are concerned, vacancies in different cadres have also been indicated along with the details of the steps taken to fill up the said vacancies.

Having considered the statements made in the affidavit of the Registrar General of the High Court with regard to the infrastructure and man-power we direct the State Government and the High Court to ensure that the on-going processes are completed as per time-schedule and requisite man-power be recruited to enable the Courts to function without any difficulties.

No further orders with regard to State of Jharkhand/High Court of Jharkhand is called for at this stage.

Re: State of Karnataka/High Court of Karnataka

Following officers are present on behalf of the State of Karnataka and High Court of Karnataka:

A. On behalf of State of Karnataka

(i) Mr. N.C. Srinivasa, Prl. Law Secy.

(ii) Mr. K.S. Krishnareddy, Secy. P.W.D.

(iii) Mr. Raghavendra Jannu, Secy., KPSC

B. On behalf of High Court of Karnataka

(i) Mr. V. Srishananda, Registrar General, HC

Re: Vacancies:

The picture is disappointing.

Out of 30 posts advertised only 4 candidates were found suitable for being recommended.

The process of re-advertisement for the unfilled vacancies be issued forthwith and the recommendations made against 4 vacancies be brought to its logical conclusion.

Insofar as regular promotion to the cadre of District Judges is concerned it is stated that the matter is pending before the Full Court and will be finalized shortly.

The High Court and the State Government is requested to expedite the matter and ensure that promotional posts are filled up at the earliest.

Insofar as posts of Civil Judge Senior Division is concerned, it is stated that there are no vacancies as on date.

Insofar as posts of feeder cadre of Civil Judge is concerned, against 101 advertised posts only 33 candidates could be found suitable for being recommended. The said candidates have since been appointed on 27th November, 2018 and are likely to assume office on 10th December, 2018. Remaining unfilled vacancies and other vacancies that have been arising in the meantime be advertised forthwith and selection process/processes be brought to its logical conclusion.

List the matter after six weeks to enable the court to further take stock of the situation insofar as fresh advertisements in terms of this order is concerned.

Re: Infrastructure:

Insofar as infrastructure i.e. court halls and residential accommodation is concerned, from the details submitted it appears that the position is quite satisfactory. The court halls and residential units under construction be completed at the earliest.

So far as the man-power in the subordinate judiciary is concerned, the total number of vacant posts is 6975.

Recruitment process is stated to be underway for 4093 posts whereas as many as 2312 posts are to be filled up by promotion which process is also stated to be underway.

It is stated that steps have also been taken to fill up the posts earmarked by direct recruitment (517 in number).

All posts in the subordinate judiciary which has been subjected to different recruitment processes be filled up at the earliest.

Re: State of Kerala/High Court of Kerala

Following officers are present on behalf of the State of Kerala and High Court of Kerala:

A. On behalf of State of Kerala

(i) Smt. Sreekala T.R., Joint Secy.

B. On behalf of High Court of Kerala

(i) Mr. K. Haripal, Registrar General

(ii) Mr. Venu Karunakaran, Registrar (Vigilance)

In the affidavit filed by the Registrar General of the Kerala High Court it is stated that the process for filling up of 13 vacancies in the cadre of District Judge against the direct recruitment quota (25%) is presently going on and will be completed by the last week of February 2019 and appointments can be expected to be made latest by 30th April, 2019.

The said process be completed and appointments be made as above.

Insofar as promotional posts to the cadre of District judge is concerned it is stated that against 9 available vacancies the process has been initiated and after evaluation of judgments the names of the eligible candidates will be put up before the Full court before being forwarded to the Government.

The High Court will ensure that the aforesaid process be complete within a period of three months from today.

Insofar as cadre of Civil Judge Senior Division is concerned there are no vacancies as on date.

Insofar as feeder cadre of Civil Judge is concerned the number of vacancies is 45 and it is stated that on-going process of selection will be completed by 15th of this month i.e. 15th December, 2018 and the training of the selected candidates can be expected to commence on and from 1st February 2019. We order accordingly.

Re: Infrastructure:

In the affidavit filed by the Registrar General of the High Court it has been indicated that 91 court halls are required to be constructed and as far as are required to be taken to construct the court complexes to avoid

courts functioning from rented buildings and also Government/Judicial buildings which are in dilapidated conditions. In the said affidavit details of on-going projects in respect of 75 courts halls have also been indicated.

So far as residential accommodation is concerned it is stated by the Registrar General of the High Court that a total of 271 residential units are required to be re-constructed as equal number of such units which have been in rented and/or are in Government/Judicial buildings are presently in dilapidated conditions.

The State Government shall indicate the present stage of construction of the additional court buildings and residential units as required by filing a report on this aspect of the case within six weeks from today.

Re: Man-power

Insofar as the man-power in the State of Kerala is concerned it is stated in the affidavit of the Registrar General read along with the corrigendum that presently there are 66 posts in different cadres. However, from the affidavit of the Registrar General it transpires that the issue with regard to sanctioning, creation and filling up of 1785 posts in different cadres in the subordinate

judiciary is pending before the Government and certain judicial orders have been passed.

The State Government to examine the matter and revert to this Court with a clear stand on the next date fixed which is six weeks hence.

STATE OF WEST BENGAL/HIGH COURT OF CALCUTTA

Following officers are present on behalf of the State of West Bengal and High Court of Calcutta:

A. On behalf of the State of West Bengal

(i) Mr. Malay Kr. De., Chief Secretary

(ii) Mr. Hari Krishna Dwivedi, Finance Secretary

(iii) Mr. Sandip Kumar Ray Chaudhury, Judiciary Secretary, Govt. of West Bengal.

B. On behalf of the Calcutta High Court

(i) Mr. Ananda Kumar Mukherjee, Registrar General, Calcutta High Court

We have perused the affidavit filed by the Chief Secretary of the State of West Bengal.

The Chief Secretary who is personally present has been heard along with the Registrar General of the High Court.

Pursuant to certain queries made by the Bench in the morning session a status report with regard to 22 proposals

approved by the State which are under construction has been submitted in Court indicating the extent of work done and the expected dates of completion.

The matter in respect of State of West Bengal will be considered tomorrow i.e. 6th December, 2018.

The monitoring in respect of States of Gujarat (High Court of Gujarat), Himachal Pradesh (High Court of Himachal Pradesh), Jammu & Kashmir (High Court of Jammu & Kashmir), Jharkhand (High Court of Jharkhand), Karnataka (High Court of Karnataka), Kerala (High Court of Kerala) and West Bengal (Calcutta High Court) was taken up today i.e. 5th December, 2018 and orders have been passed.

In the next group the vacancy position, infrastructure availability and the position with regard to the man-power will be undertaken in respect of States of Madhya Pradesh (High Court of Madhya Pradesh), Madras (High Court of Madras), Odisha (High Court of Orissa), Bihar (High Court of Patna) and Punjab and Haryana (High Court of Punjab & Haryana). The High Courts functioning in the aforesaid States are directed to file their report/counter/response within two weeks from today with a copy to Shri Vijay Hansaria, learned Amicus Curiae.

The matter in respect of States of States of Madhya Pradesh (High Court of Madhya Pradesh), Madras (High Court of Madras), Odisha (High Court of Orissa), Bihar (High Court of Patna) and Punjab and Haryana (High Court of Punjab & Haryana) will be taken up on 17th January, 2019 along with the States of Karnataka (High Court of Karnataka) and Kerala (High Court of Kerala).

The Registrars General of the aforesaid High Courts i.e. High Courts of Madhya Pradesh, Madras, Orissa, Patna, Punjab & Haryana, Karnataka and Kerala will be present in Court in person to assist this Court. Needless to say the Registrars General are expected to be fully acquainted with all aspects of the on-going selections, vacancies, infrastructure, etc. so as to be able to answer all such queries that may be put to them by the Court.

We also direct the Chief Secretaries of the aforesaid States concerned i.e. States of Madhya Pradesh, Madras, Odisha, Bihar, Punjab & Haryana, Karnataka and Kerala whose cases are being considered on 17th January, 2018 to depute a suitable officer(s) who is/are conversant with all details of the issue(s) involved and competent to take decision(s) in the matter in Court, if necessary.

For such of the States where the recruitment is undertaken by the State Public Service Commissions the Secretary of the State Public Service Commissions shall also be associated in the interaction between the Registrars General and the Authorized Officer(s) of the States and the Secretaries of such State Public Service Commissions will also be present in Court on the next date fixed.

The Registrars General of the High Courts, the Secretaries of the State Public Service Commissions and the Officer(s) to be authorized by the Chief Secretaries of the States concerned will interact between themselves at their respective places of posting to ensure prompt and timely appointments against the vacant posts and to draw up a plan/scheme to fill up the deficiency/deficiencies in infrastructure and manpower which would be presented to the Court on the next date fixed. The Registrars General of the concerned High Courts; the Secretaries of the State Public Service Commissions as well as the Authorized Officer(s) of the States concerned will thereafter interact with Shri Vijay Hansaria and Shri K.V. Vishwanathan, learned Amicus Curiae so as to enable the learned Amicus

Curiae to present the result/position before the Court in as precise a manner as possible.

[VINOD LAKHINA]
AR-cum-PS

[ANAND PRAKASH]
BRANCH OFFICER