



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7002 OF 2021

Panchksharayya s/o. Channayya Mathapati & Ors. ..Petitioners
Vs.
The Union of India & Ors. ..Respondents

And

WRIT PETITION NO. 1744 OF 2023

Harish B. Bhoite. ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

Mr. Satish B. Talekar with Ms. Pradnya Talekar with Ms. Madhavi Ayyapan with Ms. Neha Kachi with Ms. Kalyani Mangave i/b. Talekar & Associates, for the Petitioners.

Dr. Milind Sathe, Sr. Advocate with Mr. Rahul Nerlekar, for Respondent No.4 in WP 7002/21 and for Respondent No.2 to 5 in WP 1744/23.

Mr. D. P. Singh for Union of India-Respondent No.1 in WP 7002/21.

Ms. Kavita N. Solunke, AGP for State-Respondent No.1 in WP 1744/23.

CORAM : G. S. KULKARNI &
JITENDRA JAIN, JJ.

DATE : SEPTEMBER 20, 2023.

P.C.:

1. These petitions are placed before this Bench pursuant to the orders passed by the Hon'ble the Chief Justice dated 8 September 2023.
2. The issue in the present proceedings concerns a plea of the

petitioners who were appointed as ‘Court Managers’, that their services be regularized in terms of the directions of the Supreme Court as contained in paragraph 12.9 of its order dated 2 August 2018 in the case of **All India Judges Association and Ors. Vs. Union of India**.¹ Such directions of the Supreme Court are referred by a Coordinate Bench of this Court in its order dated 6 October 2020 (Coram: K. K. Tated and N. R. Borkar, JJ.) passed on the present proceedings, when their Lordships in paragraph 4 quoted paragraph 12.9 of the directions of the Supreme Court. The extract of the said order reads thus:

“4. The main issue involved in the Petition is regarding regularisation of Petitioners who are appointed as Court Managers in 2013 and 2016. Learned counsel for the Petitioner submits that Apex Court in the matter of All India Judges Association & Ors. Vs. Union of India & Ors. in Interlocutory Application No.279 of 2010 in Writ Petition (Civil) No. 1022 of 1989 held that the Court Manager post is necessary in District Courts. She relies on Para No.12(ix) of the said order, which reads thus:-

“ Professionally qualified court managers, preferably with an MBA degree, must also be appointed to render assistance in performing the court administration. The said post of Court managers must be created in each judicial district for assisting Principal District and Sessions Judges. Such Court Managers would enable the District Judges to devote more time to their core work, that is, judicial functions. This, in turn, would enhance the efficiency of the District Judicial System. These Court managers would also help in identifying the weaknesses in the court management systems and

¹ (2018)17 SCC 555

recommending workable steps under the supervision of their respective judges for rectifying the same. The services of any person already working as a Court Manager in any district should be regularized by the State Government as we are of the considered view that their assistance is needed for a proper administrative set up in a Court.”

(emphasis supplied)

3. Mr. Nerlekar, learned Counsel who appears for respondent No.4 (for short ‘**the High Court**’), has drawn our attention to some of the earlier orders passed on these petitions, whereby while adjourning the proceedings, the Court has taken into consideration the plea as urged on behalf of the State Government that the State Government was extending the contract period of the Court Managers by issuing appropriate orders and which has been extended till date.

4. Mr. Nerlekar has also contended that on the previous occasion the Court had adjourned the proceedings recording a statement as made on behalf of the High Court that the issue of fixing staffing pattern of the staff of High Court and District Court, as also framing of Recruitment Rules for appointment of Court Managers was pending active consideration, and that pending such consideration, the services of the Court Managers have been continued by the State Government (refer order dated 26 July 2022 (Coram: S. V. Gangapurwala and Madav J. Jamdar, JJ.)) Similar statement

came to be recorded in the subsequent order dated 11 October 2022 passed by the Coordinate Bench when the Court also considered the submissions as made on behalf of the petitioners pointing out the directions of the Supreme Court. Paragraph 4 of the order dated 11 October 2022 reads thus:

“4. Mr. Talekar, the learned Counsel for the Petitioners submits that the apex court in its order dated 2nd August 2018 has observed that ‘these Court Managers would also help in identifying the weaknesses in the court management systems and recommending workable steps under the supervision of their respective judges for rectifying the same. The services of any person already working as a Court Manager in any district should be regularized by the State Government.’

5. Today we are informed by Mr. Nerlekar that the issue in regard to fixing staffing pattern of staff of High Court and District Court and framing of Recruitment Rules for appointment of Court Managers, is still pending consideration of the Rule Committee.

6. On such backdrop Mr. Talekar drawing our attention to the directions of the Supreme Court in paragraph 12.9 of its order in **All India Judges Association and Ors.** (supra) submits that the mandate of such order is plain and clear, namely that the services of persons already working as Court Managers in any District should be regularized by the State Government for the reason that the Supreme Court was of the

considered view that their assistance was needed for a proper administrative set up in a Court.

7. It is Mr. Talekar's submission that there is no dispute whatsoever that on the day such directions were made by the Supreme Court, the petitioners were appointed as Court Managers as their appointments were made in 2013 and 2016 as also noted by the Coordinate Bench of this Court in its order dated 6 October 2020. On the plea being taken by the High Court in seeking adjournments, Mr. Talekar submits that the issue of assigning duties and / or any staffing pattern being fixed, cannot be read into the plain directions of the Supreme Court in paragraph 12.9 of its order. It is his submission that any bifurcation of duties between the Court Managers and other staff, is purely a matter which is outside the mandate of the orders of Supreme Court which are directions simplicitor on regularization of the services of the Court Managers who were so appointed.

8. It is thus Mr. Talekar's submission that assigning of duties and / or fixing of the staffing pattern and/or framing of recruitment rules even for the post of Court Managers, stated to be pending before the Rule Committee, cannot preclude the High Court from making proposal to the State Government to regularize the services of the Court Managers and which is the mandate of the orders of the Supreme Court. It is submitted

that such considerations cannot be read into the orders of the Supreme Court unless such directions of the Supreme Court are modified. It is Mr. Talekar's submission that the directions of the Supreme Court ought to have been implemented, as it is almost about 5 years that they are awaiting implementation.

9. Prima facie we see substance in the contention of Mr. Talekar.

10. Responding to Mr. Talekar's submissions, Mr. Nerlekar, submits that the proceedings be adjourned so that further appropriate decision can be taken to comply the orders of the Supreme Court. In our view, the request of Mr. Nerlekar would be fair and proper, as in our prima facie opinion, the course of action to be adopted would be to make a proposal for regularization of the services of the Court Managers, who were so appointed and were working on the date on which the Supreme Court passed the said orders i.e. on 2 August 2018. There cannot be any other reading of the directions of the Supreme Court.

11. In the aforesaid circumstances, further appropriate steps need to be taken by the State Government to comply with the mandate of the orders of Supreme Court, when such proposal is made by the High Court.

12. At a later stage Dr. Sathe, learned Senior Counsel has appeared for the High Court, who states that the High Court is taking all steps to implement the orders of the Supreme Court, and it is for such purpose the Rules are being framed to consider the other aspects in relation to the post of Court Manager namely of promotional avenues, pay scale etc. We are of the opinion that if it is being thought appropriate, such issues can certainly be considered by the High Court, in forwarding a proposal for regularization of the Court Managers who were so appointed, however, on these considerations the regularization proposal ought not to be delayed any further in implementing the mandate of the orders passed by the Supreme Court, as any regularization in service, is bound to be on terms and conditions as may be prescribed under the rules. Also learned Counsel for both, the State Government as also the High Court, would agree that the directions of the Supreme Court are directions plainly in relation to the regularization of the appointments of the Court Managers.

13. Thus, in our opinion, what is of immediate urgency is to make a proposal to the State Government for regularization of the services of the Court Manager who were already appointed. To enable the respondents to take appropriate steps in this regard, we adjourn the proceedings for four weeks.

14. Awaiting further course of action to be taken by the respondents,
stand over to **18 October 2023**.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]