

ITEM NO.3

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CONTEMPT PETITION(C) NOS.425-426/2015
IN
WRIT PETITION(C) No. 523/2002

JUSTICE V.S. DAVE PRESIDENT,
THE ASSOCIATION OF RETD. JUDGES OF
SUPREME COURT AND HIGH COURTS

Petitioner(s)

VERSUS

KUSUMJIT SIDHU & ORS.

Respondent(s)

(I.A.NO. 11/2017 - FOR DIRECTIONS
I.A.NO.53528/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS
I.A. NO.27753/2018-TO BRING ON RECORD THE LRS
I.A. NO.28769/2018-EXEMPTION FROM FILING O.T.)

Date : 24-10-2018 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

For Parties

Mr. P.H. Parekh, Sr. Adv. (AC)
Mr. N.K. Mody, Adv.
Mr. Ankur Mody, Adv.
Mr. Santosh Sharma, Adv.
Ms. Siddhi Padia, Adv.
Ms. Nikita Chitale, Adv.
Mr. Sumit Goel, Adv.
Mr. Vishal Prasad, Adv.
Ms. Ritika Sethi, Adv.
Mr. Abhiram Naik, Adv.
Mr. Raghav Bansal, Adv.
For M/S. Parekh & Co., AOR

CBDT

Mr. Tushar Mehta, SG
Ms. Swati Ghildiyal, Adv.
Mr. H.S. Sandhu, Adv.

Mr. Parijat Sinha, AOR

Mr. N.K. Mody, Sr. Adv.
Mr. Ankur Mody, Adv.
Ms. Siddhi Padia, Adv.
Mr. Santosh Sharma, Adv.

	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. PLR Chambers, AOR
State of Punjab	Ms. Karan Bharihoke, AOR Ms. Navkiran Bolay, Adv. Mr. Anirudh Wadhwa, Adv. Mr. Atul Shankar Vinod, Adv. Mr. M. P. Vinod, AOR
UOI	Ms. V. Mohana, Sr. Adv. Mr. S.Wasim A. Quadri, Adv. Mr. P.K. Mullick, Adv. Mr. Raj Bahadur Yadav, Adv. Mr. Rajesh singh Chauhan, Adv. Ms. Rekha Pandey, Adv. Mr. Harpreet Singh Sandhu, Adv. Mr. G.S. Makker, AOR Mr. Rajesh Singh Chauhan, Adv. Mr. Gautam Sharma, Adv. Mr. B.V. Balaram Das, AOR Mr. A.N.S. Nadkarni, ASG Ms. V. Mohana, Sr. Adv. Ms. Anil Katiyar, AOR.
Kolkata High Court	Mr. Kunal Chatterji, AOR Ms. Maitrayee Banerjee, Adv.
Uttarakhand High Court	Mr. Mukesh K. Giri, AOR
Delhi High Court	Mr. Annam D. N. Rao, AOR Mr. Annam Venkatesh, Adv. Mr. Sudipto Sircar, Adv. Mr. Rahul Mishra, Adv.
State of J&K	Mr. M. Shoeb Alam, AOR Mr. Ujjwal Singh, Adv. Mr. Mojahid Karim Khan, Adv.
State of Karnataka	Mr. T.M. Vijay Bhaskar, Chief Secy. Mr. V.N. Raghupathy, Adv. Mr. Parikshit Angadi, Adv. Md. Apzal Ansari, Adv.
Jharkhand High Court	Mr. Krishnanand Pandey, AOR

	Mr. Ashok K. Srivastav, AOR
	Mr. Ajay Marwah, AOR
State of U.P.	Mr. Aviral Saxena, Adv. Mr. Sandeep Singh, Adv. Mr. Sanjay Kr. Tyagi, AOR Mr. Subash Chandran, Adv. Ms. Priyanka, Adv.
State of Maharashtra	Mr. Nishant Katneshwarkar, AOR Ms. Deepa Kulkarni, Adv. Ms. Suvarna Ganu, Adv. Mr. Arup Kondari, Adv.
State of H.P.	Mr. Vikas Mahajan, AAG Mr. Vinod Sharma, AOR
A&N Administration	Ms. G. Indira, AOR Mr. K.V. Jagdishvaran, Adv.
State of Chhattisgarh	Mr. A.P. Mayee, AOR Mr. Chirag Jain, Adv.
State of Manipur	Mr. M.H. Han, Addl. Chief Secy. Mr. Leishangthem Roshmani Kh., AOR Ms. Maibam Babina, Adv. Ms. Anupama Ngangom, Adv.
State of Mizoram	Mr. Arvind Ray, Chief Secy. Mr. Praveen Gupta, Pr.Resident Comm. Mr. Shikhar Garg, Adv. Mr. Mudit Mahijani, Adv. Mr. P.V. Yogeswaran, AOR
State of Jharkhand	Mr. Tapesk Kumar Singh, AOR. Mr. Aditya Pratap Singh, Adv. Mr. Kumar Anurag Singh, Adv.
State of Odisha	Mr. Sibor Shankar Mishra, AOR Mr. Uma Kant Mishra, Adv. Mr. Niranjana Sahu, Adv.
State of Rajasthan	Mr. S.S. Shamsheery, AAG Mr. Amit Sharma, Adv. Mr. Sandeep Singh, Adv. Mr. Ankit Raj, Adv. Ms. Indira Bhakar, Adv. Ms. Ruchi Kohli, AOR
State of Nagaland	Mr. K.N. Balgopal, Sr.Adv. Ms. K. Enatoli Sema, AOR Mr. Amit Kumar singh, Adv.

	Mr. A.P. Mukundan, Adv. Ms. Nitya Nambiar, Adv. Mr. Vitro Rio, Adv.
Govt. of Puducherry	Mr. V.G. Pragasam, AOR. Mr. S. Prabu Ramasubramanian, Adv. Mr. S. Manuraj, Adv.
State of Telangana	Mr. Harin P. Raval, Sr. Adv. Mr. S. Udaya Kumar Sagar, AOR. Mr. Mrityunjai Singh, Adv.
State of Kerala	Mr. G. Prakash, AOR. Mr. Jishnu M.L., Adv. Ms. Priyanka Prakash, Adv. Ms. Beena Prakash, Adv.
State of Tamil Nadu	Mr. M. Yogesh Kanna, AOR Mr. S. Partha Sarathi, Adv. Ms. Sujatha Bagadhi, Adv.
Guwahati High Court	Mr. P.I. Jose, AOR Ms. P.S. Chandralekha, Adv. Mr. V. Hari Kumar, Adv. Mr. Shashank, Adv.
State of Gujarat	Ms. Hemantika Wahi, AOR Ms. Jesal Wahi, Adv. Ms. Puja Singh, Adv. Ms. Vishakha, Adv.
Allahabad High Court	Mr. Ashok K. Srivastava, Adv.
State of Assam	Mr. Shuvodeep Roy, Adv. Mr. Somnath Banerjee, Adv. Mr. Naman Kamboj, Adv.
State of Tripura	Mr. Shuvodeep Roy, Adv. Mr. Rituraj Biswas, Adv.
High Court of M.P.	Mr. Arjun Garg, Adv. Mr. Manish Yadav, Adv.
State of M.P.	Mr. Saurabh Mishra, AAG Mr. Arjun Garg, AOR Mr. Manish Yadav, Adv.
State of Sikkim	Mr. A. Mariarputham, Adv.Gen., Sikkim Ms. Aruna Mathur, AOR Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. Ms. Geetanjali, Adv.

State of Uttarakhand	Ms. Rachana Srivastava, Adv. Ms. Monika, Adv.
Manipur High Court	Ms. Sneha Kalita, AOR
UT Chandigarh	Mr. Gurinder Singh Gill, Sr. Adv. Mr. P.P. Nayak, Adv. Mr. Ajay Pal, AOR Mr. Siddharth Singh, Adv.
High Court of Tripura	Mr. Gaurav Sharma, Adv. Mr. Naresh K. Sharma, Adv.
State of Haryana	Mr. D.S. Dhesi, Chief Secy. Mr. Anil Grover, AAG Mr. Satish Kumar, Adv. Ms. Noopur singhal, Adv. Dr. Monika Gusain, AOR
State of Arunachal Pradesh	Mr. Anil Shrivastav, AOR Mr. Rituraj Biswas, Adv. Mr. Satyendra Kumar Srivastav, Adv.
State of Meghalaya	Mr. Ranjan Mukherjee, AOR Mr. S.C. Ghosh, Adv. Mr. Avijit Mani Tripathi, AOR Ms. Rekha Bakshi, Adv. Mr. Sanjeeb Panigrahi, AOR Mr. Mohammed Shaffi Mather, Adv.
State of Andhra Pradesh	Mr. P. Srinivas, Adv.Genl. Mr. Guntur Prabhakar, Adv. Ms. Prerna Singh, Adv. Ms. Radhika Gautam, AOR Mr. Varinder Kumar Sharma, Adv.

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

ANDHRA PRADESH

The Chief Secretary of the State of Andhra Pradesh, Shri Anil Chandra Punetha, who has been summoned is present in-person. Unfortunately, he does not seem to be conversant with the reason(s)

for which he had been asked to appear personally. This is evident from the statement made by the Chief Secretary that the matter pertains to the medical reimbursement of the Judicial Officers. As we do not get any assistance from the Chief Secretary of the State of Andhra Pradesh, we have no option but to peruse the affidavit filed on behalf of the State which is curiously sworn by the Chief Secretary himself.

From the aforesaid affidavit, it becomes clear that the State of Andhra Pradesh will provide the same, if not better facilities, as is prevalent in the States of Jammu & Kashmir and Jharkhand.

The State of Andhra Pradesh is directed to do so forthwith by issuing the necessary notification(s) which will be so done within a period of two weeks from today.

As the Chief Secretary of the State of Andhra Pradesh has rendered no assistance to Court his further presence in the Court is not required.

ARUNACHAL PRADESH

While considering the case of Arunachal Pradesh, we had an occasion to interact with Shri

P.H. Parekh, learned *amicus curiae*, who represents the Association of Retired Judges of the Supreme Court and High Courts of India.

Shri Parekh has pointed out that the endeavour of the Court to have the medical facilities of retired Chief Justices and Judges of the High Courts (including their spouses and dependent family members) on a uniform basis throughout the country can be best achieved if all the States/High Courts provide the following facilities :

1. All facilities at par with sitting Judges;
2. Reimbursement for medical treatment in private hospital without prior approval of the State Government;
3. Sanctioning authority to be the Registrar General of the High Court;
4. Reimbursement to be provided for treatment taken in any other State; and
5. Cashless facility.

Insofar as State of Arunachal Pradesh is concerned, Shri Anil Shrivastav, learned standing counsel, on instructions from the Chief Secretary of the State, who is personally present (with whom we did not interact for reasons that are not required to be mentioned) has stated that the State

of Arunachal Pradesh is ready to provide the facilities as indicated above though the facility of cashless transactions may take some time.

The case of the State of Arunachal Pradesh is, therefore, closed and the further requirement of personal presence of the Chief Secretary is dispensed with.

GOA

Shri Atmaram N.S. Nadkarni, learned Additional Solicitor General, who appears for the State of Goa has submitted that the five facilities set out in the order passed today in respect of the State of Arunachal Pradesh including cashless transactions are being provided to the retired Chief Justices and Judges of the High Court (including their spouses and dependent family members).

He has further submitted that insofar as cashless facility is concerned, there is a ceiling of Rs.3,00,000/- (Rupees Three lakhs).

In view of the aforesaid statement made on behalf of the State of Goa, which is reflected in the affidavit filed on 22.10.2018, we do not consider it necessary to pass any further

direction. Further personal presence of the Chief Secretary is also dispensed with.

HARYANA

We have heard Shri Anil Grover, learned counsel for the State of Haryana and also Shri D.S. Dhesi, the Chief Secretary of the State of Haryana who has appeared personally pursuant to our order dated 25.09.2018.

The Chief Secretary on being interacted with has informed the Court that all facilities for retired Chief Justices and Judges of the High Court (including their spouses and dependent family members) as indicated in the order passed in respect of the State of Arunachal Pradesh are being provided by the State of Haryana except cashless facility which aspect of the matter is under consideration of the State and orders as may be appropriate in this regard will be passed within six weeks from today.

On the basis of the aforesaid statement made by the Chief Secretary, we do not consider it necessary to pass any further order/direction in the matter for the present.

We make it clear that any contrary practice in vogue will cease to be followed and the directions contained in the present order, details of which have already been recorded in respect of the State of Arunachal Pradesh, will be henceforth implemented.

Further personal presence of the Chief Secretary is not required.

KARNATAKA

Shri T.M. Vijay Bhaskar, Chief Secretary of the State of Karnataka, is present today pursuant to our order dated 25.09.2018.

The Chief Secretary on being interacted with has informed the Court that all facilities for retired Chief Justices and Judges of the High Court (including their spouses and dependent family members) as indicated in the order passed in respect of the State of Arunachal Pradesh are being provided by the State of Karnataka except cashless facility which aspect of the matter is under consideration of the State and orders as may be appropriate in this regard will be passed within six weeks from today.

On the basis of the aforesaid statement made by the Chief Secretary, we do not consider it necessary to pass any further order/direction in the matter for the present. The personal presence of the Chief Secretary is dispensed with.

We make it clear that any contrary practice in vogue will cease to be followed and the directions contained in the present order details of which have already been recorded in respect of the State of Arunachal Pradesh will be henceforth implemented.

MANIPUR

The Chief Secretary of the State of Manipur for reasons acceptable has not been able to appear before this Court. Instead, Shri M.H. Khan, the Additional Chief Secretary is present. He has been heard.

The affidavit filed on behalf of the State of Manipur dated 01.10.2018 has been read and considered. Apparently, none of the five facilities which we have indicated in respect of the retired Chief Justices and Judges of the High Court are being provided either to sitting Judges or retired

Judges of the High Court of Manipur. The Additional Chief Secretary has left the matter to the Court and has stated that if directed the State of Manipur will grant similar medical facilities to retired Chief Justices and Judges (including their spouses and dependent family members) as is being provided by other States.

To enable us to take the said statement on record and issue further directions, we direct the Additional Chief Secretary to file an affidavit to the above effect. The said affidavit may be filed in the course of the day whereafter appropriate orders will be passed.

List the case of the Manipur at 2.00 p.m.

At 2.00 p.m.

The Additional Chief Secretary of the Government of Manipur has filed an affidavit.

Insofar as other States are concerned, the facilities provided/to be provided to the retired Chief Justices and Judges of the High Court are :

1. All facilities at par with sitting Judges;
2. Reimbursement for medical treatment in private hospital without prior approval of the State Government;
3. Sanctioning authority to be the Registrar General of the High Court;

4. Reimbursement to be provided for treatment taken in any other State; and
5. Cashless facility.

The State of Manipur, therefore, would be duty bound in terms of the statements contained in the affidavit to provide the aforesaid five facilities to the retired Chief Justices and Judges of the High Court (including their spouses and dependent family members).

Further personal presence of the Chief Secretary/Additional Chief Secretary is also dispensed with.

MIZORAM

List the case of State of Mizoram at 2.00p.m.

At 2.00 p.m.

Mr. Arvind Ray, the Chief Secretary, Government of Mizoram is present today pursuant to the order passed by this Court on 25.09.2018. He has been heard.

The affidavit filed on behalf of the State of Mizoram has also been duly considered.

The Chief Secretary has stated before the

Court that medical facilities to the retired Chief Justices and Judges (including spouses and dependent family members) at par with other States will be made available on and from now. The details of such medical facilities (5 in number) are as under :

1. All facilities at par with sitting Judges;
2. Reimbursement for medical treatment in private hospital without prior approval of the State Government;
3. Sanctioning authority to be the Registrar General of the High Court;
4. Reimbursement to be provided for treatment taken in any other State; and
5. Cashless facility.

The Government of Mizoram shall issue a notification to the aforesaid effect and implement the undertaking made before this Court forthwith and without any delay as and when claim(s) of medical reimbursement/facilities is/are raised by the retired Chief Justices and Judges of the High Court (including their spouses and dependent family members).

Further personal presence of the Chief Secretary is not required.

TELANGANA

For the reasons shown, personal appearance of the Chief Secretary of the State of Telangana by this Court on 25.09.2018 is dispensed with.

We have heard Shri Harin P. Raval, learned senior counsel, appearing for the State of Telangana and Shri V. Niranjan Rao, Secretary (Law), who is personally present.

We have perused the affidavit dated 11.10.2018 filed on behalf of the State of Telangana.

The State of Telangana is providing all facilities to retired Chief Justices and Judges of the High Court (including their spouses and dependent family members) which are at par with what has been observed by this Court in connection with the State of Arunachal Pradesh.

Insofar as cashless facility is concerned, the Law Secretary has assured the Court that the matter would be examined at an appropriate level and a decision will be taken in this regard within the next six weeks.

In view of the above, no further orders will be called for in respect of the State of Telangana

at this stage.

UTTARAKHAND

The Chief Secretary of the State of Uttarakhand is present today.

We have interacted with the Chief Secretary of the State of Uttarakhand.

It appears that the State of Uttarakhand insists on prior approval for treatment outside the State in routine cases, though naturally, in case of emergency/emergencies such prior approval is not required.

The Chief Secretary has also apprised us of the total number of cases where retired Chief Justices and Judges of the High Court have taken treatment in hospital(s) outside the State and the cost involved.

The Chief Secretary shall reconsider the matter of prior approval for treatment outside the State and also consider the facility of cashless treatment as has been agreed to by some other states as indicated in the present order.

The Chief Secretary will file an affidavit of the action taken in terms of this Order within

four weeks from today.

The case of the State of Uttarakhand is kept open for further orders on the next date fixed. List after four weeks.

Further personal appearance of the Chief Secretary is dispensed with unless the affidavit directed to be filed proves to be unsatisfactory.

DELHI

Shri Anshu Prakash, Chief Secretary of the N.C.T. of Delhi is personally present. He has been heard.

It appears that insofar as retired Chief Justices and Judges of the Delhi High Court (including their spouses and dependent family members) are concerned, all medical facilities as indicated in the order in respect of State of Arunachal Pradesh herein above have been made available with certain additional benefits, as for example, retired Chief Justices and Judges of the Delhi High Court who have been transferred out of Delhi or elevated to the High Courts of other States and have now been settled in Delhi after retirement are also entitled to such privileges. Cashless facility is also available in around 259

accredited/CGHS approved hospitals. The authority for reimbursement is the Registrar General of the High Court. The treatment outside the State is also taken care of except the rates at which the reimbursement is made are the CGHS rates/under the Scheme. No further order will be called for at this stage. Further personal presence of the Chief Secretary is not required.

OTHER STATES

Insofar as other States/High Courts are concerned, we make it clear that medical facilities for retired Chief Justices/Judges (including spouses and dependent family members) will be at par as indicated in our previous order while dealing with the case of Arunachal Pradesh.

We also make it clear that if any State would like to offer even better medical facilities than what has been indicated in our present order, as above, it will be certainly open for the States/High Courts to do so.

Shri P.H. Parekh, learned amicus curiae, will collate the required information from all concerned States as to the actual implementation of

our present directions and in the event any State is found to be in default, Shri Parekh is requested to inform the Court by means of a written application.

(NEETU KHAJURIA)
COURT MASTER

(ASHA SONI)
ASSISTANT REGISTRAR