

UNION OF INDIA & ORS.

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v.

PIRTHWI SINGH & ORS.

(Civil Appeal Nos. 4415-16 of 2018)

APRIL 24, 2018

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**[MADAN B. LOKUR AND DEEPAK GUPTA, JJ.]**

*Judicial Deprecation – Frivolous or infructuous cases filed by Union of India – Engagement of huge number of lawyers for the matter involving the issues already settled by binding precedents – Burdening the Justice Delivery System – Union of India filing matters even after dismissal of similar matters – Moreover, 10 lawyers engaged creating a huge financial liability for an appeal whose fate could be easily imagined on the basis of existing orders of dismissal in similar cases – Union of India’s lack of concern for the Justice Delivery System, deprecated – Appeal dismissed with cost of Rs. 1 lakh.*

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*National Litigation Policy, 2010 – Object of, discussed.*

*Union of India v. Balbir Singh Turn* **2017 (14) SCALE 189 – referred to.**

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**Case Law Reference**

**2017 (14) SCALE 189 referred to Para 4**

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 4415-16 of 2018.

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From the Judgment and Order dated 12.12.2011 in O. A. No. 2002 of 2011/Order dated 17.04.2013 in M. A. No. 1309-1310 in O. A. No. 2002 of 2011 and Order dated 03.09.2015 in Review Application vide M. A. No. 2475 of 2015 and RA No. 76 of 2015 in O. A. No. 2002 of 2011 of the Armed Forces Tribunal Regional Bench Chandigarh at Chandimandir.

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Sandeep Sethi, ASG, Ms. Vibha Datta Makhija, Sr. Adv., Nikhil Rohatgi, Shashank Khurana, Himanshu Shekar, K. Subba Rao, A. Subba Rao, Ms. Disha Vaish, Mukesh Kumar Maroria, Advs. for the Appellants.

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- A The Judgment of the Court was delivered by  
**MADAN B. LOKUR, J.** 1. Leave to appeal is granted.
2. Delay condoned.
3. The couldn't-care-less and insouciant attitude of the Union of  
B India with regard to litigation, particularly in the Supreme Court, has  
gone a little too far as this case illustrates.
4. The Union of India had filed a batch of appeals which was  
dismissed by this Court by a judgment and order dated 8<sup>th</sup> December,  
2017. The decision is reported as *Union of India v. Balbir Singh Turn*.<sup>1</sup>
- C 5. After dismissal of the batch of appeals, the Union of India filed  
yet another appeal on the same subject being Civil Appeal No. (blank)  
of 2018 (Diary No. 4893 of 2018) entitled *Union of India & Ors. v. Ex.*  
*Nk. Balbir Singh*. That appeal came up for consideration before this  
D Court on 9<sup>th</sup> March, 2018 and was dismissed following the decision in  
*Balbir Singh Turn*. While dismissing the appeal, it was noted that it  
was filed well after several similar matters were dismissed by this Court.  
The conduct of the Union of India in filing Civil Appeals/Special Leave  
Petitions after the issue is concluded by this Court was not appreciated.  
It was noted that the Union of India must take full responsibility for  
unnecessarily adding to the burden of the justice delivery system.
- E 6. To ensure that the Union of India is far more circumspect,  
costs of Rs.1,00,000/- were imposed and it was observed that the Union  
of India must shape up its litigation policy. Unfortunately, the Union of  
India has learnt no lesson and has continued its non-cooperative attitude.
- F 7. The present appeal was filed on 8<sup>th</sup> March, 2018 which is also  
well after the decision in *Balbir Singh Turn*. We would have expected  
that with the dismissal of the appeal relating to *Balbir Singh Turn* and  
*Ex. Nk. Balbir Singh*, the Union of India would take steps to withdraw  
this appeal from the Registry of this Court so that it is not even listed and  
there is no unnecessary burden on the judges. But obviously, the Union  
G of India has no such concern and did not withdraw its appeal from the  
Registry itself.
8. The Union of India must appreciate that by pursuing frivolous  
or infructuous cases, it is adding to the burden of this Court and collaterally

<sup>1</sup> 2017 (14) SCALE 189

harming other litigants by delaying hearing of their cases through the sheer volume of numbers. If the Union of India cares little for the justice delivery system, it should at least display some concern for litigants, many of whom have to spend a small fortune in litigating in the Supreme Court. A

9. On 23<sup>rd</sup> June, 2010 the Union of India released the ‘National Legal Mission to Reduce Average Pendency Time from 15 Years to 3 Years’ and this document is called ‘National Litigation Policy’. The vision/mission of the National Litigation Policy is as follows: B

“1. The National Litigation Policy is based on the recognition that Government and its various agencies are the pre-dominant litigants in courts and Tribunals in the country. Its aim is to transform Government into an Efficient and Responsible litigant. This policy is also based on the recognition that it is the responsibility of the Government to protect the rights of citizens, to respect fundamental rights and those in charge of the conduct of Government litigation should never forget this basic principle. C D

“EFFICIENT LITIGANT” MEANS

- Focusing on the core issues involved in the litigation and addressing them squarely.
- Managing and conducting litigation in a cohesive, coordinated and time-bound manner. E
- Ensuring that good cases are won and bad cases are not needlessly persevered with.
- A litigant who is represented by competent and sensitive legal persons: competent in their skills and sensitive to the facts that Government is not an ordinary litigant and that a litigation does not have to be won at any cost. F

“RESPONSIBLE LITIGANT” MEANS

- That litigation will not be resorted to for the sake of litigating. G
- That false pleas and technical points will not be taken and shall be discouraged.
- Ensuring that the correct facts and all relevant documents will be placed before the court. H

- A ■ That nothing will be suppressed from the court and there will be no attempt to mislead any court or Tribunal.
2. Government must cease to be a compulsive litigant. The philosophy that matters should be left to the courts for ultimate decision has to be discarded. The easy approach, “Let the court decide,” must be eschewed and condemned.
- B
3. The purpose underlying this policy is also to reduce Government litigation in courts so that valuable court time would be spent in resolving other pending cases so as to achieve the Goal in the National Legal Mission to reduce average pendency time from 15 years to 3 years. Litigators on behalf of Government have to keep in mind the principles incorporated in the National mission for judicial reforms which includes identifying bottlenecks which the Government and its agencies may be concerned with and also removing unnecessary Government cases. Prioritisation in litigation has to be achieved with particular emphasis on welfare legislation, social reform, weaker sections and senior citizens and other categories requiring assistance must be given utmost priority.” [Emphasis supplied by us].
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10. None of the pious platitudes in the National Litigation Policy have been followed indicating not only the Union of India’s lack of concern for the justice delivery system but scant regard for its own National Litigation Policy.
- D
11. The website of the Department of Justice shows that the National Litigation Policy, 2010 is being reviewed and formulation of the National Litigation Policy, 2015 is under consideration. When this will be finalized is anybody’s guess. There is also an Action Plan to Reduce Government Litigation which was formulated on 13<sup>th</sup> June, 2017.
- E
12. Nothing has been finalised by the Union of India for the last almost about 8 years and under the garb of ease of doing business, the judiciary is being asked to reform. The boot is really on the other leg.
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13. Interestingly, the Action Plan mentions, among others, two interesting steps to reduce pendency:
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- (i) Avoid unnecessary filing of appeals – appeals should not be filed in routine matters – only in cases where there is a substantial policy matter.
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(ii) Vexatious litigation should be immediately withdrawn. A

14. These pendency reduction steps (particularly (ii) above) have been conveniently overlooked as far as this appeal is concerned.

15. To make matters worse, in this appeal, the Union of India has engaged 10 lawyers, including an Additional Solicitor General and a Senior Advocate! This is as per the appearance slip submitted to the Registry of this Court. In other words, the Union of India has created a huge financial liability by engaging so many lawyers for an appeal whose fate can be easily imagined on the basis of existing orders of dismissal in similar cases. Yet the Union of India is increasing its liability and asking the taxpayers to bear an avoidable financial burden for the misadventure. Is any thought being given to this? B C

16. The real question is: When will the Rip Van Winkleism stop and Union of India wake up to its duties and responsibilities to the justice delivery system?

17. To say the least, this is an extremely unfortunate situation of unnecessary and avoidable burdening of this Court through frivolous litigation which calls for yet another reminder through the imposition of costs on the Union of India while dismissing this appeal. We hope that someday some sense, if not better sense, will prevail on the Union of India with regard to the formulation of a realistic and meaningful National Litigation Policy and what it calls 'ease of doing business', which can, if faithfully implemented benefit litigants across the country. D E

18. The appeal is dismissed with costs of Rs. 1,00,000/- as before to be deposited with the Supreme Court Legal Services Committee within four weeks from today for utilization for juvenile justice issues. Pending I.As. are also disposed of. F

19. List for compliance after five weeks.