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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 1549/2009

COURT ON ITS OWN MOTION

..... Petitioner

Through: Mr. Rajiv K. Virmani, Senior
Advocate (*Amicus Curiae*) for the
petitioner

versus

STATE

..... Respondent

Through: Mr. Ajay Digpaul, CGSC with Mr.
Kunal Punj, Ms. Rishika Katyal,
Advocates

Mr. Naresh Kaushik, Advocate for
UPSC.

Mr. Ashish Dixit, Advocate for Delhi
Prosecutor Welfare Association with
Vice President and Secretary of the
Association.

Ms. Meera Bhatia, Advocate for UOI

Mr. Jatan Singh, Advocate with Mr.
Neeraj Chaudari, applicant in person.

Mr. Raman Duggal, Standing Counsel
for Government of NCT of Delhi.

Mr. Sanjeev Bhandari, Standing
counsel for CBI.

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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14.05.2015

C.M. Appl. No. 5611/2015 (Exemption)

Exemption allowed subject to just exceptions.

Application stands disposed of.



Crl. M.A. Nos. 5612/2015 (Direction to pay remuneration to Assistant Public Prosecutors for scrutiny of challan/charge sheetes)

Notice.

Counsel present in Court accepts notice of the same.

With regard to the suggestions given by Mr. Virmani, the matter will be considered on the next date of hearing.

C.M. Appl. No. 4730/2015

Mr. Ajay Digpaul, Standing counsel for the Union of India submits that there are only two short issues pending consideration, i.e. if number of conferences and day of travelling is to be included for granting professional fee or not. These two issues will also be resolved very soon. Let these two issues be resolved so far as the conferences are concerned, the same need to be decided based on the actual facts and with regard to the second issue as to whether the day of travelling is to be included or not, we only impress upon that the same be decided as per the past practice being followed in this context. Let these two issues be decided by the respondent within a period of three weeks from the date of this order.

With aforesaid directions, the present application stands disposed of.

C.M. Appl. No. 18506/2013, 13869 & 14366/2014

Affidavit has been filed by the UPSC setting out the schedule with



regard to the recruitment of 65 Assistant Public Prosecutors. As per this schedule, recruitment test for the appointment of Assistant Public Prosecutors has been fixed as 27th June 2015 and final result in all likelihood would be out by 20th October 2015 followed by issuance of recommendation letter through Government of NCT of Delhi.

The UPSC has further stated that every possible effort would be made to complete the entire process of selecting 65 Assistant Public Prosecutors as expeditiously as possible. Let the UPSC complete this entire process of selecting the 65 assistant public prosecutors within the time schedule put forth in the affidavit and wherever there is possibility of curtailing the schedule for the processes involved, the UPSC shall make an effort to curtail the same and in any case the UPSC shall not travel beyond the time schedule as laid down in the said affidavit.

An affidavit has been filed by Government of NCT of Delhi in compliance with the directions given by this Court on 17.03.2015. With regard to the appointment of 23 regular posts of Assistant Public Prosecutors, it is stated that the Home Department has recently issued an appointment letter to 21 candidates, out of which 11 have already joined. With regard to the rest 10 candidates, due to different reasons as explained in Annexure B of the affidavit, the appointment letter could not be issued. After having gone through the reasons, as explained in Annexure B of the



affidavit, we find up-to-date progress till date has not been mentioned. Also there has not been proper follow up with the concerned authorities also with the candidates as well, therefore, we direct the Home Department, Government of NCT of Delhi to file a fresh affidavit with regard to these 10 candidates, after taking necessary steps as required, in the process of issuance of appointment letter in favour of these candidates. With regard to one of the candidates – Mr. Bhupesh Chand Samat it has been stated that the candidate has not accepted the appointment. With an exception to this candidate, the rest of nine candidates, should be dealt with by the department as expeditiously as possible and the process shall be completed in this regard. In the affidavit it has also been explained that presently there are 80 Session Courts in various district Court of Delhi; 110 Metropolitan Magistrates; and also there are 101 additional public prosecutors and 106 Assistant Public Prosecutors to man these courts. Mr. Duggal, Standing Counsel for Government of NCT of Delhi states that there are 114 Assistant Public Prosecutors available against 110 Metropolitan Magistrate courts and this strength will increase further once the appointment is given to the remaining 9 candidates.

Mr. Duggal, further submits that from the earlier list of 32 candidates, UPSC has informed that 9 of them have approached the learned Central Administrative Tribunal.



Mr. Kaushik, counsel for UPSC states that their cases have yet not been decided by the learned Tribunal and they are still pending consideration. Considering the importance of filling up of vacancies of Assistant Public Prosecutors, we impress upon the learned Tribunal to give priority to the cases filed by these candidates for early decision. Counsel for GNCT of Delhi and UPSC shall apprise the learned Tribunal about the concern of the Court in this regard.

On the last date Mr. Virmani, Amicus Curiae had drawn attention of the Court that the public prosecutors were not even having access to Manupatra because of the failure of the Government to renew their subscription to access the said online search engine. In response, Ms. Zubeda Begum, the then Standing Counsel for GNCT of Delhi submitted that the matter was pending before the Finance Secretary who had raised some objections and after removal of those objections, the file has been sent again to the Finance Secretary.

Considering the fact that the file was pending with the Finance Secretary with regard to the renewal of the subscription for procurement of the online search engine/electronic library, we directed the Government to expedite the steps for renewal of the subscription of the Manupatra etc, failing which the Finance Secretary to remain present in Court on the next date of hearing to explain as to why so much time is being taken to give



necessary approval for renewal of subscription of manupatra.

In the affidavit filed by GNCT of Delhi, the officer, has not explained as to why the said subscription for renewal of the procurement of the online search engine has so far not been paid and what hindrances are coming in the way of finance department in not giving clearance to the procurement of an online search engine as already these public prosecutors have been deprived from the access to any electronic library since September 2013. The Court also directed for the presence of Finance Secretary to explain as to why such delay is being caused in granting necessary approval for the renewal of the subscription of the manupatra.

Today, Finance Secretary is not present in Court and in fact no officer from the Finance Department is present to explain the reasons for his absence. Let Finance Secretary to remain present in Court with the relevant records on the next date.

Renotify on 15th July 2015.

KAILASH GAMBHIR, J.

SUNITA GUPTA, J.

MAY 14, 2015

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