
(1997) 09 AHC CK 0016

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 28424 of 1997

Pushkar Mehrotra

APPELLANT

Vs

Hon"ble The Chief Justice and Others

RESPONDENT

Date of Decision : 02-09-1997

Acts Referred:

Citation : (1997) 3 UPLBEC 1594

Hon'ble Judges : R.R.K. Trivedi, J;M. Katju, J

Bench : Division Bench

Judgement

R.R.K. Trivedi and M. Katju, JJ.—Learned Standing Counsel and learned counsel for Union of India may file counter affidavit within 3 weeks. In the meantime, petitioner shall serve respondents Nos. 5, 6, 7 and 8 personally in addition to normal mode of service, steps for which shall be taken within a week. Office shall issue notice returnable within a month.

2. It appears that for identical reliefs writ petition No. 1533 of 1996 was filed which is pending and by order dated 23-4-1996 it was directed to be listed along with Writ Petition No. 4502 of 1982. On 3-5-1992 a Division Bench had passed the following order in Writ petition No. 1502 of 1982:

"Shri Anshuman Singh has accepted notice on behalf of respondent No. 1. Notice on behalf of respondent No. 2 has been accepted by the learned Chief Standing counsel. So far as respondents Nos. 3 and 4 are concerned learned counsel for the petitioner undertakes to serve them through the respective Registrar of the Court within three weeks from today's date. The petitioner will have one week thereafter to filing a rejoinder affidavit.

Considering the nature of controversy involved in the case, we direct that the papers may be laid before, Hon"ble the Acting Chief Justice or the Chief Justice as the case may be for constituting a larger Bench and passing such orders for early hearing of the petition as he deems fit."

3. A nine Judges' Bench of Hon'ble Supreme Court in Supreme Court Advocates On Supreme Court Advocates-on-Record Association and another Vs. Union of India, has held as under :-

"The process of appointment must be initiated well in time to ensure its completion at least one month prior to the date of an anticipated vacancy ; and the appointment should be duly announced soon thereafter, to avoid any speculation or uncertainty. This schedule should be followed strictly and invariably in the appointment of the Chief Justices of the High Courts and the Chief Justice of India, to avoid the institution being rendered headless for any significant period. In the case of appointment of the Chief Justice of a High Court to the Supreme Court, the appointment of the successor Chief Justice in that High Court should be made ordinarily within one month of the vacancy."

4. Learned counsel for the petitioner has submitted that due to non-filling of the vacancies, there is a great pressure on the Hon'ble Judges of this Court. Presently there are only 58 Judges against the approved strength of 77 Judges (70 Permanent and 7 Additional). It has also been submitted that a large number of cases are pending in this Court for the last several years and the reduced strength of the Hon'ble Judges of the High Court shall further add to the arrears.

5. Considering the importance of the issues involved in the present petition and the delay involved in the appointment of judges which ultimately results in delay in disposal of cases and hardship to litigants and the earlier view taken by the Division Bench in its order dated 3-5-1982 quoted above, in our opinion, it shall be appropriate and in the interest of justice that this writ petition may be heard by a larger Bench.

6. Put up the record of this writ petition before Hon'ble the Chief Justice for constituting a larger Bench for hearing and deciding this petition at an early date.