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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO.96 OF 2008**

Mbpt General Workers Union	... Petitioner
VS.	
Union Of India And Ors.	... Respondent

Mr. V. Narayanan i/b Ms. Anisha Narayanan for the Petitioner.
Mr. Neel Helekar a/w Mr. Rui Rodrigues i/b Mr. Rajinder Kumar for the Respondent No.1.
Ms. P.H.Kantharia, GP a/w Ms. Deepali Patankar, Asst. to G. P. for the Respondent – State.

CORAM : A.S. OKA & RIYAZ I. CHAGLA, JJ.

DATE ON WHICH SUBMISSIONS WERE HEARD : 25.07.2018

DATE ON WHICH JUDGMENT IS PRONOUNCED : 04.12.2018

ORAL JUDGMENT (Per A.S.Oka, J.)

1 The present PIL has been essentially filed by the petitioner which is a registered Trade Union under the Indian Trade Union Act, 1947. The petitioner is the Trade Union of workers employed by the Mumbai Port Trust. The issues raised in this PIL concern various aspects of infrastructure provided to the Central Government Industrial Tribunal (for short “CGIT”) established under section 7A of the Industrial Disputes Act, 1947 (for short “the said Act of 1947”). The Central Government being an Appropriate Authority within the meaning of the said Act of 1947 has established CGIT at Mumbai consisting of two posts which are described as the Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai – I (for short “CGIT-I”) and the Presiding Officer, Central Government Industrial Tribunal-cum-

Labour Court, Mumbai – II (for short “CGIT-II). As the designations suggest, CGIT-I and CGIT-II also discharge the duties of a Labour Court which is constituted under section 7 of the said Act of 1947. It is an admitted position that CGIT-I functions as a National Industrial Tribunal under section 7B of the said Act of 1947. As CGIT-I functions as a National Industrial Tribunal, as per sub-section (3) of section 7B, only a person who is or who has been a Judge of a High Court is entitled to be appointed as CGIT-I. The record will show that accordingly, the Central Government is appointing a person who has been a Judge of a High Court as CGIT-I. On most of the occasions, a person who has been a District Judge has been appointed as CGIT-II.

2 Apart from various prayers made in the petition, the issues which arise in this PIL can be summarised as under :-

- I] the failure of the Central Government to promptly fill in the vacant posts of CGIT-I and CGIT-II ;
- II] the failure of the Central Government to provide appropriate residential accommodation to the learned Presiding Officers of CGIT-I and CGIT-II ;
- III] the failure of the Central Government to provide proper infrastructure to the learned Presiding Officers of CGIT-I and II, office of CGIT – I and II, the Members of the bar practicing before CGIT-I and II, and the litigants before CGIT-I and CGIT-II;
- IV] the failure of the Central Government to promptly issue notifications empowering CGIT-I and II of conferring specific powers on them to deal with the matters specified in Second and Third Schedule of the said Act of 1947.

3 We have extensively heard the submissions of the learned counsel for the petitioner and the learned ASG for the Union of India on some occasions and the learned counsel representing the Union of India. We have heard the learned Government Pleader. Before we deal with the orders passed by this Court from time to time and the submissions, a brief reference to the averments made in the petition and the prayers made therein will have to be made. In the petition, it is pointed out that initially CGIT-I and CGIT-II used to function from the premises at Nariman Street, Fort, Mumbai. In the year 1999, the Tribunals were shifted to Kurla in Mumbai Suburban District. It is pointed out in the petition as to how inconvenience is being caused to litigants and Members of the bar for attending the Tribunals after the same were shifted to Kurla. We may note that now CGIT-I and CGIT-II are functioning in the building known as Shram Raksha Bhavan, opposite Priyadarshini, Off Eastern Express Highway, Sion, Mumbai.

4 Coming back to averments in this PIL, it is contended that the present premises are most inconvenient apart from lacking essential infrastructure. The first prayer in the PIL is for enjoining the respondents (the Union of India through Joint Secretary, the Government of India, Ministry of Law and Justice) to appoint the Presiding Officer of CGIT-I as at that time the post was vacant. The second prayer is for directing the respondents to shift CGIT-I and CGIT-II to Fort area of Mumbai. The third prayer is for issuing a mandamus recommending to the first respondent - Union of India to make an amendment to the provisions of the said Act of 1947 providing that any person who has practiced as an Advocate for more than 10 years shall be eligible for being considered as Presiding Officer of the Industrial Tribunal, National Tribunal and Labour Courts. The next prayer is for

shifting CGIT-I and CGIT-II by constructing a Court complex on the land specified in the said prayer clause. The last substantive prayer is for issuing a writ of mandamus directing the first respondent – Union of India to provide all facilities including canteen to the Advocates and Litigants in the building in which CGIT-I and CGIT-II are functioning.

5 Now, we turn to various orders passed in this PIL from time to time by different Benches. The first few orders passed in the years 2009, 2010 and 2011 basically deal with the issue of the filling in the vacant post of the Presiding Officer of CGIT-I. The order dated 20th January 2011 takes a note of the absence of adequate infrastructure and proper facilities for litigants and Advocates. Another grievance noted in the said order is that though the Presiding Officers have been appointed, the first respondent – Union of India failed to issue notifications for assigning cases of particular categories by specifically mentioning the Presiding Officers by name and hence, the Presiding Officers are not able to exercise their powers.

6 The order dated 17th March 2011 directs the Presiding Officer of CGIT-I to submit a report to the first respondent – Union of India indicating shortcomings in the present set up. Thereafter, for a considerably long time, present PIL was not placed on board. When the same was placed on board on 18th September 2014, a Division Bench of this Court referred to the report dated 2nd May 2011 submitted by the learned Presiding Officer of CGIT-I and recorded that the report shows that the CGIT-I and CGIT-II are lacking the essential facilities. By the said order, this Court called for a report from the in-charge Administrative Officer of CGIT regarding availability of infrastructure including the availability of facilities to the litigants and infrastructure to the Chairpersons of CGIT as well as availability of residential

accommodation to them. The order dated 18th November 2014 refers to the report submitted by the Secretary of CGIT-I regarding several infrastructural shortcomings.

7 The order dated 22nd December 2014 is very material. Paragraphs 1 to 9 of the said order read thus :-

- “1. We have heard the learned counsel appearing for the petitioner and the learned AGP for the Union of India. We have also heard the intervenor Mr. V. Subramanian, Secretary, All India Bajaj Electricals Employees' Federation. **The learned Additional Solicitor General assures the Court that the washroom on the ground floor of the premises of the Central Government Industrial Tribunal (for short “CGIT”) at Mumbai will be allowed to be used by all the Advocates practising before the said Tribunal.** The learned counsel appearing for the Petitioner makes a grievance that the washroom is kept locked and the key thereof is provided to only one person.
2. **In view of the aforesaid assurance, we direct that the washroom on the ground floor shall be kept open for the use of all the Advocates practising before the CGIT. The washroom facility shall be kept open one hour before the Court hours, during the Court hours and one hour after the Court hours. A board shall be displayed outside the washroom that the facility is available only to the practising Advocates.**
3. The learned ASG has invited our attention to the minutes of the meeting convened on 19th December, 2014 in the Chamber of the Presiding Officer of CGIT-II, Mumbai.
4. **From the grievances made in the Petition and from the report submitted to this Court, it is apparent that the present premises provided for CGIT-I, Mumbai and CGIT-II, Mumbai are not at all sufficient.** The learned counsel appearing for the Petitioner tells the Court that initially one full floor each was allotted for the use of CGIT-I and CGIT-II respectively. In the minutes tendered across the bar, it is recorded that a room on the second floor will be made available as a record room after the material lying in the said room is auctioned. We

must note here that the said room will not be adequate to accommodate Library in addition to the Record Room. **Making available one room will be only an ad hoc arrangement. We direct the Union of India to consider the issue of providing a larger premises to CGIT-I and CGIT-II.**

5. The learned counsel appearing for the Petitioner pointed out that in the minutes of the meeting, the issue of conveyance allowance to the Presiding Officer of CGIT-I is considered. However, even the Presiding Officer of the CGIT -II, who is a retired District Judge is not being paid conveyance allowance. We direct the Union of India to consider the issue of payment of the conveyance allowance even to the Presiding Officer of CGIT-II, who is not a retired Judge of the High Court but who is a retired District Judge.
6. It is pointed out by the learned counsel appearing for the Petitioner that the learned Presiding Officer of CGIT-II is due for retirement on 11th April, 2015. He states that the usual experience is that no steps are taken to fill in the vacancy for months together. We, accordingly, direct the Union of India to immediately start the process of filling in the vacancy of Shri K.B. Katake, Presiding Officer, CGIT-II who will retire on 11th April, 2015.
7. The learned counsel appearing for the Petitioner has tendered across the bar a letter dated 17th December, 2014 addressed by him to the Secretary of the Government of India, Ministry of Labour and Employment in which several issues have been raised. We direct the Union of India to consider the issues raised by the Petitioner in the said letter and submit a response to this Court before the next date.
8. Shri V. Subramanian, who is the intervenor, invited our attention to the direction issued in this very Petition by the First Court under order dated 20th January, 2011 in terms of paragraph 5 thereof. He states that the said direction has not been complied with and even as of today, notifications as regards the State Bank of India, Air India, Indian Airlines and Bajaj Electricals Limited have not been issued. **Shri Subramanian is right in**

submitting before the Court that in view of the directions contained in the order dated 20th January, 2011, the notifications assigning powers to decide the cases should have been simultaneously issued along with the orders of the appointment of the Presiding Officers. We direct the Union of India to ensure that the said direction is complied with. If the said direction is not complied with by 23rd January, 2015, action under the Contempt of Courts Act, 1971 will have to be initiated against the concerned officers of the Union of India.

9. A detailed affidavit shall be filed by the concerned officer of the Union of India dealing with the compliance of this order on or before 23rd January, 2015.”
(emphasis added)

8 In response to the said order on 9th February 2015, apart from tendering an affidavit of the Under Secretary of the Government of India, Ministry of Labour and Employment, the learned Additional Solicitor General of India (ASG) tendered a short note on various steps taken. Paragraphs 5 and 6 of the said order read thus :-

- “5. We direct the Respondents and in particular the Central Public Works Department to get structural audit of the entire building done. Notwithstanding this order, the work of repair shall continue. Immediate steps shall be taken to repair and renovate the public toilets in the building. It is stated in the affidavit filed on behalf of the Respondent No.1 that now one toilet has been specifically earmarked for the members of the bar. An endeavour shall be made to provide a separate properly maintained toilet for the litigants.
6. It is stated that the Ministry has started the process of filling up the post which is likely to become vacant in April, 2015. Affidavit to be filed on behalf of the Respondent No.1 to set out the progress made in the matter of filling up the proposed vacancy.”

(emphasis added)

9 In the order dated 10th March 2015 this Court noted that a sum of Rs.10,34,049/- has been sanctioned by the first respondent for carrying out civil work through Central Public Works Department (CPWD). This order deals with requirement of filling in vacant posts.

10 Under the order dated 4th February 2016 this Court directed the Registrar General to appoint a Judicial Officer working on the establishment of this Court for visiting the premises of CGIT-I and CGIT-II and to submit a report on the infrastructure and facilities available. The order dated 10th March 2016 refers to a report submitted by the Registrar (Vigilance-II). The said report is dated 2nd March 2016. The summary of the report is contained in 10 points set out on pages 14-16. The said summary is important based on which we propose to issue directions. It records that there is a complete lack of proper security arrangements. It records the necessity of reviewing toilet facilities provided in the building and it recommends that proper and hygienic toilets facilities should be made available in place of existing toilets. It also records immediate need to appoint one Personal Assistant and one Secretary to CGIT-II. It also records that the prayer of the Presiding Officer of CGIT-II for grant of residential quarters has been turned down. It also notes that for various reasons, old cases are not being disposed of. Under the order dated 10th March 2016 several directions were issued by this Court based on the recommendations in the said report. The order dated 29th June 2016 deals with the said recommendations and especially regarding availability of assigned quarters to the Presiding Officers of CGIT-II as well as providing Secretary and Personal Assistant to the Presiding Officer of CGIT-II.

Paragraphs 4 to 7 are material which read thus :-

“4. As far as assigned quarters for the Presiding Officer of CGIT-II are concerned, the learned Counsel appearing for the Union of India submits that as per the Presiding Officers of Labour Court, Industrial Tribunal and National Tribunal (Salaries Allowances and Other Terms and Conditions of Service) Rules, 2015, (for short “the said Rules of 2015”) the Presiding Officers of the Labour Court or Industrial Tribunal are entitled only to House Rent Allowance and they are not entitled to rent free furnished accommodation. He states that nevertheless accommodation has been offered to Presiding Officer of CGIT-II. However, the accommodation is offered not as a matter of right but in view of the order of this Court. We have perused sub rule (2) of Rule 4 of the said Rules of 2015. Sub rule (2) of Rule 4 shows that the salary of the Presiding Officer of the Labour Court or Industrial Tribunal is equivalent to salary of the District Judge (Entry Level), the District Judge (Selection Grade) and the District Judge (Super time Scale). As far as the Industrial Tribunal is concerned the same is constituted in accordance with section 7-A of the Industrial Disputes Act, 1947. (for short “ID Act”). Sub section (3) of section 7A of ID Act reads thus:

“7-A. Tribunals. - (1)

(2)

- (3) A person shall not be qualified for appointment as the presiding officer of a Tribunal unless-
- (a) he is, or has been, a Judge of a High Court; or a District Judge or a person qualified for appointment as a Judge of High Court or
 - (aa) he has, for a period of not less than three-years, been a District judge or an Additional District Judge or an Assistant Judge;
 - (b) he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least seven years' experience in the labour department including three years' of experience as Conciliation Officer:

Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigns from the service of the Central Government or State Government, as the case may be, before being appointed as the presiding officer; or

- (c) he is an officer of Indian Legal Service in Grade III with three years' experience in the grade.
- (d) he holds a degree in law of a University established by law in any part of India and is holding or has held an office not lower in rank than that of Assistant Commissioner of Labour under the State Government for not less than ten years.
- (4)”

5 Therefore, a person who is or has been a Judge of High Court or District Judge or a person qualified for appointment as a Judge of High Court can be appointed as a Presiding Officer of Industrial Tribunal. That is why the salary of Presiding Officer of Industrial Tribunal as provided in the said Rules of 2015 is equivalent to salary of District Judges. The Central Industrial Tribunal is situated at Sion in Mumbai Suburban District. The stand of the Union of India is that the Presiding Officer of CGIT-II will only get House Rent Allowance which will be in the range between Rs.15,000/- to 21,000/- per month. A judicial notice will have to be taken of the fact that it will be impossible for the Presiding Officer of CGIT-II to procure accommodation consistent with his status on rental or leave and license basis in Mumbai by paying a sum of Rs.15,000/- to Rs.21,000/- per month. He may at highest get a flat consisting of one room and kitchen. Considering the peculiar problems of City of Mumbai, if the Union of India wants a good judicial officer to occupy the post of CGIT-II and to function effectively, there is no option but to provide a rent free accommodation to the Presiding Officer of CGIT-II. Needless to add that all the facilities and perquisites which are admissible to the post of the District Judge as per the recommendations of the Shetty Commission and Padmanabhan Commission will have to be provided to CGIT-II.

6 We accept the statement made by the learned Counsel appearing for the Union of India that residential accommodation of the choice of Presiding Officer of

CGIT-II has been provided to him. We direct that till the Union of India takes a decision to designate a specific premises as residential quarters for judicial officer of CGIT-II, the present premises which are offered to CGIT-II shall not be allotted to any other officer. After the present Presiding Officer ceases to the Presiding Officer CGIT-II, the same premises shall be allotted to his successor.

- 7 Another shocking feature of the report submitted by the Registrar of this Court is that the Presiding Officer of CGIT-II has no Secretary and Personal Assistant/Stenographer. Paragraph no.10 of the Affidavit deals with the appointment of the Secretary. It is stated that though an attempt was made to fill up the post on deputation, there was no response. It is stated that as per the Recruitment Rules, the said post is to be filled up by promotion or by deputation. Paragraph no.10 records that there is no eligible person available in the office. Now we are informed across the bar that a Secretary has been appointed on deputation. We accept the said statement. **We direct that the Union of India shall ensure that the post of Secretary attached to the Presiding Officer of CGIT-II shall not be kept vacant. As regards providing Personal Assistant/Stenographer to the Presiding Officer of CGIT-II, it is stated that the Ministry has taken up the matter with the Staff Selection Committee to recommend a person for the Personal Assistant on urgent basis. However, there is no assurance in the Affidavit that within a particular time a Personal Assistant will be appointed. What is set out in the Affidavit shows shocking state of affairs. The Presiding Officer of CGIT-II was forced to submit a proposal for hiring services of a Stenographer by paying him remuneration on per page basis. The Personal Assistant attached to the Presiding Officer of CGIT-II has to perform a very responsible job. He has to take dictation of judgments in Courts as well as dictation of reserved judgments in Chamber. The Personal Assistant or Stenographer has to maintain secrecy and follow discipline. We are shocked to note that Presiding Officer of CGIT-II is forced to hire a Stenographer by paying the honorarium on per page basis. We direct appropriate Officer of Union of India to file an Affidavit setting out the outer limit within which the Personal Assistant will**

be appointed in the office of the Presiding Officer of CGIT-II. If Staff Selection Committee is taking time, the Union of India shall forthwith take steps to appoint a Personal Assistant on deputation. The Affidavit setting out the outer limit shall be filed by 15 July 2016."

(emphasis added)

11 Certain directions were issued to make transit accommodation available to the Presiding Officer of CGIT-II. Further directions were issued for fixing outer limit for providing residential quarters to the Presiding Officer of CGIT-II under the order dated 20th July 2016. paragraphs 3 and 4 of the order dated 5th August 2016 are material which read thus :-

"3 The second issue is about the allotment of quarters to the Presiding Officer of CGIT-II. The learned counsel appearing for the Petitioner makes a grievance that for years, quarters were allotted to the said officer at Hyderabad Estate and now quarters are allotted near Eastern Express Highway. **We have perused the allotment order dated 3rd April, 2016. Much can be said about the manner in which the allotment order is issued to a judicial officer. Allotment order does not specify even the address of the quarters under the said order. It does not mention area of the quarters. Secondly, time of only 5 days is given to the Presiding Officer, CGIT-II to accept the accommodation. The order says that if he does not accept the allotment within the specified time, he will become ineligible for Government accommodation for a period of 12 months from the date of allotment of the quarters. The learned counsel appearing for the Petitioner pointed out that the Presiding Officer of CGIT-II was holding a camp in Pune on 2nd, 3rd and 4th August, 2016. The order is served on one of his staff members on 4th August, 2016. Only after several orders were passed by this Court that the Government of India has issued the allotment order. They have made a departure from the longstanding past practice of allotting quarters at Hyderabad Estate. We must record our strong disapproval to the manner in which order dated 3rd August, 2016 has been issued. We are constrained to observe that the Government of India has failed to maintain dignity of the office of the**

Judicial Officer by issuing an allotment order in this fashion.

- 4 We direct the Government of India to issue fresh allotment order containing description of the quarters to be allotted. Time of at least one month shall be granted to the Presiding Officer to take a decision regarding acceptance of the quarters. Modified order shall be issued within a period of one week from today. It will be open for the Presiding Officer to visit allotted quarters. If he finds something seriously wrong with the allotted quarters, the learned Presiding Officer of CGIT-II shall submit a report to that effect to the Registrar (Judicial-II) in relation to the condition of the accommodation in a sealed envelope which shall be placed for consideration of the Court on the next date. If the Presiding Officer finds the quarters to be in order, he is free to accept the same.”
(emphasis added)

12 Again, the order dated 2nd September 2016 deals with the issue of residential quarters. It also notes that a stenographer allotted to the Presiding Officer of CGIT-II was not capable of taking dictation of shorthand in open Court. Paragraphs 1 and 2 of the order dated 23rd September 2016 are material which read thus :-

- “1 Notwithstanding the specific order passed by this Court on 2nd September 2016, Shri Shankar Aggarwal, Ministry of Labour and Employment, Government of India is not personally present. Last order shows that though a case was made out to issue a contempt notice to him, only by way of indulgence, an opportunity was granted to him to comply with the order of this Court in its true letter and spirit. Not only that the said officer is not present, he has filed an affidavit dated 22nd September 2016 which is prima facie contemptuous especially in the light of what is stated in the Paragraph 4 thereof. **Faced with this difficulty, the learned Addition Solicitor General seeks time to file a better affidavit. Our attention is invited to the affidavit of Shri B.B. Bhatnagar, the Deputy Chief Labour Commissioner (Central), Government of India dated 18th January 2016 which is filed in this PIL. In the said**

affidavit, a categorical statement has been made that the quarter No.G-47, 12th Floor, Type-V, Hyderabad Estate Nepean Sea Road, has been earmarked and allotted to CGIT-II in May 2011. The learned Additional Solicitor General on instructions states that it was not a regular allotment and as the premises was vacant and available, it was allotted. This cannot be accepted for more than one reason. Firstly, in the affidavit dated 18th January 2016, there was a categorical and specific statement that the Quarter No.G-47, 12th Floor, Type-V, Hyderabad Estate Nepean Sea Road has been “earmarked” and “allotted” to CGIT-II in May 2011. Secondly, it was not the stand taken that the allotment was made to a particular officer as the premises was available at the relevant time.

2. Place the Petition under the caption of “Directions” on 7th October 2016 when affidavit of Shri Shankar Aggarwal will be considered.”

(emphasis added)

13 Order dated 17th October 2016 notes that services of Personal Assistant on loan basis from the Regional Office of the Employees’ Provident Fund, Bandra have been transferred to the office of CGIT-II, Mumbai. Further order dated 26th October 2016 notes that on the basis of report submitted by the Presiding Officer of CGIT-II that a security agency has been appointed in December 2016 for taking care of security requirements of the entire Court complex. This Court directed that adequate number of CCTV cameras should be fixed on the second floor. The order dated 26th June 2018 deals with the aspect of carrying out repairs which is adverted to in the subsequent part of the judgment.

14 Various orders passed by this Court also take a note of alleged incident of 30th December 2015. It is alleged that in the office of the Deputy Chief Labour Commissioner in the same building, the

President of Employees' and Staff Association of Jet Airways along with 70 to 80 persons entered and started violence. FIR being C.R. No.41 of 2016 has been registered with Chunabhatti Police Station. The orders of this Court passed from time to time have dealt with investigation carried out. There are various reports placed on record regarding investigation.

15 The provisions of Sections 7, 7A and 7B read with First, Second and Third Schedule of the said Act of 1947 will indicate that CGIT-I and CGIT-II exercise very important judicial powers. The law relating to obligation of the Government to provide adequate infrastructure to the Courts and Tribunals has been laid down by the judgment and order dated 5th May 2017 by a Division Bench of this Court in PIL No.156 of 2011 and other connected matters. In paragraph 191, the conclusions of the Court have been laid down. Clauses (a) to (g) of clause (A) of paragraph 191 read thus :-

“A] We hold that:

- (a) It is the constitutional obligation of the State Government to provide lands and/or adequate premises for establishing adequate number of Courts;
- (b) It is an obligation of the State Government to appoint sufficient number of Judicial officers consistent with pendency and filing in the concerned Courts and Tribunals. The cadre strength should be such that there will be no pendency of old cases;
- (c) **It is the obligation of the State Government to provide all necessary infrastructure to the newly established as well as the existing Courts and Tribunals for the benefit of the Judicial Officers, litigants, members of the staff as well as members of the Bar;**
- (d) **The infrastructure has to be provided in such a manner that the Courts are able to function efficiently;**
- (e) **The infrastructure has to be consistent with the**

- concept of dignity of the Court;
- (f) **Speedy disposal of cases in consonance with the mandate of Article 39A of the Constitution of India cannot be achieved unless adequate number of Courts and Tribunals are established and adequate and proper infrastructure is provided to all the Court premises;**
 - (g) **Financial constraints is no ground to deny permission for establishing new Courts and denying essential infrastructure to all the Courts, whether existing or new.”**

(emphasis added)

16 Clause (A) of paragraph 191 specifically lays down that the principles laid down therein will apply not only to civil and criminal Courts in the State but also to certain Tribunals named therein. There is no reason as to why the law laid down as aforesaid should not apply to CGIT. Another important decision on this aspect is in the form of an order dated 2nd August 2018 passed by the Apex Court in Interlocutory Application No.279 of 2010 in Writ Petition (C) No.1022 of 1989. In paragraphs 5 to 9 of the said order, the Apex Court held thus :-

- “5. The aforesaid two verdicts, as is noticeable, lay stress on infrastructure in the context of Rule of Law, effective civil and criminal justice system and the constitutional duty of the Government to provide the same and the principle of access to justice that does not accept the excuse of the Government as regards financial limitation.
- 6. **It has to be firmly borne in mind and accepted as a reality that raising the infrastructure standards in the court complexes is the need of the hour as it is the basic requirement for the courts in the twenty-first century. We are absolutely clear that when people are aware of their rights, their desire to get the rights realised is enhanced and they would like to knock at the doors of the Court to shape their aspiration into reality. It is a welcome phenomenon and conceptually, Rule of Law nourishes and garners the said idea. The idea of speedy and quality justice dispensation system cannot be treated with *status***

quoist approach, for the definition of infrastructure and the understanding of the same in all associated contexts changes with the passage of time and introduction of modern technology in many a sphere of life. The consumers of justice expect prompt and effective delivery of justice in an atmosphere that is acceptable. Therefore, infrastructure enhancement will go a long way in strengthening functioning of the court and would improve the productivity in the justice delivery system.

7. Be it noted, a court complex is not just a building. It is the building of justice which breathes and infuses life into the exalted and sublime ideals of justice. The widening gap between the ideal and the real and between the vision and the pragmatic realization of justice has to be bridged by proper access to justice for all.
8. It brings us to the focal point, i.e., judicial infrastructure which has been given relatively low importance, if not long neglected. That needs an overhaul. Apart from the metropolitan cities and State capitals, infrastructure in Courts, especially in the interior parts of the country, is drying out. It would not be wrong to say that some of them are just on the ventilator. A decrepit or crumbling court infrastructure inevitably results in causing impediment in access to justice. Undeniably, access to justice and rule of law is intrinsically linked. No democracy can afford to undermine the core values of rule of law. Thus, strengthening of court infrastructure requires immediate attention in the form of planning, enhanced budgeting and structured implementation or execution of the plans. **Presently, most of the States are making budgetary provision as low as less than 1% of their total budget for the judiciary.**
9. In view of the above, we deem it extremely necessary to declare that it is essential to provide basic infrastructural facilities, amenities, utilities and access oriented features in all Court complexes around the country as it is axiomatic that infrastructure forms the core for efficient and efficacious dispensation of speedy and qualitative justice.”

(emphasis added)

17 In paragraph 10, the Apex Court has in detail laid down what are the requirements of infrastructure of Civil and Criminal Courts. The law laid down by this Court in the aforesaid decision as well as the Apex Court will squarely apply to CGIT at Mumbai.

18 Now coming to the infrastructure to be provided to both CGIT-I and CGIT-II, there is a need to undertake a scientific exercise of ascertaining what should be its staffing pattern. The categories and number of posts which are required for efficient functioning of CGIT-I and CGIT-II must be ascertained. The exercise of preparing staffing pattern will have to be undertaken by the learned Presiding Officers of CGIT-I and CGIT-II. The staffing pattern will have to be immediately approved by the Government of India. After this exercise is done, it is necessary to set up a separate establishment for CGIT as well as National Tribunal so that the CGIT becomes appointing authority and disciplinary authority. This will ensure that CGIT will have adequate number of staff and that CGIT will have effective control over the staff. As soon as staffing pattern is finalised, the Government of India will have to provide and grant permission to CGIT to start recruitment process or to post the staff on deputation.

19 It is also necessary to ascertain on the basis of the present pendency and filing during last few years, whether only two posts of Members of the Tribunal under section 7A and Labour Court under section 7 are sufficient to deal with the existing pendency of cases and future filing. The Central Government needs to do the said exercise and thereafter create additional posts, if necessary.

20 The third and most essential part of the infrastructure is the Court complex. Today, the Court complex of CGIT-I and CGIT-II is situated in a building which was not constructed as a Court complex. Therefore, the learned Presiding Officers of CGIT will have to ascertain the area required for setting up an ideal Court complex. They will be guided by the directions issued by the Apex Court on 2nd August 2018 in so far as the same will apply to Industrial Tribunals. While determining the area requirement, the future need for at least 25 years will have to be taken into consideration. After the area and other requirements are communicated to the Government of India, the Central Government will have to take steps for allotting a plot for constructing a new Court complex for CGIT-I and CGIT-II at a centrally located place which has good accessibility by various modes of public transport. The complex should ideally have a separate building containing residential quarters for the Hon'ble Members as well as certain essential members of the staff.

21 Now coming to the Presiding Officer of CGIT-I, being a National Tribunal under section 7B, he has to be either a Sitting Judge of a High Court or a person who has been a Judge of the High Court. Therefore, the Presiding Officer of CGIT-I is entitled to all the perquisites and facilities which are consistent with the post of a Judge of a High Court held by him or her.

22 As far as CGIT-II is concerned, while dealing with the issue of providing residential accommodation to him, the entitlement of CGIT-II has been already laid down. Paragraph 5 of the order dated 29th June 2016 notes that all the facilities and perquisites which are admissible to the post of District Judge as per the recommendations of Shetty Commission and Padmanabhan Commission, as may be amended

from time to time, shall be provided to the Presiding Officer of CGIT-II. The said direction deserves to continue as a final direction for the reasons recorded in the said order.

23 Perusal of the affidavits and orders of this Court will show that both the posts have remained vacant from time to time as either the incumbents in the office had to step down due to various reasons including the reason of lack of proper facilities. It is all the more necessary that in a City like Mumbai both the Presiding Officers should be available on permanent basis. The failure to fill in the vacant posts of CGIT-I and CGIT-II will amount to denial of constitutional right of speedy justice to the litigants. Hence, it is the legal and constitutional obligation of the Union of India to ensure that the posts do not remain vacant. On conjoint reading of affidavits on record and orders of this Court, it is apparent that but for the orders passed by this Court from time to time, perhaps CGIT would have completely stopped functioning by this time.

24 As far as the security of the present Court complex is concerned, the same has been provided by the Government of India. Unless there is a proper security arrangement provided to the Court complex, the Tribunal cannot discharge its duty properly. It is the obligation of the Union of India to provide adequate security to the Court complex including providing measures such as CCTV as per the recommendations of the security audit which may be conducted by local police. The present security arrangements made by the Union of India will continue till proper arrangements are made as per security audit. Even the direction regarding fixing CCTV cameras, if not implemented earlier, needs to be implemented.

25 Now coming to the issue of repairs to the present premises, there is an affidavit filed by Shri Rajkumar Chhotey Lal, Executive Engineer (Civil) of Mumbai Central Division VIII, Central Public Works Department, the Government of India which is dated 28th July 2018. Paragraphs 4 to 6 of the affidavit read thus :-

- “4. I respectfully submit that an approval of the Competent Authority to release an amount of Rs.73,20,000/- (Rupees Seventy Three Lakh Twenty Thousand only) has been issued by Secretary to the Government of India, Ministry of Labour & Employment vide F. No.10/(01)2018-CB&P, New Delhi Dated 11.06.2018. Pay and accounts office authorization is also received in this office on 25.07.2018.
5. **It is humbly submitted that the repair work of Shram Raksha Bhavan, Mumbai will be completed by 31.12.2018.**
6. **I say that detailed schedule for completing the structural repair work of Shram Raksha Bhavan by setting out different dates from 15th July, 2018 to 31st December, 2018 was Annexed at Exhibit – II a copy of the letter No.24(54)/MCD-VIII/2018-19/400-E dated 07.07.2018 – Page – 467.”**
(emphasis added)

26 We accept the aforesaid statement as undertakings of the Government of India. We also accept the statement made in the letter dated 7th July 2018 referred in paragraph 6 quoted above. The Executive Engineer (Civil) of Mumbai Central Division VIII will have to file a compliance report certifying that all repairs have been carried out. Naturally such affidavit will be filed only after a site visit is made by the said officer and/or other officers of the Central Public Works Departments.

27 As per the settled law, the Central Government will have to provide all the infrastructure to CGIT, members of the Bar, members of the staff and litigants. The exercise of finding out suitable place for shifting CGIT and actual shifting will take at least few years. We, therefore, propose to request the Presiding Officers of CGIT-I and CGIT-II to convene meetings of the members/representatives of the bar, members of the staff, representatives of the petitioner as well as the learned counsel representing the petitioner for ascertaining the extent of the additional infrastructure/facilities such as the provision for toilets/washrooms, canteen, air-conditioner, equipments such as water cooler, water filters, computers, printers, display boards, etc. are required. After ascertaining and finalising additional requirements, it will be open for the learned Member of the CGIT-I in consultation with the learned Member of the CGIT-II to submit a proposal to the Government of India for providing additional infrastructure. Necessary steps will have to be taken by the Government of India to provide necessary infrastructure in terms of the proposal.

28 As can be seen from some of the orders passed in the PIL, there is a reference to registration of FIR bearing C.R.No.41 of 2016 about the incident which took place in the premises of CGIT-I and CGIT-II. The orders of the Court will show that the Joint Commissioner of Police (Crimes), Mumbai had directed the Investigating Officer to carry out further investigation and to submit clarifications. As directed under the order dated 2nd February 2017, if the investigation is not yet complete, the Joint Commissioner of Police (Crimes) will have to supervise and monitor the entire investigation.

29 Hence, we dispose of the petition by passing the following order :-

ORDER

- (i) We hold and declare that it is the legal and constitutional obligation of the Government of India to ensure that posts of CGIT-I and CGIT-II do not remain vacant;
- (ii) We direct the Government of India to ensure that process of making appointments to the post of CGIT-I and CGIT-II shall be commenced at least six months in advance before the term of the office of the Members of CGIT-I and CGIT-II is scheduled to expire;
- (iii) In the event of vacancies arising due to resignation or otherwise before the expiry of term of the Members, appointments shall be made as expeditiously as possible and in any event within a period of four months from the date on which the vacancies occur. Till the date of filling in vacancies, the Government of India shall ensure that charge of the vacant posts is given to appropriate officer and that it shall be ensured that the said officer conducts hearings at frequent intervals. Necessary facilities such as residential accommodation, travelling allowances and daily allowances as assured by the Government of India from time to time by filing affidavits and consistent with the dignity of the posts held by them shall be provided to such officers while they work in Mumbai;
- (iv) The Government of India in consultation with CGIT-I and CGIT-II and other stakeholders shall ascertain total

number of Members of the Labour Court, Industrial Court and National Tribunal as per Sections 7, 7A and 7B of the said Act of 1947 which are required at Mumbai. The determination shall be made after taking into consideration the present pendency of cases and pattern of filing cases during last few years. For deciding the issue as to how many cases should be on the file of each Presiding Officer, the Government of India shall be guided by the policy decisions in that behalf taken by the administrative side of this Court. For that purpose, the Central Government shall consult the Registrar General of this Court. The exercise of determining number of Members required shall be completed within six months from the date on which this judgment and order is uploaded. If on completion of the exercise, the Central Government finds that in addition to two members, additional members are required to be appointed, the same shall be immediately done;

- (v) The Central Government shall, after consulting CGIT-I and CGIT-II, members of the bar and other stakeholders ascertain total area required for the Courts of CGIT-I and CGIT-II, Chambers and offices, bar rooms, sitting arrangement for litigants, adequate parking facility, etc. It will be appropriate if the Central Government consults the Registrar General of this Court who will be able to provide the norms fixed by this Court regarding sizes of the Court. The directions in the aforesaid order

dated 2nd August 2018 issued by the Apex Court shall be also taken into consideration. The Central Government shall also take into consideration future need for the span of at least 25 years;

- (vi) The exercise of ascertaining the requirements of area shall be also completed within a period of six months from the date on which this judgment is uploaded. After the exercise is completed, the Central Government shall provide either a plot or a properly constructed premises with adequate floor area and with adequate parking facilities along with necessary infrastructure to the Tribunals established by the Government of India under sections 7, 7A and 7B of the said Act of 1947. The plot/premises shall be provided at a centrally located place in Mumbai which has a good access by public transport. This exercise shall be completed within a period of five years from the date on which the Central Government determines the requirement of area as aforesaid;
- (vii) Whenever new Members of CGIT are appointed, along with their appointment orders, the Government of India shall issue necessary notifications giving authority to the Members to decide the cases of all the concerned establishments;
- (viii) We accept the statements in paragraphs 4 to 6 of the affidavit dated 28th July 2018 of Shri Rajkumar Chhotey

Lal as undertakings of the Government of India. As observed in the judgment, compliance affidavit shall be filed by the Executive Engineer of the Central Public Works Department on or before 15th January 2019. For considering the compliance affidavit, the PIL shall be listed before the appropriate Bench on 18th January 2019;

- (ix) As observed in paragraph 27, it will be open for the Members of CGIT to submit a proposal to the Government of India for providing additional infrastructure including additional staff in the existing premises. Appropriate steps shall be taken by the Government of India to provide necessary infrastructure and staff as per the said proposal within a period of three months from the date of receipt of the proposal considering its constitutional and legal obligations as laid down by the judgment;
- (x) The Central Government shall get security audit done of the existing premises of CGIT through the office of the Commissioner of Police, Mumbai within two months from today. Within a period of two months from the receipt of the report of the security audit, necessary security arrangements shall be made by providing security staff and equipment as per the requirements indicated by the audit. Till that time the present arrangement shall continue;

- (xi) Rule is made absolute on above terms;
- (xii) There will be no order as to costs.
- (xiii) Place the petition for directions on 18th January 2019.

(RIYAZ I. CHAGLA, J)

(A.S. OKA, J)