

ITEM NO.8+50

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
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 310/1996

PRAKASH SINGH & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

(Mr. Raju Ramachandran, Sr. Advocate(A.C), Ms. Archana Pathak Dave,
Advocate (A.C)[

(IA No. 144787/2022 - APPROPRIATE ORDERS/DIRECTIONS IA
No.144785/2022 - INTERVENTION APPLICATION)

WITH

CONTEMPT PETITION (CIVIL) NO. 13/2023
(FOR ADMISSION)

Date : 09-01-2023 These matters were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Petitioner(s) Mr. Prashant Bhushan, AOR
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Ms. Chubalemla Chang, Adv.
Mr. Mohit Kumar Gupta, Adv.

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

- 1 The position as it appears before the Court, in view of the statement which has been made by learned counsel appearing on behalf of the Union Public Service Commission¹ and learned senior counsel appearing on behalf of the State of Nagaland, is that on 15 December 2022, the UPSC forwarded a panel consisting of a solitary name to the State of Nagaland for appointment on the post of Director General of Police. Apart from the above name of Shri Rupin Sharma, who has presently been given charge of the post of the Director General of Police, it appears that another candidate Shri A Sunil Achaya fulfills the conditions of eligibility. The name of Shri A Sunil Achaya was not empanelled by the UPSC since he is on central deputation and expressed his unwillingness to go back to his parent cadre. Senior counsel appearing on behalf of the State of Nagaland has submitted that in terms of the applicable Rules, while the consent of the officer is required to be taken for an overseas posting, no consent is necessary for a posting within the country and there is no reason why the name
1 “UPSC”

of the officer was not empanelled by UPSC.

- 2 On 15 November 2022, UPSC addressed a communication to the Secretary to the Government of India in the Ministry of Home Affairs² suggesting that UPSC should be empowered to relax the eligibility criterion of 30 years' service to 25 years for the States of Himachal Pradesh, Manipur, Nagaland, Uttarakhand, Tripura and Sikkim where a sufficient number of eligible officers with the requisite qualifying service is not available to form a panel of three officers.
 - 3 Learned counsel for the UPSC states that the MHA has agreed to the proposal.
 - 4 Mr. Vikramjit Banerjee, Additional Solicitor General is not in a position to clarify the position in the absence of instructions.
 - 5 Having regard to the above narration, we issue the following directions :
 - (i) MHA shall file an affidavit before this Court within a week indicating whether the concurrence of the officer is necessary before empanelling the officer for appointment as Director General of Police of the State where the officer is on central deputation;
 - (ii) In the event that the concurrence of the officer is required according to MHA, the specific rule requiring such concurrence shall be adverted to in the affidavit;
 - (iii) MHA shall clarify whether the services of Shri A Sunil Achaya, who is on central deputation, are required due to the exigencies of service on
- 2 "MHA"

central deputation or whether he can be empanelled for the post of Director General of Police, Nagaland in view of the fact that a sufficient number of eligible officers is not available for being empanelled for the State of Nagaland; and

- (iv) MHA shall place on record its communication by which it had concurred with the proposal which was submitted by UPSC on 15 November 2022 allowing it to relax the eligibility criterion from 30 years to 25 years, *inter alia*, in the State of Nagaland.
- 6 UPSC shall also file an affidavit within a week setting out the steps which it has taken in pursuance of the concurrence which, according to its counsel, has been indicated by MHA in response to the letter dated 15 November 2022.
- 7 List the Writ Petition and the Contempt Petition on 23 January 2023.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR