

ITEM NO.11

Court No.1
(HEARING BY VIDEO-CONFERENCING)

SECTION PIL-W

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(s)(Criminal) No(s).177/2020

GHANSHYAM UPADHYAY

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

(FOR ADMISSION and IA No.61791/2020-EXEMPTION FROM FILING AFFIDAVIT and IA No.61792/2020-PERMISSION TO APPEAR AND ARGUE IN PERSON and IA No. 66097/2020 - APPROPRIATE ORDERS/DIRECTIONS and IA No. 61791/2020 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 65177/2020 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 64747/2020 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 62767/2020 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 65175/2020 - INTERVENTION APPLICATION and IA No. 64745/2020 - INTERVENTION APPLICATION and IA No. 64746/2020 - PERMISSION TO APPEAR AND ARGUE IN PERSON and IA No. 61792/2020 - PERMISSION TO APPEAR AND ARGUE IN PERSON and IA No. 65283/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No. 62766/2020 - PERMISSION TO PLACE ADDITIONAL FACTS AND GROUNDS)

WITH W.P.(Cr1.) No. 178/2020 (PIL-W)

(WITH IA No. 65252/2020 - EXEMPTION FROM FILING AFFIDAVIT AND IA No. 62156/2020 - EXEMPTION FROM FILING AFFIDAVIT AND IA No. 62155/2020 - EXEMPTION FROM FILING O.T. AND IA No. 62154/2020 - PERMISSION TO APPEAR AND ARGUE IN PERSON AND IA No. 65251/2020 - PERMISSION TO FILE SUPPLEMENTARY ADDITIONAL COUNTER AFFIDAVIT/AFFIDAVIT)

W.P.(Cr1.) No. 180/2020 (PIL-W)

(WITH APPLN.(S) FOR PERMISSION TO APPEAR AND ARGUE IN PERSON ON IA 62496/2020 AND FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 62498/2020 AND FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 64423/2020 AND FOR PERMISSION TO APPEAR AND ARGUE IN PERSON ON IA 64424/2020 AND FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 64426/2020)

W.P.(Cr1.) No. 186/2020 (PIL-W)

(WITH APPLN.(S) FOR ADMISSION and IA No.64045/2020-EXEMPTION FROM FILING AFFIDAVIT)

W.P.(Cr1.) No. 185/2020 (PIL-W)

(FOR ADMISSION and IA No.63939/2020-EXEMPTION FROM FILING AFFIDAVIT)

Date : 22-07-2020 These matters were called on for hearing today.

CORAM :

**HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN**

COUNSEL FOR THE PARTIES

Petitioner(s)-in-person

**Mr. BS Rajesh Agrajit, Adv.
Mr. Samdarshi Sanjay, Adv.
Mr. Vinay Ojha, Adv.
Mr. Sunil Kumar Tomar, Adv.**

Mr. Shyamal Kumar, AOR

**Mr. Salman Khurshid, Sr. Adv.
Ms. Lubna Naaz, AOR
Ms. Ayesha Jamal, Adv.**

**Mr. Tushar Mehta, Ld. SG
Mr. Harish Salve, Sr. Adv.
Mr. Prashant Singh, Adv.
Mr. Shiv Nath Tilhari, Adv
Ms. Garima Prashad, AOR**

**Mr. Sanjay Parikh, Sr. Adv.
Ms. Aparna Bhat, AOR
Ms. Karishma Maria, Adv.**

Applicant(s)-in-person

**Mr Nishit Agrawal, AOR
Mr. Harsh Mishra, Adv.**

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

Permission to appear and argue in person is granted.

We have heard the petitioner(s)-in-person, Mr. Salman Khurshid, learned Senior Counsel for the petitioner, Mr. Sanjay Parikh, learned Senior Counsel for the applicant(s), and Mr. Tushar Mehta, learned Solicitor General appearing for the respondents - State of Uttar Pradesh, and perused the record.

Mr. Mehta, learned Solicitor General, displayed on the computer screen, the draft of a notification appointing an independent three-member Commission to inquire into the incidents mentioned in the present writ petitions. As per the draft of the revised notification, the Commission is to comprise of the following persons :

- (1) Hon'ble Dr. Justice B.S. Chauhan, Former Judge of this Court - Chairman
- (2) Hon'ble Mr. Justice Shashi Kant Agarwal, Former Judge, Allahabad High Court - Member
- (3) Mr. K.L. Gupta, IPS, Former Director General of Police - Member

The proposed Terms of Reference of the said Commission were also read out for the benefit of the Court as well as the learned counsel appearing in the matter. After hearing all the learned counsel, certain modifications were suggested and they were agreed to be carried out.

We direct that the notification constituting the Commission and incorporating the Terms of Reference as approved by us, shall be issued immediately. The Commission shall sit at Lucknow, Uttar Pradesh and start functioning within a period of one week from today.

It is made clear that the secretarial assistance for the Commission shall be provided by the Central Government, from such services/Departments as may be directed by the Chairman of the Commission.

The Commission shall submit a report to this Court and the State Government in accordance with the Commissions of Inquiry Act,

1952, within a period of two months from the date on which the Commission starts functioning.

Needless to mention that any party to the present petitions may apply to the Inquiry Commission for being heard.

We also direct that the Special Investigation Team (SIT) already constituted by the State Government will be free to inquire into any of the related incidents which are the subject matters of this case.

List the matter thereafter along with the Report of the Commission.

Writ Petition (Criminal) No.186/2020

De-tagged from Writ Petition (Criminal) No.177/2020 and connected matters.

Tag with Writ Petition (Criminal) No.118/2018.

(SANJAY KUMAR-II)
ASTT. REGISTRAR-cum-PS

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR