
(2014) 05 SC CK 0016

In the Supreme Court Of India

Case No : Criminal Appeal Nos. 254-262 of 2012

Imtiyaz Ahmad

APPELLANT

Vs

State of Uttar Pradesh

RESPONDENT

Date of Decision : 01-05-2014

Acts Referred:

Citation : (2017) 3 SCC 658 : (2017) 2 SCCri 228 : (2017) 1 SCCL 724

Hon'ble Judges : Mr. T.S. Thakur, Mr. V. Gopalagowda and Mr. C. Nagappan, JJ.

Bench : Full Bench

Advocate : Mr. Ajay Kumar Singh and Mr. Rakesh Mishra, Advocates, for the Appellant; Mr. Abhishek Chaudhary, Ms. Anitha Shenoy, Mr. Mukul Gupta, ASG, Mr. R. Venkataramni, Sr. Advocate, Mr. T.A. Khan, Mr. Jatin Chaturvedi, Ms. Suvarna, Mr. Aseem, Mr. Ashok Panigrahi, Mr. Yashraj Singh Bundela, Mr. B.V. Balaram Das, Mr. Krishnanand Pandeya, Mr. A. Kr. Choubey, Mr. T.G. Narayanan Nair, Mr. K.N. Madhusoodhanan, Mr. Aniruddha P. Mayee, Mr. Ashok K. Srivastava, Mr. S. Wasim Qadri, Ms. Archana Singh and Mr. Abhish Kumar, Advocates, for the Respondents

Final Decision : Dismissed

Judgement

1. Law Commission of India has submitted its final report and recommendations. Mr. R.Venkataramani, learned senior counsel appearing for the Commission, has briefly taken us through the report, from a reading whereof it appears that the Commission has adopted what is described as "Rate of Disposal Method" as the basis for determining the vacancies required for (a) clearance of the arrears in different States and (b) for break even between institution and disposal of cases in future. Based on the said formula/method the Commission has made specific recommendations in regard to the States of Andhra Pradesh, Bihar, Delhi, Gujarat, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Karnataka, Kerala, Punjab and Haryana, Maharashtra, Sikkim and Uttarakhand and the Union Territory of Chandigarh. Mr. Venkataramni submits that the recommendations regarding number of additional courts required to break even institution and disposal of cases and for clearance of the backlog have not been made in regard

to the remaining States and Union Territories on account of deficiency in the data available with the Commission in regard to those States. He submits that the Commission can if so required undertake an exercise in regard to remainder of the States and Union Territories also and submit its supplementary recommendations.

2. Mr. Venkataramni proposed a two pronged approach to be adopted for implementation of the recommendations made by the Commission. In the first phase, the High Courts concerned could be asked to undertake an exercise to identify the Districts and Talukas/Tehsils where the proposed new courts could be established having regard to the pendency of the cases in such areas. The Commission, has it is evident from the report, not gone into the question of location of additional courts recommended by it. In the second phase the State Governments shall have to be heard as regards the formula evolved by the Law Commission for creation of additional courts and the implementation of the recommendations made by it. The State Governments may have for that purpose to be notified about the recommendations made by the Commission and their responses invited for examination by this Court.

3. There is, in our opinion, merit in what Mr. Venkataramni submits. It is true that the Commission has evolved a formula applicable on a uniform basis country wide but the method adopted and the formula evolved is itself a matter on which the State Governments may have to be heard. We do not, therefore, propose to express any final opinion as to the method and the formula recommended by the Commission for application at this stage. Even so, the new courts whatever their number will have to be suitably located in areas where such courts are required having regard to the pendency in those areas. That exercise the High Courts alone can undertake.

4. In the circumstances, we direct issue of notice to the States of Andhra Pradesh, Bihar, Delhi, Gujarat, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Karnataka, Kerla, Punjab and Haryana, Maharashtra, Sikkim and Uttarakhand who may file their response to the report and recommendations made by the Law Commission including the method adopted by the Law Commission for determining the need for creation of new courts and indicate the time-frame within which they would sanction and establish the new courts in terms of the recommendations. The notices shall be addressed to the Chief Secretary of the respective States. Copies of the report/recommendations of the Law Commission shall also be forwarded to the State Governments concerned along with the notices.

5. We also request the High Courts of Andhra Pradesh, Bihar, Delhi, Gujarat, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Karnataka, Kerala, Punjab and Haryana, Maharashtra and Uttarakhand to examine the recommendations made by the Law Commission in its report and to respond to the same. The High Court may examine locating the additional courts recommended by the Law Commission at suitable places and available infrastructure having regard to the

pendency of cases.

6. We request the Law Commission of India to formalise its recommendations in regard to the remaining States and Union Territories not already covered by its report. Mr. Venkataramni submits that the Commission should be in a position to do the needful within a period of two months.

7. We place on record our appreciation for the work which the Commission has done and hope that the entire process will be completed as expeditiously as possible. A copy of the report shall be forwarded to the Registrar General of the High Courts along with a copy of this order to be placed to Hon"ble Chief Justice of the High Courts concerned for orders. Post again on 20.08.2014.