

ITEM NO.4

COURT NO.3

SECTION PIL-W

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

Writ Petition(s)(Civil) No(s). 436/2018

ANJALI BHARDWAJ &amp; ORS.

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

Date : 13-12-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI  
HON'BLE MR. JUSTICE S. ABDUL NAZEER  
HON'BLE MR. JUSTICE R. SUBHASH REDDY

For Petitioner(s) Mr. Prashant Bhushan, AOR

For Respondent(s)

State of A.P.

Mr. Guntur Prabhakar, AOR  
Ms. Prerna Singh, Adv.

State of West Bengal

Ms. Madhumita Bhattacharjee, AOR

Mr. P. Venkat Reddy, Adv.  
Mr. Prashant Tyagi, Adv.  
M/s Venkat Palwai Law Associates, AOR

State of Gujarat

Ms. Hemantika Wahi, AOR  
Ms. Jesal Wahi, Adv.  
Ms. Vishakha, Adv.

Mr. G. Prakash, AOR

State of Karnataka

Mr. V. N. Raghupathy, AOR  
Mr. Prakash Jadhav, Adv.

State of Odisha

Mr. Ravi Prakash Mehrotra, AOR  
Mr. Ankit Agarwal, Adv.

U.O.I.

Ms. Pinky Anand, ASG  
Ms. Pooja Dhar, Adv.  
Ms. Madhavi Diwan, Adv.  
Mr. Rajesh Ranjan, Adv.  
Ms. Kirti Dua, Adv.  
Mr. Chakitan Vikram Shekhar Papta, Adv.  
Mr. Arvind Kumar Sharma, AOR

State of Maharashtra      Ms. Deepa M. Kulkarni, Adv.  
   Mr. Nishant Ramakantrao Katneshwarkar, AOR

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

Union of India has filed affidavit dated 12.12.2018 mentioning the status of the appointments to the post of Chief Information Commissioner as well as Information Commissioners.

It is stated by learned Additional Solicitor General that insofar as the post of Chief Information Commissioner is concerned, pursuant to the advertisement, 64 applications were received. It is further informed that insofar as the posts of Information Commissioners are concerned, 4 posts are advertised and 280 applications were received. It is mentioned that advertisement was uploaded on the Department of Personnel and Training (DoPT) website.

Learned Additional Solicitor General also submits that the Selection Committee, as per Section 12 of the Right to Information Act, 2005, held a meeting on 11.12.2018 on which date the recommendation in respect of appointment of Chief Information Commissioner has been finalised and it is expected that the person shall be appointed soon. Insofar as post of Information Commissioners are concerned, having regard to a large number of applications, process could not be completed on that day. It is further stated at the Bar that this shall also be accomplished soon.

We are informed that three more posts of Information

Commissioners are lying vacant. It would be appropriate to initiate the process of filling up these posts as well by issuing an advertisement at the earliest.

Mr. Prashant Bhushan, learned counsel appearing for the petitioners, submits that Paragraph 5 of the advertisement for the post of Chief Information Commissioner reads as under:

"The salary, allowances and other terms and conditions of service of the Chief Information Commissioner shall be as may be specified at the time of appointment of the selected candidate."

His submission is that the RTI Act mentions salary, allowances and other terms of the Chief Information Commissioner to be appointed and the stipulation could not have been in vague terms as stated there. This is the aspect that shall be considered on the next date of hearing.

He further submits that similar clause is put in the advertisement pertaining to Information Commissioners. This aspect also will be considered on the next date of hearing.

However, we may take on record the statement of learned Additional Solicitor General that the RTI Act itself mentions the terms and conditions on which appointments of Chief Information Commissioner and Information Commissioners in the Central Information Commission are to be made.

The respondents shall put on the website the names of the Search Committee, the names of the candidates who have been shortlisted as well as the criteria which is followed for selection. We may again record the statement of learned Additional Solicitor General that the selection criteria is prescribed in the

RTI Act itself which is being followed. Still, that can be put on the website.

STATE OF KARNATAKA:

In the affidavit filed on behalf of the State of Karnataka it is mentioned that there is only one vacancy of the State Information Commissioner ("SIO") which has been advertised. However, in the meantime, the High Court of Karnataka has stayed the appointment process.

STATE OF MAHARASHTRA:

In the affidavit filed on behalf of the State of Maharashtra it is mentioned that the post of State Chief Information Commissioner ("SCIC") has already been filled. It is also stated that steps have been taken for filling up the post of one State Information Commissioner ("SIC") and that would happen soon. It is further stated that there are two post of SIC which have been fallen vacant now and in respect of these two posts process for filling up the posts through advertisement will be initiated positively within four weeks.

They shall also disclose on the website the particulars on the same lines as directed in the case of Union of India.

STATE OF WEST BENGAL:

Learned counsel appearing for the State of West Bengal submits that SCIC has already been appointed. She further states that one SIC is already in place and one more SIC has been appointed. In

this way, as of now, one SCIC and two SICs are holding the office. As per the RTI Act up to ten SICs can be appointed. We are not sure as to whether the entire work can be dealt with by only one SCIC and two SICs.

The State of West Bengal shall file an affidavit stating the requirement of SICs. The information shall also be provided in respect of the applications under the RTI Act which are being filed, the applications which are pending as well as the appeals which are pending before the SICs and for how long they are pending. The pendency shall also be disclosed. An affidavit in this behalf shall be filed within two weeks.

STATE OF ANDHRA PRADESH:

Learned counsel for the State of Andhra Pradesh has handed over affidavit dated 12.12.2018. As per this affidavit, three persons are appointed as SIC. It is also stated that though the post of SCIC was also advertised but nobody could be appointed and it is not decided to issue fresh advertisement in this behalf. Insofar as SCIC is concerned, he has mentioned that advertisement was issued on 24.08.2018 and the last date for receiving the applications was extended up to 10.10.2018. Thirty one applications have been received and it is proposed to hold Selection Committee's meeting soon. We expect that such meeting shall take place as soon as possible and within one month the SCIC shall also be appointed.

It is also stated that, in the meantime, Mr. M. Ravi Kumar, who is working as SIC, is placed as In-charge for the post of SCIC so that the Commission may function.

An affidavit shall also be filed on the same lines as directed in the case of State of West Bengal before the next date of listing. They shall also disclose on the website the particulars on the same lines as directed in the case of Union of India.

STATE OF TELANGANA:

Insofar as State of Telangana is concerned, affidavit has not been filed in compliance with the directions given by this Court on the last date of hearing. Learned counsel states that it was because of the reason that there were elections of the Legislative Assembly which concluded and results came only on 11.12.2018. He, therefore, seeks, and is granted, two weeks' time to file an affidavit.

In the affidavit to be filed not only it would be indicated as to how many SICs are functioning, the affidavit shall also disclose the steps which are taken to fill up the posts and how many posts are required to be filled. In case the State of Telangana has taken a decision not to fill ten posts of SIO, justification thereof shall be provided in the form of an affidavit by disclosing the information in the same manner in which it has been directed in respect of State of West Bengal.

STATE OF ODISHA:

As per the earlier affidavit filed on behalf of the State of Odisha, the State has decided to function the Information Commission with one SCIC and three SIC. It is stated that SCIC and two SICs are already working and there is one post of SIC for which

advertisement shall be issued very shortly.

Mr. Prashant Bhushan, learned counsel, submits that there are huge arrears before the Information Commission in the State of Odisha and there is no justification to have only three Information Commissioners.

The State of Odisha shall also file an affidavit on the same lines as directed in the case of State of West Bengal before the next date of listing. They shall also disclose on the website the particulars of selection etc. on the same lines as directed in the case of Union of India.

STATE OF GUJARAT:

Learned counsel for the State of Gujarat states that she has received information from the State only two days ago and she shall be filing the affidavit within one week. However, she orally informs that as per the information received, in the State of Gujarat, the Information Commission consists of one SCIC and four SIC. She further submits that the SCIC and one SIC are functioning. Three vacancies for the post of SIC have already been advertised and the process is on. According to her, applications have been received and are pending before the Selection Committee.

We expect the Selection Committee to complete the process at the earliest, preferably before the next date of hearing.

They shall also disclose on the website the particulars of selection etc. on the same lines as directed in the case of Union of India.

**STATE OF KERALA:**

Learned counsel for the State of Kerala states that one SCIC and four SIC are functioning. Five posts of SICs could not be filled because of pendency of some writ petition(s) in the Kerala High Court.

List the matter on 22.01.2019.

**(SUSHIL KUMAR RAKHEJA)**  
**AR-CUM-PS**

**(RAJINDER KAUR)**  
**BRANCH OFFICER**