

IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)

I.A. No. 139361/2019

IN

M.A. NO. 1979 OF 2019

IN

WRIT PETITION (CIVIL) NO. 436 OF 2018

IN THE MATTER OF:

ANJALI BHARDWAJ & ORS.

PETITIONERS

VERSUS

UNION OF INDIA & ORS.

RESPONDENTS

APPLICATION FOR URGENT LISTING

To,
The Hon'ble Chief Justice of India
And His Companion Justices
Of The Supreme Court of India

The Humble Application of
the Petitioners above named

MOST RESPECTFULLY SHOWETH:

1. This matter is urgently required to be listed before this Hon'ble Court in view of order dated 16.12.2019 which had directed that this matter be listed on 25.03.2020. The sequence of events is summarized as under:

- i. **Judgment dated 15.02.2019:** That the petitioner's herein filed W.P. 436/2018 as delayed or non-appointment of Information Commissioners to State and Central Information Commissions was leading to increased backlogs before the Commissions, resulting in long delays

in the disposal of appeals/complaints, effectively frustrating the citizens Right to Information. Accepting the petitioner's contentions, this court *vide* judgement dated 15.02.2019, issued various directions to the Respondent Central and State Governments to fill vacancies across Central and State Information Commissions in a transparent and timely manner.

- ii. **Order dated 6.11.2019:** The petitioner's were constrained to file present I.A. No. 139361/2019 as the respondents failed to comply with directions of judgement dated 15.02.2019 and at the time of filing of the application, four posts of Information Commissioners were lying vacant in the Central Information Commission and nearly 32,500 appeals and complaints were pending before the commission. Vide order dated 6.11.2020 in **I.A. No. 139361/2019, this Hon'ble Court issued notice and directed respondents, including Union of India, to submit a status report regarding filling up of the vacancies in question and a compliance report with regard to the directions given by this Court vide judgment dated 15.02.2019 be also filed.**
- iii. **Advertisements dated 12.12.2019:** On 12-12-2019, DOPT issued fresh advertisement for 4 vacant posts. While these posts had been advertised in January, 2019

as well pursuant to the directions in WP 436/2018, the vacancies were not filled and a fresh advertisement was issued in December 2019.

- iv. **Order dated 16.12.2019:** . In view of the urgent situation, *vide* order dated 16.12.2019 in I.A. No. 139361/2019, this Hon'ble Court gave three months to the central government to fill the vacancies that existed in the Central Information Commission and directed that the matter be listed before court on 25.03.2020. A copy of order dated 16.12.2019 in I.A. No. 139361/2019 directing that matter be listed on 25.03.2020 is annexed herewith as **Annexure P1 (Pages 8 to 9)**.
- v. **Retirement of Chief, 11.1.2020:** On January 11, 2020 the Chief Information Commissioner finished his tenure and demitted office and the total number of vacancies arose to 5.
- vi. **Appointment of Chief and one Information commissioner, 6.3.2020:** On 6.3.2020, the appointment of one new information commissioner- Ms. Amita Pandove and the selection of an existing commissioner as the Chief- Mr. Bimal Julka was notified. Even though the advertisement had invited applications for 4 vacant posts of information commissioners and the Hon'ble Court vide order dated 16.12.2019 had directed

completion of appointment process "in respect of Information Commissioners in CIC within a period of three months", the Union of India appointed only one information commissioner. **The number of vacancies in the CIC remained at 4, as one of the commissioners was appointed as Chief.**

- vii. **UOI affidavit dated 24.4.2020:** Even though the respondent UOI failed to comply with the directions dated 16.12.2019 of this Hon'ble Court to complete the appointment process "in respect of Information Commissioners in CIC within a period of three months", vide affidavit dated 24.4.2020, the UOI has claimed that "the process of appointment in response of Information Commissioners in Central Information Commission has been completed within three months as directed by this Hon'ble Court in its Order dated 16.12.2019." It is submitted that this assertion is patently false and misleading as the respondent was to fill all the vacancies which were advertised on 12.12.2019 and not merely appoint one information commissioner and a Chief. The affidavit notes that 250 applications were received pursuant to the advertisement for 4 posts of information commissioners, however, no reason is given as to why only one vacant post was filled, instead of filling all 4. **As of 24.4.2020, the number of vacancies in the CIC persisted at 4.**



- viii. **Advertisements dated 9.7.2020:** On 9-7-2020, DOPT issued fresh advertisement for appointment of upto 6 information commissioners. Another advertisement was issued advertisement inviting applications for post of Chief of CIC which was scheduled to fall vacant on 27-8-2020.
- ix. **Six (6) posts, including that of Chief vacant as on 15.10.2020:** With the retirement of the Chief on 26.8.2020 and another commissioner demitting office in the end of September , 2020, currently 6 posts, including that of the Chief are lying vacant and the pendency of appeals/complaints has risen to over 36,600.
2. It is submitted that the matter has not been listed. The order of 16.12.2019 has not been complied with and the number of vacancies at the Central Information Commission have now increased to 6 and even the post of the Chief Information Commission has been vacant since August 27, 2020, frustrating the order of this Hon'ble Court as well as citizens fundamental right to information. As of October 15, 2020, the number of pending appeals/complaints is more than 36,600. It is further submitted that it appears the UOI is resorting to issuing fresh advertisements instead of filling all the advertised vacant posts in a bid to cause undue delay in the appointments thereby frustrating peoples' right to information. No reasons have been furnished by the

respondent as to why 4 vacancies were not filled pursuant to the advertisement dated 12.12.2019 and the order of this Hon'ble Court dated 16.12.2019 and instead after filling only one vacancy now this new advertisement dated 12.7.2020 has been put out. A copy of table showing number of pending appeals and complaints before the CIC as of 15.10.2020, as available on its website is annexed and marked as **Annexure P2 (Pages 10 to —)**.

3. It is further submitted that respondent state governments have also failed to comply with the directions given by this Hon'ble court vide Judgment dated 15.02.2019. The State Information Commission of Maharashtra is functioning with only 5 commissioners and there is a backlog of nearly 60,000 appeals/complaints as of July 31, 2020, even though the hon'ble court in its judgment dated 15.2.2020 had directed that, "*Further, going by the pendency, which is huge, it would be appropriate if at this juncture the SIC has a total strength of 1 SCIC and 10 Information Commissioners*". Similarly, while government of Odisha was vide judgement dated 15.2.2019, directed to fill all the vacancies of the sanctioned posts within two months (four sanctioned posts, including that of the Chief) and also take a decision regarding sanctioning three additional posts, the Odisha SIC is functioning with 4 commissioners despite having a large pendency of nearly 15,000 appeals and complaints.

4. In these dire circumstances the matter is therefore required to be listed urgently before this Hon'ble Court for directions.
5. The applicants undertake that deficit court fee will be paid subsequently.
6. The applicants consent to matter being heard through video conferencing for which purpose they will link through their own desktop/mobile.

PRAYER

In view of the aforementioned facts and circumstances, this Hon'ble Court may be pleased to:

- I. Urgently, list the matter for hearing
- II. Exempt from filing duly verified affidavit under the prevailing circumstances.
- III. Pass any other order or direction as this Hon'ble Court may deem fit and proper.

APPLICANTS

(PRASHANT BHUSHAN)
COUNSEL FOR THE APPLICANTS

NEW DELHI
DATED:16.10.2020