

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

Writ Petition(s)(Civil) No(s). 1236/2019

LOK PRAHARI
THROUGH ITS GENERAL SECRETARY
S.N.SHUKLA I.A.S. (RETD)

Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)
(IA No. 58504/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 75079/2021 - CLARIFICATION/DIRECTION, IA No. 72386/2021 - GRANT OF FURTHER RELIEF and IA No. 72382/2021 - MODIFICATION OF COURT ORDER)WITH
W.P.(C) No. 689/2021 (X)
(FOR ADMISSION)

Date : 08-12-2022 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE VIKRAM NATH*Amicus Curiae* Mr. Arvind Datar, Sr. Adv.

For Petitioner(s) Petitioner-in-person

Mr. Amrendra Kumar Mehta, AOR

For Respondent(s) Mr. R. Venkataramani, Attorney General
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Mr. Geo Joseph, Adv.
Mr. Risvi Muhammed, Adv.

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Mr. Rohit Bansal, Adv.

Ms. Kshitij Singh, Adv.

Mr. Romy Chacko, AOR

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Mr. Dhanesh Ieshdhan, Adv.

Mr. Premnath Mishra, Adv.

Mr. Varun Varma, Adv.

Mr. Abbula Kalam, Adv.

Mr. Mohd. Apzal Ansari, Adv.

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Ms. Sagun Srivastava, Adv.

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Mr. Gopal Singh, AOR

Mr. Mukul Kumar, AOR

Ms. Uttara Babbar, AOR

MS. Shipra Jain, Adv.

Ms. Riya Kalra, Adv.

Mr. Apoorv Kurup, AOR

Mr. P. I. Jose, AOR

Mr. Anupam Mishra, Adv.

Ms. Radhika Gautam, AOR

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Ms. Shweta, Adv.

Mr. Narendra Pal Sharma, Adv.

Mr. Anubhav Gupta, Adv.

Mr. C.M. Jha, Adv.

Mr. Naresh K. Sharma, AOR

UPON hearing the counsel the Court made the following

O R D E R

The learned Attorney General and Mr. Arvind Datar, learned *Amicus Curiae* have agreed to re-look into the issue of the MOP keeping in mind the aspect that the purpose is to provide quick disposal of cases of appointing *ad hoc* Judges which should not itself become so cumbersome so that it is unworkable. These are persons who have already worked as Judges and in the wisdom of Hon'ble the Chief Justice of India advised by the Collegium are the persons who are capable of taking the load of the work. They may be from the same Court or any other High Court.

We have put a caution on the last date of hearing while taking note of the aspect of vacancies being less than 20% to trigger of the alternative process, we must keep in mind the special needs of some big Courts, where it is a challenge itself to fill in the vacancies and invariably, the vacancies are more than 20% historically. This parameter may be examined whether relaxation can take place to meet the needs of these large Courts.

One thought which emerged and may require some examination is whether eminent senior lawyers who are willing as a part of their social contribution to work in different High Courts as Additional/Acting Judges for a specified period is something which can be explored. Reference may be made to Article 224 of the Constitution of India in this behalf, in fact, from time to time suggestions have come from senior counsel offering to do this part

of their social service and even proposing that they are willing to forego right to practice in the Court where they have been appointed as Additional and Acting Judges.

We do believe that given the current arrears, some out of the box thinking is required. In fact, in the present case, it is something which the Constitution makers thought of at the time of framing of the Constitution.

List the matters on 8th February, 2023 in miscellaneous matters.

Liberty to mention for early listing, if the counsel are able to argue to a methodology earlier than that. We may notice that a list of recommendation on *ad hoc* Judges by different Chief Justices of the High Courts is placed before the Bench along with Status Report dated 07.12.2022.

I.A. No. 75079 of 2021

Issue notice.

Learned counsel for the respondents accept notice.

An application for clarification and direction has been filed on behalf of the High Court of Orissa at Cuttack in view of their examination of the judgment in the process of steps to be taken in pursuance thereto. This relates to the plea for appropriate directions clarifying paras 54 and 55 of judgment dated 20.04.2021, where keeping in mind the purport for what is set out in paras 54 and 55 in the relevant place should read as under:

“Thus, the parameter we have adopted is that, at least, the recommendations should have been made for

not less than 20% vacancies in order to take recourse to Article 224A."

The application stands disposed of.

I.A. No. 58504 of 2021

Issue notice, returnable on 8th February, 2023.

Learned counsel for the respondents accept notice.

**(MEENAKSHI KOHLI)
ASTT. REGISTRAR-cum-PS**

**(POONAM VAID)
COURT MASTER**