

SUPREME COURT OF INDIA

Delhi Judicial Service Association (Regd.)

Vs.

Union of India Through The Secretary

(D.P. Wadhwa and Ruma Pal JJ.)

01.05.2000

ORDER

1. In pursuance to our order dated 20.4.2000 a report has been submitted by the Registrar of Delhi High Court.

2. A meeting was held on 25.4.2000 in the Chambers of Hon'ble the Acting Chief Justice of Delhi High Court where following officers were present:

1. Mr. P.S. Bhatnagar Chief Secretary Delhi 2. Mr. Surinder Nath Additional Secretary, Govt. of India Department of Justice 3. Mr. P.K. Aggarwal Joint Secretary , Govt. of India Department of Justice 4. Mr. Bharat Bhushan Secretary, Law, Justice & Legal Affairs Govt. of N.C.T. of Delhi 5. Mr. S. Mallai Divisional Commissioner, Govt. of N.C.T. of Delhi 6. Mr. I.M. Singh Chief Engineer, PWD 7. Mr. S. M. Kohli Superintendent Engineer, PWD 8. Mr. A.K. Joint Secretary, Mehendiratta Law, Justice & Legal Affairs, Govt. of N.C.T. of Delhi 9. Mr. R.K. Prabhakar Deputy Secretary, Govt. of N.C.T. of Delhi 10. Mr. N.G. Goswami Legislative Counsel , Govt. of N.C.T. of Delhi

3. Mr. M.A. Khan, District and Sessions Judge, Delhi and Mr. Kamlesh Kumar, Administrative Civil Judge, Delhi were also present in the meeting.

4. Various aspects of the matter regarding bifurcation of the District Courts in Delhi and creation of additional posts in Delhi Higher Judicial Service as well as fixing time schedule for construction of court buildings for separate judicial districts were considered. The report dated 3.4.2000 of the Committee constituted for "Division of Delhi into separate Judicial Districts" for efficient administration of justice was considered in the meeting. The members of the Committee were:

1. Mr. R.C. Chopra, Additional District and Sessions Judge, Delhi

2. Mr. Bharat Bhushan, Secretary (Law, Justice and Legal affairs, Govt. of N.C.T. of Delhi

3. Mr. S.P. Aggarwal, Divisional Commissioner-cum-Secretary (Revenue), Govt. of N.C.T. of Delhi

4. Mr. R.K. Gauba, Additional District Judge-cum-Chief-Metropolitan Magistrate, Delhi

5. Mr. Kamlesh Kumar, Administrative Civil Judge, Tis Hazari Courts, Delhi

6. Mr. A.K. Mendiratta, Joint Secretary (Law, Justice and Legal Affairs, Govt. of N.C.T. of Delhi

7. Mr. N.G. Goswami, Legislative Counsel, Govt. of N.C.T. of Delhi

5. This report of the Committee was accepted by the High Court in the Full Court meeting of the Hon'ble Judges on 26.4.2000. The report forms part of the report submitted by the Registrar of the High Court. We have gone through the report of the Committee and the minutes of the meeting held by the Hon'ble the Acting Chief Justice of Delhi High Court and Officers of the Central Government and the officers of the National Capital Territory (NCT) of Delhi as well as the report of the Registrar of the Delhi High Court.

6. Needless to say that the working of courts at Tis Hazari and Patiala House (New Delhi Courts) with reference to the accommodation for the Judge,s litigant public, witnesses and members of the Bar and supporting services like stamp vendors, etc. are almost at the stage of collapse. A visit to these court complexes is an appalling experience. Situation is alarming to say the least. Everyone realizes so. Jammed court rooms, crowded & dark corridors, overflowing toilets, insanitary conditions, it is almost nauseating to visit these courts. There is certainly a limit up to which services can be provided for all concerned. Tis Hazari Court Complex was built in 1956 keeping in view at that time the quantum of litigation and population of Delhi. Today Delhi of 1956 is not the same in the year 2000. With the phenomenal rise in the quantum of litigation, new avenues of justice delivery system, tremendous increase in number of courts and lawyers with the corresponding increase in staff and office accommodation. Tis Hazari Court Complex has practically ceased to be functional and the impasse will continue until the burden is shifted to newly constructed spacious court complexes with modern facilities and conveniences. All this is necessary for efficient administration of justice. In Patiala House Court Complex things are no better. Patiala House was never built as a court complex. Over three decades ago New Delhi Courts, which were functioning at Parliament Street, were temporarily housed in Patiala House. No thought was ever given thereafter to construct a proper court complex for New Delhi Courts. Immediate and urgent steps are needed to spread out the courts all over Delhi. In the absence of proper provisions for bifurcation of courts it is paradoxical that while there are no courtrooms and space for other services in Tis Hazari and Patiala House Court Complexes, over 40 rooms are lying vacant in Karkardooma. The matter for bifurcation of courts in Delhi is pending for the last many years but no steps were being taken for one reason or the other which we need not now go into. It must, however, be understood that consumer of justice is litigant for whom the courts are established. When it comes to litigant, who is consumer of justice, the need of the Judges and the lawyers takes a back seat.

7. Keeping various aspects in view, particularly, the report of the Committee aforesaid and the minutes of the meeting dated 25.4.2000 and that of the Full Court meeting, we proceed to give the following directions:

A. Division of Delhi into separate Judicial Districts

1. Delhi High Court will send a request to the Government of NCT of Delhi within 15 days from today for the purpose of issuance of requisite notifications for implementation of the scheme of division of Delhi into separate judicial districts.

2. Government of NCT of Delhi will then take necessary steps for issuing the notifications which shall be done on or before 30.6.2000 on the basis of the requisition given by the High Court. Within this period Government of NCT of Delhi and Central Government shall further consider the report of the committee, which has been accepted by the High Court for creation of further posts in the Delhi Higher Judicial Service and Delhi Judicial Service.

3. High Court thereafter will make necessary appointments of the District Judges and other officers on the basis of the report and issue necessary notifications within 15 days from 30.6.2000.

4. On 16.8.2000 five districts, which would cover nine civil districts as per the report, shall start functioning.

5. Again within 15 days from today High Court will make recommendations to the Government of NCT of Delhi for consequential amendments to the statements as may be required by reason of creation of session divisions in Delhi.

6. Government of NCT of Delhi and the Central Government shall then take decision on such recommendations for amendment of the statutes. If it is found that for some reason such amendments cannot be made, reasons for such rejection shall be communicated to the High Court within eight weeks of the receipt of such recommendations from the High Court. If the amendments are approved and if the matter is being delayed, the Central Government may consider the necessity for promulgation of an ordinance/ordinances so that the recommendations can be given effect to expeditiously. The Central Government as well as the Government of NCT of Delhi will report to the High Court on a regular basis as to the steps taken in this connection.

B. Construction

1. Steps shall be taken for the construction of District Court building for separate Judicial Districts/Sessions Divisions simultaneously.

2. All officers of the Government of NCT of Delhi and of Central Government, which are not concerned and are not relevant for the working of the courts, shall move out of the Tis Hazari and Patiala House Court Complexes as soon as possible so that sufficient space is made available for the working of the courts after Delhi is bifurcated into districts and also sessions divisions. We are not fixing any time schedule for the purpose but we impress upon the Government of NCT of Delhi and the Central Government to take urgent and immediate proper steps for efficient functioning of the courts and considering the need of the members of the Bar.

3. As noted above Patiala House building was never meant for creation of court complex. It is, therefore, necessary that court complex be created nearby Patiala House for housing the New Delhi Courts. High Court suggested that space at Bhairon Road, where there was earlier a container station under the control of customs, could be useful for the purpose. However, it is submitted before us by Mr. Goverdhan that Chief Engineer of Government of NCT of Delhi visited the place and he found that total area comprised of 3 acres of land which would be suitable only for 25 courts. It is, therefore, said that there may not be sufficient space for housing the New Delhi Courts. Let the report in that respect be submitted to the High Court. However, we direct the Government of NCT of Delhi to identify any other site/s within 8 weeks from today and report to the High Court. If the High Court approves any of these sites necessary steps to be taken to make allotment and then to get

the possession of the land and then construction of the court building. We expect that in overall period of three years a new court complex for housing New Delhi Court will come up.

4. Court Building at Rohini Plan of court building at Rohini was approved by the High Court more than five years ago. At that time the cost was estimated at Rs. 60 crores. We are told that the Committee was appointed by the Government of NCT of Delhi, which has reduced the estimated cost of Rohini court building by Rs. 15 crores and has sent the revised construction plan to the High Court. It is a strange scenario. Too much time has been wasted by the Government of NCT of Delhi and even preliminary steps for construction of the building have not been started. We have heard Mr. Singh, Chief Engineer, PWD, government of NCT of Delhi. One of the reasons given for reduction of the cost is reduction of parking space. We see no reason to reduce the cost, which was earlier approved by the High Court. Let no further time be wasted in this unnecessary correspondence and construction of court building should start on the basis of the plan approved by the High Court and at the cost earlier estimated. We are informed that plans are yet to be sanctioned from the local authorities and approval from other local authorities like, Chief Fire Officer and Delhi Urban Arts Commission would be required before the award of the contract to start the construction. It is a building meant for court complex and we believe the plans have been prepared keeping in view the relevant bylaws applicable thereto. We are informed that it will take about 24 weeks, i.e., six months for the plans to be finally passed and award of work given. We direct that a meeting would be called by the High Court in the Chamber of the Registrar of the Delhi High Court where officers of the offices of Chief Fire Officer, Delhi Development Authority, Municipal Corporation of Delhi and Delhi Urban Arts Commission or any other relevant body shall be present so that plans are considered and approved with such modifications if necessary on the spot. Let this meeting be held on 16.5.2000. Chief Engineer, PWD, Government of NCT of Delhi shall send the plans to all the parties well in advance for them to be ready for considering the same in the aforesaid meeting. We are fixing outer limit of two and half years from today when building of the Rohini Court shall be complete in all respects and possession handed over to the High Court.

5. Necessary preliminary steps for construction of the buildings at Saket and Dwarka shall also be taken simultaneously and we expect that these buildings also to come up within a period of three and half years from today.

C. Creation of Posts

In our order dated 20.4.2000 we had directed immediate creation of 33 posts for the Delhi Higher Judicial Service. In spite of that in the minutes of the meeting of 25.4.2000 we find that Government of NCT of Delhi yet wanted requisition from the Delhi High Court for creation of 12 posts, which was mentioned in our order dated 20.4.2000. We do not think it was necessary for the High Court to again make a requisition for the posts and our order for that was specific. However, since the High Court has again made recommendation we say no more on the subject. These 33 posts shall be created by the Government of NCT of Delhi within 45 days from today. D. So that there is no delay in complying with our directions we direct the Government of NCT of Delhi to appoint an officer of the rank of Secretary to the Government of NCT of Delhi as a Nodal Officer, who shall call meetings of all the concerned authorities on second Tuesday of every month. An officer of the Registry shall also be deputed by the Hon'ble the Chief Justice/Acting Chief Justice of the High Court. Minutes of that meeting shall be forwarded to the High Court for consideration of the Hon'ble the Chief Justice/Acting Chief Justice and for him to give further directions, if necessary, which shall be complied by all concerned. Let the name of the Nodal Officer be intimated

to the High Court with in a fortnight by the Chief Secretary, Government of NCT of Delhi.

E. All the decisions shall be taken on the spot and unnecessary correspondence and movement of one file from one department to other or from one authority to other shall be avoided at all costs.

F. That necessary finances are not available shall be no ground for delaying the construction of the court buildings and for taking any other steps in terms of these directions.

G. During the course of argument it was brought to our notice that unauthorised chambers have been constructed by the lawyers in the Patiala house, which have since been sealed under the directions of the High Court. It will in fact for the Judge-in-charge of the Patiala Court Complex to see that no construction of any nature comes up without his/her permission and which is not authorised by law and to take steps to remove the same. It is, however, for the High Court to oversee the proper functioning of the court complexes at Tis Hazari, Patiala House and Karkardooma.

H. These directions shall be followed and acted upon by all concerned in letter and spirit.

I. The matter will now be listed on October 20, 2000 when the Chief Secretary, Government of NCT of Delhi and the Registrar, Delhi High Court shall submit their reports of the progress made and action taken in terms of the directions hereby given.

8. Before we conclude, we wish to place on record our appreciation that the matters which were lying all these years in limbo much to the bewilderment of the harassed litigant public have now being taken up in all earnest by the High Court, the Government of NCT Delhi and the Central Government.