

ITEM NO.6

COURT NO.4

SECTION PIL

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

WRIT PETITION (CRL.) NO(s). 129 OF 2012

EXTRA JUDL.EXEC.VICTIM FAMILIES ASSN&ANR

Petitioner(s)

VERSUS

UNION OF INDIA & ANR

Respondent(s)

WITH W.P(C) NO. 445 of 2012  
(With office report)

Date: 09/04/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AFTAB ALAM  
HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

Amicus Curiae

Ms. Menaka Guruswamy, Adv.  
Ms. Raeesa Vakil, Adv.  
Ms. Manu Chaturvedi, Adv.  
Mr. Bipin Aspatwar, Adv.

For Petitioner(s)

Mr. Colin Gonsalves, Sr. Adv.  
Ms. Jyoti Mendiratta, Adv.  
Ms. Jubli, Adv.

Mr. Jaideep Gupta, Sr. Adv.  
Mr. Sapam Biswajit Meitei, Adv.  
Mr. Sunil Verma, Adv.  
Mr. Naresh Gaur, Adv.  
Mr. Ashok Kumar Singh, Adv.

For Respondent(s)

Mr. Paras Kuhad, ASG  
Mr. R.Balasubramanian, Adv.  
Dr. Ashok Dhamija, Adv.  
Mr. Neeraj K. Sharma, Adv.  
Mr. B.K. Prasad, Adv.

State

Mr. V. Giri, Sr. Adv.  
Mr. Khwairakpam Nobin Singh, Adv.

NHRC

Ms. Shobha, Adv.  
Ms. Joyti Rana, Adv.

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

Application to implead Ministry of Defence as one of the respondents is allowed.

Mr. Paras Kuhad, learned Additional Solicitor General, stated that the report of Justice Hegde Commission is receiving very serious attention at the highest levels in the Army Headquarters, Ministry of Home Affairs, Ministry of Defence and by the Union of India.

Mr. Kuhad further stated that the Union of India is equally aggrieved by any deaths in Manipur, as anywhere else in India, that might have taken place in a manner not sanctioned by the law.

The Union of India is fully committed to uphold the rule of law in Manipur as in any other part of the country. He further submitted that the Union of India needs at least four weeks' time to make a response to the Commission's report and the issues arising from it. He also assured the Court that the response of the Union of India will be positive and constructive. He further submitted that the Union of India does not see this case as an adverse litigation.

Ms. Shobha, learned counsel appearing for the National Human Rights Commission, has submitted a response from the National Human Rights Commission. Let it be taken on record.

Ms. Menaka Guruswamy, the Amicus, submitted that the Court should, without any delay, take up hearing of the case on the basis of the report of the Commission appointed by it and should at least give some directions in regard to the killings of seven persons who are found by the Commission to have been killed in a manner not sanctioned by law.

Mr. Colin Gonsalves, learned counsel appearing for the petitioners, did not hide his unhappiness over the request of adjournment made by Mr. Kuhad. Mr. Gonsalves stated that platitudes have been expressed by both the State of Manipur and the Union of India on many occasions in proceedings relating to fake encounters in Manipur before different courts, but promises were made before the courts with no intent to carry them out.

He submitted to the Court a note titled 'Interim Submissions Made By The Petitioners' in which details are given of 33 cases, in which people were killed in Manipur by the Security Forces in fake encounters. The first six cases are those in regard to which the Court asked Justice Hegde Commission to submit its report. Cases at serial Nos. 24 to 32 relate to incidents in which the State Government had itself constituted Commissions of Inquiry under the Commission of Inquiry Act, 1952.

Mr. Gonsalves submitted that even the reports of the Inquiry Commissions were not allowed to see the light of the day, though according to his information, the reports in each of those cases indicted the State Government and the Security Forces.

At this stage, to a direct query by the Court, Mr. V. Giri, learned senior advocate, appearing for the State of Manipur, submitted that the State Government would certainly submit the reports of the Inquiry Commissions in those cases for the perusal of the Court. He further submitted that the State Government shall not withhold any material information from the Court and shall fully share all information and all records with the Court.

Mr. Kuhad, learned Additional Solicitor General also submitted that the Union Government shall not take the plea of privilege in case of any information, material or document and shall produce before the Court all relevant materials and documents for its perusal.

Having regard to the seriousness of the matter and having

regard to the fact that Justice Hegde Commission's report is under consideration by the Union of India, we think that the prayer for adjournment made on behalf of the Union of India is reasonable. We, therefore, allow the prayer and direct the case to be listed after four weeks.

Here, it may be recorded that Mr. Gonsalves stated that at some stage of the proceedings, the issue of sanction for prosecution may arise and submitted that this case may be directed to be listed before a three Judge Bench. The Court will take a view on this issue as and when the occasion arises.

Let a complete set of the report be given to Mr. Paras Kuhad, the Additional Solicitor General and Ms. Menaka Guruswamy, the Amicus.

| (Neetu Khajuria)

| (Sneh Bala Mehra)

| Sr.P.A.  
|

| Court Master