

ITEM NO.27

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 678/2023

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR ADMISSION and IA No.124046/2023-STAY APPLICATION IA No.
204401/2023 - CLARIFICATION/DIRECTION IA No.204405/2023 -
INTERVENTION/IMPLEADMENT)

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) Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Amit Bhandari, Adv.
Mr. Shadan Farasat, AOR
Mr. Harshit Anand, Adv.
Mr. Aman Naqvi, Adv.
Ms. Hrishika Jain, Adv.

For Respondent(s) Mr. R Venkataramani, AGI
Mr. Tushar Mehta, SG
Mr. Kanu Agarwal, Adv.
Mr. Padmesh Mishra, Adv.
Mr. Arkaj Kumar, Adv.
Mr. Arvind Kumar Sharma, AOR

Mr. Shreekant Neelappa Terdal, AOR

Ms. Asmita Singh, AOR
Mr. Gautam Narayan, Adv.
Ms. Asmita Singh, Adv.
Mr. Harshit Goel, Adv.

Mr. Siddhant Singh, Adv.

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

- 1 The Government of the National Capital Territory of Delhi instituted a Petition under Article 32 of the Constitution of India (Writ Petition (Civil) No 678 of 2023) challenging the constitutional validity of the Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023. The Ordinance has since been replaced by an Act which has been challenged pursuant to the permission to amend granted by this Court.
- 2 By an order dated 20 July 2023, the Petition has been referred for adjudication to a Constitution Bench.
- 3 IA No 130505 of 2023 was moved before this Court seeking interim relief in the following terms :
 - “a. Stay the impugned Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023, pending adjudication of the captioned Petition; and/or
 - b. Stay the letter dated 5.07.2023 bearing No. F.10 (25)/S-IV/ENGAGEMENT OF FELLOWS / SPECIALISTS / 2022 /1038 issued by the office of the Lieutenant-Governor of Delhi, pending adjudication of the captioned Petition; and/or
 - c. Stay any other consequential orders passed or decisions taken by the Respondents pursuant to the powers conferred by the Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023.”
- 4 By the order of this Court dated 20 July 2023, this Court disposed of IA No 130505 of 2023 in the following terms :

“IA No 130505 of 2023 seeking a stay of the NCT Ordinance is dismissed.”

(Emphasis supplied)

- 4 The text of the above order indicates that some arguments were addressed before this court on the termination on 5 July 2023 of the engagement of specialists/fellows/consultants by the Lieutenant Governor. There was a reference in this context to the submissions of counsel in paragraph 6 of the order. On the other hand, counsel appearing on behalf of the Lieutenant Governor sought to sustain the termination on the ground that the appointments were arbitrary.
- 5 An affidavit was filed by the Lieutenant Governor before this court at that stage in which it was stated as follows :

“Therefore, without prejudice to the submission that the appointment and engagement of 437 consultants/fellows/researchers is *per se* illegal and unconstitutional, any challenge thereto, by the Petitioner, or any aggrieved person with locus, should be before the Hon’ble High Court of Delhi, and not before this Hon’ble Court, merely because the issue relating to the Ordinance is pending here. Such clever piggy-backing cannot be permitted by this Hon’ble Court, such that it denudes the answering Respondent its right to even appeal, in the unlikely situation that the Hon’ble Court finds favor with the Petitioner.”

- 6 Though technically speaking IA No 130505 of 2023 which also contained a prayer for relief in regard to the letter of termination dated 5 July 2023 was dismissed by this Court, what was dealt with in the order dated 20 July 2023 was the prayer for stay of the Ordinance. The correctness of the letter of termination dated 5 July 2023 has not been specifically dealt with. Indeed, as already noted above, the submission of the Lieutenant Governor was that any challenge to the termination would have to be adjudicated by the High Court of Delhi.

- 7 In this view of the matter, we clarify that the order of this Court dated 20 July 2023 shall not come in the way of the High Court of Delhi, where a Writ Petition under Article 226 of the Constitution has been filed, from adjudicating upon all the issues raised therein pertaining to the termination effected on 5 July 2023.. All the rights and contentions of the contesting parties are kept open.
- 7 The Interlocutory Application No 204401 of 2023 is accordingly disposed of.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR