

ITEM NO.30

COURT NO.1

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

Miscellaneous Application No.1979/2019 In W.P.(C) No.436/2018

ANJALI BHARDWAJ & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With IA No.139361/2019 - CLARIFICATION/DIRECTION)

WITH W.P.(C) No.1461/2020 (PIL-W)

(With IA No.134701/2020 - EXEMPTION FROM FILING O.T.)

Date : 30-10-2023 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Prashant Bhushan, AOR
Mr. Rahul Gupta, Adv.
Mr. Luma Bhandari, Adv.

Mr. Tishampati Sen, Adv.
Ms. Riddhi Sancheti, AOR
Mr. Shailesh Poddar, Adv.
Mr. Anurag Anand, Adv.
Mr. Himanshu Kaushal, Adv.

For Respondent(s) Ms. Aishwarya Bhati, ASG
Mr. Rajat Nair, Adv.
Mr. Shailesh Madiyal, Adv.
Mr. Bhuvan Kapoor, Adv.

Mr. Arvind Kumar Sharma, AOR

Mr. Arunabh Chowdhury, Sr. Adv.

Ms. Pallavi Langar, AOR

Ms. Pragya Baghel, Adv.

Mr. Abhishek Roy, Adv.

Mr. Karma Dorjee, Adv.

Ms. Madhumita Bhattacharjee, AOR

Ms. Urmila Kar Purkayastha, Adv.

Ms. Srija Choudhury, Adv.

Mr. G.N. Reddy, AOR

Mr. Sachin Patil, AOR

Mr. Nishe Rajen Shonker, AOR

Mrs. Anu K Joy, Adv.

Mr. Abraham Mathew, Adv.

Mr. Alim Anvar, Adv.

Ms. Anindita Pujari, AOR

Mr. Shaileshshwar Yadav, Adv.

Ms. Radhika Mohapatra, Adv.

Ms. Bhumika Chouksey, Adv.

Mr. V.N. Raghupathy, AOR

Mr. Manendra Pal Gupta, Adv.

M/s. Venkat Palwai Law Associates

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

- 1 The issue which is raised in the Miscellaneous Application pertains to unfilled posts of Information Commissioners in the Central Information Commission (CIC) and the State Information Commissions (SICs).
- 2 Mr Prashant Bhushan, counsel appearing on behalf of the applicants has placed on the record a chart indicating the large number of vacancies across the country in the CIC and SICs. It has been submitted that this would defeat

the underlying spirit of the judgment and express orders of this Court dated 15 February 2019.

- 3 As regards the Central Information Commission, it has been stated that four Information Commissioners are presently working and there are seven vacant posts. Moreover, even the four incumbents are due to retire by 6 November 2023, as a consequence of which, the CIC will become defunct. The position in several other States is stated to be in similar terms.
- 4 We have requested Ms Aishwarya Bhati, Additional Solicitor General to take instructions.
- 5 We direct the Department of Personnel and Training to prepare and submit a tabulated statement after collecting data from all the States in regard to (i) the sanctioned strength of SICs; (ii) the vacancies which exist at present; (iii) the vacancies which are anticipated to arise by 31 March 2024; and (iv) the number of pending appeals and complaints.
- 6 This exercise shall be carried out within a period of three weeks.
- 7 In the State of Jharkhand, it is stated that the SIC has become defunct in May 2020. Likewise, the SIC in Telangana has become defunct since February 2023, while the SIC in Tripura has become defunct since July 2021.
- 8 The failure of the State governments to fill up the vacancies in the posts of Information Commissioners defeats the very basis of the Right to Information Act 2005. Effectively, the State governments by failing to fill up the vacancies are ensuring that the right to information which is recognized under an Act of Parliament becomes a dead letter.
- 9 We direct all States and the Union government to immediately take steps for filling up the vacancies in the posts of Information Commissioners in the SICs and CIC respectively. Likewise, the Union of India shall apprise this Court of

the steps which are taken to fill up the vacant posts and the anticipated vacancies in the Central Information Centre.

- 10 Consequently, all States shall take steps forthwith to issue notifications for commencing the process of selection of the Information Commissioners in the SICs. The Union government shall do so in respect of the CIC.
- 11 List the matter on 24 November 2023.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar