

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(PIL) No.4300 of 2024

Court on its own motion
Versus

Registrar General, High Court of Jharkhand & Others

CORAM : HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Respondents : Mr. Rupesh Singh, Advocate
: Mr. Rajendra Krishna, Advocate
: Mrs. Ritu Kumar, Advocate

C.A.V. on 6th August, 2024 **Pronounced on 23/09/2024**

1. The present case has been registered by this Court on its own motion on the basis of the report of the learned Registrar General, with respect to passing of an order by a Division Bench of this Court dated 30.07.2024 in Filing No.:- Cr.Appeal (D.B.) No.17440 of 2024, whereby the operational system of filing brought in effect by way of Standing Order No.9 of 2024, dated 09.07.2024, issued by the order of the then Hon'ble the Chief Justice, has been directed to be stayed.

2. Faced with such a situation, and after going through the order passed by the learned Division Bench, a Full Bench was constituted in order to deal with the prevalent situation.

3. The learned Division Bench has passed the following order :-

“This matter has been listed today, with a filing number. The matter is yet to be registered.

2. The matter is still defective. Office has also raised an objection on maintainability.

3. Learned counsel for the appellant submits that he was unaware that the matter would be listed today. He submits that he did not even know about the progress of the matter as it was difficult for him to track the matter since the same was not even registered and without being registered this matter has been listed.

4. On query, learned counsel for the appellant and large number of members of Bar submitted that a Standing Order being Standing Order No.9 of 2024 dated 09.07.2024 has been issued under the signature of the Registrar General of this Court and on that basis this matter has been listed without being registered. Members of the Bar in one voice stated that because of the said Standing Order, they are facing severe difficulty. They submitted that even power has been given to the learned Registrar General to dismiss a matter if the defects are not removed. Further to remove the defects, interlocutory application has to be filed and if the matter is dismissed, the same cannot be restored and a fresh application again has to be filed. Filing and listing of case is governed by the High Court of Jharkhand Rules and in effect Standing Order No.9 of 2024 dated 09.07.2024 has superseded the High Court of Jharkhand Rules without any amendment to that effect. Learned counsel also submits that the Standing Order has in fact over ridden the provisions and procedure laid down by the High Court of Jharkhand Rules so far as filing and registration of a case is concerned without amending the said Rules. They further submit that as per Rule 69 of the High Court of Jharkhand Rules, 'Designated Officer' does not have a power to dismiss a case. It is contended that Rule 70 of the High Court of

Jharkhand Rules is also not applicable in this context nor does the Rule 307 of the High Court of Jharkhand Rules. Further, they submit that law of limitation will also get affected by virtue of this Standing Order. They produced a copy of the Standing Order. The same is kept on record.

5. We have perused the Standing Order. In fact, this Standing Order amends the High Court of Jharkhand Rules. The very first line of the aforesaid Standing Order states that notwithstanding any provision contained in the High Court of Jharkhand Rules and previous Office Orders, this order is being issued. This suggests that the High Court of Jharkhand Rules which is a subordinate legislation, has been by-passed by this Standing Order No.9 of 2024 dated 09.07.2024, which is an executive instruction.

6. The High Court of Jharkhand Rules is a piece of subordinate legislation, which cannot be by-passed by any executive order. There is a procedure to amend these rules.

7. Considering this, to seek clarity in the matter, we requested the learned Registrar General to appear before us.

8. The learned Registrar General is present in the Court and submits that the Rules have not been amended and this Standing Order has been issued and is given effect to. He also stated that there is a proposal to amend the Rules and the proposal has been sent to the appropriate Committee for amending the High Court of Jharkhand Rules in terms of the Standing Order No.9 of 2024 dated 09.07.2024.

9. The submission of the learned Registrar General is suggestive of the fact that the High Court of Jharkhand Rules has not yet been

amended and this Standing Order has been given effect which in fact has the effect of amending the Rules. Cart has been thus put before the horse.

10. The High Court of Jharkhand Rules cannot be amended without the concurrence of the Full Court and admittedly, there is no concurrence of the Full Court.

11. Further, we are of the opinion that without getting the case first registered, we cannot decide the issue of maintainability either way. The instant matter needs to be registered as a case at the first instance, ahead of being placed before the Bench, for adjudication of any issues on merits, including maintainability.

12. Thus, we direct the Registry to immediately get this matter registered and be numbered as a pending case under appropriate nomenclature. Further, the Standing Order No.9 of 2024 dated 09.07.2024 be placed before the Full Court in the Administrative Side immediately. Till the Full Court takes an appropriate decision, the Standing Order No.9 of 2024 dated 09.07.2024 will not be given effect to.

13. Let a copy of this order be placed before the Registrar General for needful.

14. Till the High Court of Jharkhand Rules is amended the cases will be listed as per the existing provisions of the High Court of Jharkhand Rules.”

4. The context in which the learned Division Bench has passed order, dated 30.07.2024, is that the Standing Order No.9 of 2024, is in derogation of the Jharkhand High Court Rules.

5. The Full Bench has been constituted to test the veracity of the issue and further to see if it is the look out of a Division Bench, of being critical of the administrative decision of the Chief Justice, particularly in reference to system of filing and listing of the cases and, further, going to the extent of staying the order of the Chief Justice.

6. We, after going through the said order of the learned Division Bench, have found that the reason as perceived by it for recording a finding that the aforesaid Standing Order is contrary to the Jharkhand High Court Rules, is that the Standing Order being an executive instruction, cannot override the Jharkhand High Court Rules, which intern is a piece of subordinate legislation.

7. It has further been observed by the learned Division Bench that serious difficulty is being faced by the learned members of the Bar, which has been raised in the Court in one voice. The learned Division Bench, upon this, decided to test the validity and propriety of the Standing Order, dated 09.07.2024.

8. The specific observation has been made that Standing Order is in the teeth of the subordinate legislation and further that the Standing Order was not placed before the Full Court for its concurrence, and this led the learned Division Bench to pass an order not to give effect to the Standing Order, dated 09.07.2024.

9. Further, the learned Division Bench has observed that till the Jharkhand High Court Rules is amended, the cases will be listed as per the pre-existing provisions of the Jharkhand High Court Rules.

10. This Court, had posted the matter on 01.08.2024, for have a hearing on the issue at hand.

11. This Court invited the learned members of the Bar, including the senior members of the Bar to assist this Court with respect to the aforesaid issue. The copies of the paper book including the order, dated 30.07.2024, the Standing Order dated 09.07.2024 and the relevant rules were supplied to the learned President, Advocates' Association, Jharkhand High Court and the Chairman, State Bar Council, Jharkhand.

12. One of the learned senior members of the Bar, Mr. M.S. Mittal, has submitted that the filing system, as per the present standing order, is going on smoothly and without hassle, but needs to be further streamlined.

13. The learned President, Advocates' Association, had placed a representation addressed to the learned Registrar General, High Court of Jharkhand, dated 15.07.2024, for reviewing the Standing Order No.9 of 2024, dated 09.07.2024, on some points, particularly, the conditions at Clause Nos. 8 and 9. However, it was submitted orally by the learned President of the Advocates' Association that the said

issue was also mentioned before Hon'ble the then Chief Justice and assurance was given by him, and in that view of the matter, except for Clause Nos. 8 and 9, there is no objection. Further she admitted that a new system has been started and streamlining may take some time.

14. It was further submitted that the difficulties which are being faced by the learned members of the Bar, as has been pointed out by the learned Division Bench, in the order dated 30.07.2024, to that extent and to the best of her knowledge, no such submission was made in course of the proceeding before the concerned learned Division Bench.

15. It was further submitted that whatever she has orally submitted, the same will be brought on record by way of an affidavit.

16. The Chairman, Bar Council, who was also present, has submitted that no difficulty is being faced in filing and listing. He also submitted that he will also file an affidavit in this regard.

17. This Court, on the legal validity of the Standing order, put on doubt by the learned Division Bench, has taken note of the provisions of Rule 69, 70, 78, 79, 306 and 307, in order to consider the issue which led the learned Division Bench in passing the aforesaid order. The question to be tested here is, as to whether the Standing Order dated 09.07.2024, is in derogation of the Rules, and will have no

effect unless the same will be concurred by the Full Court. This Court found it expedient to formulate five issues, in order to answer the above question.

18. The learned Registrar General has been impleaded as party. He was directed to file affidavit, in order to show the occasion for issuance of the Standing Order No.9 of 2024, dated 09.07.2024.

19. The State Bar Council through its Chairman and the Advocates' Association through its President have also been impleaded as party with a direction upon them to file their respective affidavits.

20. This Court, by taking note of the principles, which are to be considered, while granting ad interim stay, i.e., prima facie case, the irreparable loss and balance of convenience, as also relying upon the judgment rendered by Hon'ble Apex Court in the case of ***Dalpat Kumar and Another vs. Prahlad Singh and Others***, reported in ***AIR 1993 SC 276*** and ***M. Gurudas & Ors. Vrs. Rasaranjan & Ors.***, reported in ***AIR 2006 Supreme Court 3275***, and further on testing the order of the learned Division Bench, when we were satisfied that if an immediate recourse is not taken, it will result in irreparable loss and injury as the entire filing system will get altered creating a mess and chaos in the Registry and of filing system, an order of stay was passed, on the earlier date.

21. This Court has further made an observation by giving a finding that the element of balance of convenience is also met in staying the order passed by the learned Division Bench as the damage caused would not be in a position to be restored, if such order and directions are allowed to be given effect to.

22. This Court, therefore, being satisfied on the three tests, came to the conclusion that the order passed by the learned Division Bench merits stay of its operation during the pendency of the matter and accordingly, *ad interim* stay of the order dated 30.07.2024 was granted by fixing the matter for further hearing, on 06.08.2024.

23. The case was listed on 06.08.2024.

24. In pursuance of the order dated 01.08.2024, the affidavits have been filed on behalf of learned Registrar General, learned President of the Advocates' Association and the learned Chairman of the State Bar Council.

25. The learned Registrar General has filed an affidavit stating the reason for coming out with the Standing Order No.9 of 2024, dated 09.07.2024.

26. It has been stated in the affidavit that prior to the issuance of the Standing Order No.9 of 2024, even the defective petitions were requisite to be accepted by the Registry, allotting institution registration number, leading to rise in the number of pending defective cases.

27. It has been stated that the said defective petitions were shown in the Case Information System (CIS), as pending cases, without any caveat of removal of the defects.

28. It has also been stated that the Chief Justice of this Court has the authority to make Rules, as under Rule 70 of the Jharkhand High Court Rules, with respect to filing and listing, as provided under Chapter-VIII.

29. The learned President, Advocates' Association has submitted that the Standing Order No.9 of 2024 dated 09.07.2024 is not in derogation of the Jharkhand High Court Rules, rather, the same is to fortify the available existing rule of filing and listing, as under Chapter-VIII.

30. The learned Chairman, State Bar Council, has also submitted that the Standing Order cannot be said to be in derogation, rather, it is in order to fortify the existing rules, so as to streamline the system of filing and listing.

31. It has been contended, by referring to the provision of Rule 69 and 78 of the Jharkhand High Court Rules, that if the case will be defect free, as per stipulation made under Rule 69 of the Jharkhand High Court Rules, then only such case is to be listed in view of the provision of Rule 78 of the aforesaid Rule.

32. This Court has heard Mr. Rupesh Singh, learned counsel appearing for the High Court, who has submitted that it is incorrect to say that the Standing Order No.9 of

2024 is in derogation to the provision, as contained under Chapter-VIII, which relates to the filing and listing, rather, in order to streamline the filing and the listing system, the Standing Order has been issued.

33. We have heard learned counsel for the parties.

34. The following issues are required to be answered, as has been taken note in the order dated 01.08.2024 :-

- (i) Whether the stipulation made in the Standing Order No.9 of 2024, dated 09.07.2024, can be considered to be in supersession to the Jharkhand High Court Rules, particularly in view of the provisions, as contained under Rule 69 and 78 thereof?
- (ii) Whether the stipulation so made in the Standing Order is in consonance with the provision of Rule 69 and 70 and is there any requirement to send it before the Full Court for concurrence?
- (iii) Whether the reference which has been made by the learned Division Bench for placing the Standing Order, before the Full Court for its concurrence is required?
- (iv) Whether contrary to the condition put under Rule 15(1), where the matters to be considered by the Full Court have been provided, can the procedure

of filing and listing be sent before the Full Court for its concurrence?

- (v) Whether it would be considered to be in conformity with the principle of judicial discipline for a Single or Division Bench of the High Court to interfere with the decision taken by the Chief Justice on the administrative side, particularly, concerning administration of filing and daily listing of the cases, even on judicial side?

35. Before answering the above issues, the reference of the statutory provisions of the Jharkhand High Court Rules are required to be made, based upon which the Standing Order, dated 09.07.2024, has been issued. The relevant provisions are Rule 69, 70, 78, 79, 306 and 307 which are being referred as under :-

“69. Except interlocutory Applications (IA), applications, petitions and memos of appeal shall be filed only after stamp report and after the defect, if any, pointed out by the stamp reporter have been removed, unless the Designated Officer be of the opinion that the stamp report regarding the defects is not correct or that the defects can be ignored or that they are not curable:

Provided that the Registrar General, authorised in that behalf, may permit any application, petition or memo of appeal to be filed on the last day of limitation without stamp report.

70. On receipt of the document, the officer Incharge of the filing counter shall endorse on the document the date of receipt and enter the

particulars of the said document in the register of daily filing and cause it to be sent to the department concerned for examination. If, on scrutiny the document is found in order, it shall be duly registered and given a serial number of registration. It shall also be entered in the Computer as a Data. The Chief Justice may issue instructions from time to time, with regard to the procedure for filing, especially having regard to computerization requirements and once issued, those instructions shall be applicable and enforceable as being part of this Chapter.

78. All defect free applications, petitions, memos of appeal etc. including such applications, petitions, memos of appeals in which the defects have been ignored or are considered to be not curable, shall be numbered under the respective heads of cases.

79. Defect free applications, petitions, memos of appeal, affidavits etc., shall immediately be sent to the concerned Section for being listed before the Bench.

306. No case which falls in the category of Lawazima matter shall be listed in the Court unless it has been dealt with by the Lawazima Boards, as prescribed in this Order.

Explanation.—All matters relating to service of the parties, furnishing particulars or better particulars for the purposes of service, filing requisites, filing applications for condonation of delay in time-barred cases, filing additional copies of pleadings or documents, making up of deficiency in Court fees, or judicial stamps etc. shall be included in the Lawazima Board. Other matters may later on be also included in the Lawazima Board.

307. The Chief Justice may amend the aforesaid explanation, by way of variation, modification or addition to the subjects/items included therein and may also, from time to time, issue administrative instructions for implementation of and carrying into effect the provisions of this Chapter. Such administrative instructions, as and when issued, shall be deemed to be part of this Chapter.”

36. It is evident from perusal of the provision as contained in Rule 70 under Chapter-VIII, which deals with the issue of filing and listing, that the Chief Justice has been conferred with the absolute power to make rules in order to regulate the system of filing and listing of the cases and, if such instruction will be issued, the same will be said to be part of Chapter-VIII.

37. The issue of filing has been stipulated under Rule 69 of the Jharkhand High Court Rules which stipulates that except interlocutory Applications (IA) – other applications, petitions and memos of appeal shall be filed only after stamp report and after the defect, if any, pointed out by the stamp reporter have been removed, unless the Designated Officer be of the opinion that the stamp report regarding the defects is not correct or that the defects can be ignored or that they are not curable.

38. The issue of listing has been dealt with under the provision of Rule 78. The moment the case is filed, the same will be accepted by issuance of token number or the diary

number and if the case is defect free, the same is to be listed in view of the provision of Rule 78. However, in case the petition is not defect free, the stamp report is required and after removal of the defect, such cases will be listed in view of the provision of Rule 78 of the Jharkhand High Court Rules.

39. If the provision of Rule 69 will be taken into consideration, the filing of the case will be accepted, only if the same is defect free. But in case, the case has been filed defective and if the same has been pointed out by the Stamp Reporter, then after removal of the defects, the filing is to be accepted.

40. It is, thus, evident that the issue of listing of the cases is very explicit and the defect free cases are only to be listed for regular hearing of the matter.

41. However, with respect to the defective cases, the provision has been made under Chapter XXVII of the Jharkhand High Court Rules and the detailed procedure has been given therein.

42. But, here we are dealing with the issue of the authority of the Chief Justice of this Court in the light of the fact that the learned Division Bench has considered the Standing Order to be in derogation of the Jharkhand High Court Rules and in such circumstances, the observation has been made in the aforesaid order, dated 30.07.2024, that the Standing Order needs to be concurred by the Full Court, and then only

the same will be said to have become part of the Jharkhand High Court Rules.

43. Therefore, it is required to point out the issues which are to be referred before the Full Court by the Chief Justice, before taking a decision on the administrative side. The list of the matters has been given in Rule 15(1) of the Jharkhand High Court Rules. For ready reference, the said list in entirety as under Rule 15(1) is being referred as under :-

“15. (1) On the following matters decision shall be taken by the Judges at a meeting of the Full Court :-

- (i) All appointments which by law are to be made by the High Court and which are not otherwise expressly provided for by the rules in this Chapter;
- (ii) All recommendations for the dismissal from office of Judicial Officers;
- (iii) Proposals for designating Advocates as Senior Advocates under Section 16(2) of the Advocates Act, 1961;
- (iv) Matters relating to the service conditions, facilities and amenities of the Judges of the Court;
- (v) Constitution of Rule Committee under Section 123 of the Code and nominating Members of the Rule Committee;
- (vi) Consideration of matters relating to the Chief Justices' Conference;
- (vii) High Court Calendar.”

44. It is evident from the aforesaid list that the matter as provided under Chapter VIII of the Jharkhand High Court Rules is not required to be referred before the Full Court for concurrence of any decision with respect to filing and listing.

The same is due to the reason that if the issue of listing and filing will require concurrence by the Full Court, then the very power conferred to the Chief Justice under Rule 70 or Rule 306/307 of the Jharkhand High Court Rules, will be abrogated.

45. The question now is that when the Rule is already there, then why the Standing Order No.9 of 2024 has been issued.

46. This Court, for the aforesaid purpose, needs to refer herein the affidavit filed on behalf of the learned Registrar General of this Court. The affidavit contains the statement showing the reason for issuance of Standing Order by the then Hon'ble the Chief Justice. The reason is that the defective files were being accepted and the cases were being allowed to remain defective for years together. The reference of the statement made by the learned Registrar General in the affidavit needs to be referred herein which are quoted as under :-

4. a. During the visit of the then Hon'ble Chief Justice to different offices of this Hon'ble Court on 05.07.2024, a direction has been given pertaining to changes in Filing Procedure, Stamp Reporting, Defect Removal, Registration of Cases and allied procedure in order to curb the pendency of those cases which are not filed/made defect-free by the litigants/Learned Lawyer.

b. Prior to issuance of the aforesaid Standing Order dated 09.07.2024, the filing procedure was operational as per the High Court of Jharkhand

Rule, 2001 and various Office Orders issued time to time by this Hon'ble Court.

c. It is pertinent to submit that earlier a defective case used to get an opportunity at Three Stages to make the case defect free to be listed before Hon'ble Bench as per roster i.e. First Stage, if the case is defective, it is sent to defect removal centre where 7 days time is to be given to Learned Lawyer to make it defect free, Second Stage, if defects are not removed, it is listed before the Lawazima Board of Joint Registrar (Judicial) by the concerned pending Judicial Sections and at Third Stage, it is listed before the Lawazima Board of Registrar General and Finally, even if, still it remains defective, it is listed before the Hon'ble Benches as per roster under the heading "Orders with defects".

d. The predicament of the above situation was that even if the case is defective, it comes within the category of "pendency" and since many cases remain defective even after giving three opportunities, the cases are listed before the Hon'ble Benches under the heading "Orders with defect" wherein directions are issued for removal of defects which is sheer a wastage of valuable time of the Hon'ble Court.

e. Prior to existence of aforesaid Standing Order dated 09.07.2024 different practices were in vogue for different nature of cases pertaining to Filing of Cases, Allotment of Registration Number, Stamp Reporting, Defect Removal etc. and no uniform Rule or practice were adopted in this Hon'ble Court.

f. The aforesaid practice was going on even though the provision in the Jharkhand High Court Rules was to list only defect free cases as provided under rule 78. The Rule 69 provides for filing to be accepted if no defect but if the Stamp Reporter has pointed out any defect, the filing is to be accepted after removal of defect. It needs to refer herein that no new insertion is there by the Standing Order rather the same is only for the purpose of effective

implementation of Rule. The question of sending any Rule to the Full Court so far as it relates to Chapter-VIII of the Jharkhand High Court Rules, it is not required in view of the provision as contained under Rule 70 of Jharkhand High Court Rules.

Even the condition as contained in Para-7 & 8 of the Standing Order will also said to be under the authority of the Chief Justice in view of the provision as contained in Rule 70 since the same provides that any instruction issued by the Chief Justice will be said to be the part of Chapter-VIII.

g. Recently on 17.05.2024, it is experienced that many cases were listed before Hon'ble Court No. 11 under the heading "Orders with defects" and on 24.06.2024, a notice was published in the Daily Cause List in this regard which is being quoted herein below for ready reference:-

"This is for information of Learned Members of the Bar that sufficient number of Fresh filing matter is not ready for listing. Therefore the Learned Member of the Bar are requested to remove the defects so that the matters may be listed in the Court at the earliest."

The aforesaid notice was published on account of the fact that sufficient number of Fresh Filing cases were not available to be listed before Hon'ble Benches due to large number of defective cases awaited to be made defect free by the Learned Advocates.

5. That it is submitted that by giving effect to this Standing Order all the practices were brought under ambit of this Order in order to streamline and to bring conformity among each and every nature of cases filed in this Hon'ble Court by way of stipulating timeline at every stage.

6. That it is further submitted that the matter which is to be referred to the Full Court has already been stipulated in Rule 15(1) of the Jharkhand High Court Rule and from its perusal the subject matter

of Chapter-VIII of the Rule is not covered under Rule-15 of the Jharkhand High Court Rules.”

47. It is, thus, evident that even though the rule was there but it was not given effect to in strict sense, since the defective cases are not to be listed in view of the provision of Rule 78 of the Jharkhand High Court Rules, however, subject to exception that if the cases are defective then the matter will go before the learned Lawazima Board for the purpose of removal of defects.

48. The Standing Order, therefore, has been issued with respect to filing and listing which is to be done strictly in accordance with the provision as contained under Rule 78 of the Jharkhand High Court Rules so that the pendency of the defective cases may not overburden the docket of the High Court.

49. The issue has been raised, as would appear from the order passed by the learned Division Bench, that before issuance of the Standing Order, the Chief Justice ought to have taken concurrence of the Full Court, but as we have already referred hereinabove, that the power of the Chief Justice of this court in view of the provision of Rule 78 of the Jharkhand High Court Rules so far as it relates to filing and listing are concerned, is absolute and if on consideration, a Standing Order has been issued, the same, according to our considered view, cannot be said to suffer from principle of inconsistency.

50. As per the constitutional mandate the Chief Justice holds the apex post and is a Constitutional authority and is charged with the administration of the judiciary in the entire State. Apart from being the apex authority in the pyramid of judicial administration, the Chief Justice is the ‘paterfamilias’ of the Judges of the High Court.

51. In order to appreciate and understand the status, powers and authority of the Chief Justice, as also his constitutional position qua other Judges of the High Court, as has been dealt with by the Hon’ble Apex Court in several decisions, few of them are being referred herein.

52. The Hon’ble Apex Court in case of (1) ***State of Rajasthan v. Prakash Chand* [(1998) 1 SCC 1]**, (2) ***High Court of Judicature for Rajasthan v. Ramesh Chand Paliwal* [(1998) 3 SCC 72]** and (3) ***Campaign for Judicial Accountability and Reforms v. Union of India* [(2018) 1 SCC 196]** has categorically held that Chief Justice is the administrative head of the High Court.

53. The same view has been reiterated by the Hon’ble Apex Court in the case ***Asok Pande v. Supreme Court of India* [(2018) 5 SCC 341]** and ***Shanti Bhushan v. Supreme Court of India* [(2018) 8 SCC 396]**.

54. In the case of ***State of Rajasthan v. Prakash Chand* [(1998) 1 SCC 1]** the Hon’ble Apex Court has held that administrative control of the High Court vests in the

Chief Justice alone. For ready reference the relevant paragraphs of the aforesaid judgments are being quoted as under:-

“59. From the preceding discussion the following broad **CONCLUSIONS** emerge. This, of course, is not to be treated as a summary of our judgment and the conclusion should be read with the text of the judgment:

(1) **That the administrative control of the High Court vests in the Chief Justice alone. On the judicial side, however, he is only the first amongst the equals.**

(2) -----”

55. In the case of *High Court of Judicature for Rajasthan vs. Ramesh Chand Paliwal [(1998) 3 SCC 72]*, the Hon’ble Apex Court was considering the correctness of a direction given under Article 226, by a division bench of the High Court to the Registrar to prepare a report regarding the practicability of certain posts being manned by the officers from the establishment of the High Court instead of by Higher Judicial Officers, and place it before the Full Court, through the Chief Justice for taking a decision, on whether Judicial Officers could be relieved of such administrative posts in the High Court.

56. The Hon’ble Apex Court after going through the Rajasthan High Court (Conditions of Service of Staff) Rules, 1953, made by the Chief Justice in exercise of power conferred by Article 229 has observed that the rules could be altered, amended or rescinded only by the Chief Justice, who

alone has the rule making power and the Hon'ble Apex Court further held that the real purport of the directions issued by the division bench to the registrar on the judicial side was to override not only the constitutional provisions, contained in Article 229, but also the rules made in exercise of powers available to the Chief Justice, under that article, and even if the Registrar, in compliance of the impugned directions, if placed such report before the Full Court, the Full Court cannot give a direction to the Chief Justice not to fill up those posts, by bringing officers on deputation, rather to fill up those posts by promotion from amongst the High Court staff. The Chief Justice has been vested with wide powers to run the High Court administration independently, so as not to brook any interference from any quarter, not even from his brother Judges. For ready reference the relevant paragraph of the aforesaid of the Judgment is being quoted as under:-

“30. If the impugned directions are analysed in this background, it will be seen that the real purport of the directions is to override not only the constitutional provisions contained in Article 229 but also the rules made in exercise of powers available to the Chief Justice under that article. Even if the Registrar, in compliance of the impugned directions, is to report that the posts on which officers of the Rajasthan Higher Judicial Service or Rajasthan Judicial Service are appointed on deputation, can well be manned by the High Court staff itself or that when the officers are brought from the district courts to the High Court for appointment on the aforesaid posts, some of the subordinate

courts become vacant as the Presiding Officers having been sent on deputation to High Court are not available to hear and dispose of cases pending in those courts and even if such report is placed before the Full Court, can the Full Court give a direction to the Chief Justice not to fill up those posts by bringing officers on deputation but to fill up those posts by promotion from amongst the High Court staff? The answer is an emphatic “No, it cannot be done”. A Judge of the High Court individually or all the Judges sitting collectively, as in the Full Court, cannot either alter the constitutional provisions or the rules made by the Chief Justice. They have no jurisdiction even to suggest any constitutional amendment or amendment in the rules made by the Chief Justice nor can they create any avenue of promotion for the High Court staff so as to be appointed on posts meant for officers from the Rajasthan Higher Judicial Service or Rajasthan Judicial Service. The Chief Justice has been vested with wide powers to run the High Court administration independently so as not to brook any interference from any quarter, not even from his brother Judges who, however, can scrutinise his administrative action or order on the judicial side like the action of any other authority. It should not be lost sight of that Registrars, under rules of various High Courts, have also to perform some limited judicial functions which cannot be done by an officer other than a judicial officer in the High Court establishment.

38. As pointed out above, under the constitutional scheme, Chief Justice is the supreme authority and the other Judges, so far as officers and servants of the High Court are concerned, have no role to play on the administrative side. Some Judges, undoubtedly, will become Chief Justices in their own turn one day, but it is imperative under the constitutional discipline that they work in

tranquillity. Judges have been described as “hermits”. They have to live and behave like “hermits” who have no desire or aspiration, having shed it through penance. Their mission is to supply light and not heat. This is necessary so that their latent desire to run the High Court administration may not sprout before time, at least, in some cases.”

57. The Hon’ble Apex Court in the case of ***Jasbir Singh vs State of Punjab (2006) 8 SCC 294*** has observed that it is not within the competence of any Single or Division Bench of the High Court, to give any direction to the Registry, in that behalf, which will run contrary to the directions of the Chief Justice. For ready reference the relevant paragraph of the aforesaid Judgment is being quoted as under:-

“**19.** Therefore, even if any application for bail is received by the Inspecting Judge, the proper course is to send the application to the court concerned to pass appropriate orders. When the Inspecting Judge visits the jail, it is quite likely that so many inmates of the jail may file petitions before the Judge concerned. It is the duty of the Judge to see whether there is any merit in any of these petitions. If any application for bail is received, he can very well send it to the court concerned without making any comments on the merits of the case. On the contrary, if the learned Inspecting Judge passes any order in such matter, he would only be usurping the powers of the courts authorised to pass such orders. It may also be remembered that normally a High Court Judge passes orders on matters assigned by the Chief Justice and this Court in *State of Rajasthan v. Prakash Chand* [(1998) 1 SCC 1 : AIR 1998 SC 1344] deprecated the practice of the Single Judge directing the listing of certain part-heard cases before him without there being any orders of

the Hon'ble the Chief Justice of the High Court. It is the prerogative of the Chief Justice to assign business of the High Court both on judicial and administrative sides. The Chief Justice alone has the power to decide as to how the Benches of the High Court are to be constituted. That necessarily means that it is not within the competence of any Single or Division Bench of the High Court to give any direction to the Registry in that behalf which will run contrary to the directions of the Chief Justice. Therefore, in the scheme of things, judicial discipline demands that in the event a Single Judge or a Division Bench considers that a particular case requires to be listed before it for valid reasons, it should direct the Registry to obtain appropriate orders from the Chief Justice.”

58. Further, in the case of ***High Court of Karnataka v. Commr. of Customs, (2010) 15 SCC 264*** Hon'ble Apex Court has observed that function of Chief Justice on the administrative side is his exclusive prerogative. For ready reference the relevant paragraph is being quoted as under:-

“4. It may be pertinent to mention that, presently, the Hon'ble Chief Justice of the High Court is not taking up judicial matters but continues to function as Chief Justice for all purposes on administrative side including fixing rosters, etc., which, according to us, is exclusively his prerogative.”

59. Further, in the case of ***Campaign for Judicial Accountability and Reforms v. Union of India, (2018) 1 SCC 196***, the Hon'ble Apex Court has reiterated the same by observing as under:-

“6. There can be no doubt that the Chief Justice of India is the first amongst the equals, but definitely, he exercises certain administrative powers and that is

why in Prakash Chand [State of Rajasthan v. Prakash Chand, (1998) 1 SCC 1] , it has been clearly stated that the administrative control of the High Court vests in the Chief Justice alone. The same principle must apply proprio vigore as regards the power of the Chief Justice of India. On the judicial side, he is only the first amongst the equals. But, as far as the Roster is concerned, as has been stated by the three-Judge Bench in Prakash Chand [State of Rajasthan v. Prakash Chand, (1998) 1 SCC 1] , the Chief Justice is the Master of the Roster and he alone has the prerogative to constitute the Benches of the Court and allocate cases to the Benches so constituted.

10. The rules have been framed in that regard. True, the rules deal with reference, but the law laid down in Prakash Chand [State of Rajasthan v. Prakash Chand, (1998) 1 SCC 1] has to apply to the Supreme Court so that there will be smooth functioning of the Court and there is no chaos in the administration of justice dispensation system. If any such order has been passed by any Bench, that cannot hold the field as that will be running counter to the order passed by the Constitution Bench. Needless to say, no Judge can take up the matter on his own, unless allocated by the Chief Justice of India, as he is the Master of the Roster.”

60. The Hon’ble Apex Court while referring to the judgment rendered in the case of ***Campaign for Judicial Accountability and Reforms v. Union of India*** (supra), has observed in the case of ***Asok Pande v. Supreme Court of India, (2018) 5 SCC 341*** that an institution has to function within certain parameters and that is why there are

precedents, rules and conventions. The relevant paragraphs of the aforesaid Judgment are being quoted as under:-

“10. Recently, a Constitution Bench of this Court in Campaign for Judicial Accountability and Reforms v. Union of India [Campaign for Judicial Accountability and Reforms v. Union of India, (2018) 1 SCC 196 : (2018) 1 SCC (Cri) 327] held that the principle which was noticed and recognised in the decision of this Court in Prakash Chand [State of Rajasthan v. Prakash Chand, (1998) 1 SCC 1] in relation to the jurisdiction and authority of the Chief Justice of the High Court “must apply proprio vigore as regards the power of the Chief Justice of India”. The position of the Chief Justice was reiterated with the following observations : (SCC pp. 199-200, paras 7 & 8)

“7. The aforesaid position though stated as regards the High Court, we are absolutely certain that the said principle is applicable to the Supreme Court. We are disposed to think so. Unless such a position is clearly stated, there will be utter confusion. Be it noted, this has been also the convention of this Court, and the convention has been so because of the law. We have to make it clear without any kind of hesitation that the convention is followed because of the principles of law and because of judicial discipline and decorum. Once the Chief Justice is stated to be the Master of the Roster, he alone has the prerogative to constitute Benches. Needless to say, neither a two-Judge Bench nor a three-Judge Bench can allocate the matter to themselves or direct the composition for constitution of a Bench. To elaborate, there cannot be any direction to the Chief Justice of India as to who shall be sitting on the Bench or who shall take up the matter as that touches the composition of the Bench. We reiterate such an order cannot be passed. It is not countenanced in law and is not permissible.

8. An institution has to function within certain parameters and that is why there are precedents, rules and conventions. As far as the composition of Benches is concerned, we accept the principles stated in Prakash Chand [State of Rajasthan v. Prakash Chand, (1998) 1 SCC 1] , which were stated in the context of the High Court, and clearly state that the same shall squarely apply to the Supreme Court and there cannot be any kind of command or order directing the Chief Justice of India to constitute a particular Bench.”

15. Underlying the submission that the constitution of Benches and the allocation of cases by the Chief Justice must be regulated by a procedure cast in iron is the apprehension that absent such a procedure the power will be exercised arbitrarily. In his capacity as a Judge, the Chief Justice is primus inter pares : the first among equals. In the discharge of his other functions, the Chief Justice of India occupies a position which is sui generis. Article 124(1) postulates that the Supreme Court of India shall consist of a Chief Justice of India and other Judges. Article 146 [**“146. Officers and servants and the expenses of the Supreme Court.—**(1) Appointments of officers and servants of the Supreme Court shall be made by the Chief Justice of India or such other Judge or officer of the Court as he may direct:Provided that the President may by rule require that in such cases as may be specified in the rule, no person not already attached to the Court shall be appointed to any office connected with the Court, save after consultation with the Union Public Service Commission.(2) Subject to the provisions of any law made by Parliament, the conditions of service of officers and servants of the Supreme Court shall be such as may be prescribed by rules made by the Chief Justice of India or by some other Judge or officer of the Court authorised by the Chief Justice of India to make rules for the purpose:Provided that the rules made under this

clause shall, so far as they relate to salaries, allowances leave or pensions, require the approval of the President.(3) The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of India, and any fees or other moneys taken by the Court shall form part of that Fund.”] reaffirms the position of the Chief Justice of India as the head of the institution. From an institutional perspective the Chief Justice is placed at the helm of the Supreme Court. In the allocation of cases and the constitution of Benches the Chief Justice has an exclusive prerogative. As a repository of constitutional trust, the Chief Justice is an institution in himself. The authority which is conferred upon the Chief Justice, it must be remembered, is vested in a high constitutional functionary. The authority is entrusted to the Chief Justice because such an entrustment of functions is necessary for the efficient transaction of the administrative and judicial work of the Court. The ultimate purpose behind the entrustment of authority to the Chief Justice is to ensure that the Supreme Court is able to fulfil and discharge the constitutional obligations which govern and provide the rationale for its existence. The entrustment of functions to the Chief Justice as the head of the institution, is with the purpose of securing the position of the Supreme Court as an independent safeguard for the preservation of personal liberty. There cannot be a presumption of mistrust. The oath of office demands nothing less.”

61. It is evident from the aforesaid proposition laid down by Hon’ble Apex Court that the Chief Justice is having absolute power so far as it relates to the internal affairs of the administration of the High Court.

62. The question of interfering with the administrative decision of the Chief Justice of a High Court by a Single or the Division bench of the High Court does not arise even on the judicial side, as has been held by Hon'ble Apex Court in the judgment of ***Jasbir Singh vs State of Punjab*** (Supra).

63. The aforesaid proposition, thus, clarifies the absolute power of the Chief Justice of the High Court, it is for the reason that if the power of the Chief Justice in this regard will not be made to be absolute, the entire administrative function of the High Court will be jeopardized and that will lead to mess and chaos of a system of the Hon'ble Apex Court.

64. Now the issues are being dealt with hereinbelow:-

Since the Issue No.(i), (ii), (iii) and (iv) are co-related, as such, the same are being taken up together.

65. These issues pertain to the stipulation as has been made in the Standing Order No. 9 of 2024, dated 09.07.2024, is it to be considered to be in supersession to the Jharkhand High Court Rules, particularly, in view of the provision as contained under Rule 69 and 78 thereof.

66. We have already dealt with hereinabove the statutory provision as contained under Rules, 69, 70, 78, 79 and 15(1) of the Jharkhand High Court Rules.

67. Rule 69 of the Jharkhand High Court Rules stipulates that except interlocutory Applications (IA) - other

applications, petitions and memos of appeal shall be filed only after stamp report and after the defect, if any, pointed out by the stamp reporter have been removed, unless the Designated Officer be of the opinion that the stamp report regarding the defects is not correct or that the defects can be ignored or that they are not curable.

68. Rule 70 under Chapter-VIII deals with filing and listing. The Chief Justice has been conferred with the absolute power to make rules in order to regulate the system of filing and listing of the cases and if such instruction will be issued, the same will be said to be part of Chapter-VIII.

69. Rule 78 deals with the issue of listing. The moment the case is filed, the same will be accepted by issuance of token number or the diary number and if the case is defect free, the same is to be listed. However, in case the petition is not defect free, the stamp report is required and after removal of the defect, such cases will be listed in view of the provision of Rule 78 of the Jharkhand High Court Rules.

70. This Court, therefore, is of the view that the authority of the Chief Justice has been made absolute in view of the provision as contained under Rule 70, wherein it has been provided that any instruction which will be issued time to time under Chapter VIII, which pertains to filing and listing, will be treated to be part of Chapter VIII.

71. Now another question is that whether the decision taken by the Chief Justice of the High Court in view of the provision of Rule 70 requires concurrence of the Full Court?

72. Rule 15(1) of the Jharkhand High Court Rules has categories of the matters that are to be placed before the Full Court, and the issue of filing and listing, which is under Chapter VIII, has not been referred under Rule 15(1). The same is in consonance with the provisions of Rule 70 of the Jharkhand High Court Rules. Otherwise, the power of the Chief Justice in making rule with respect to filing and listing will be abrogated due to want of concurrence by the Full Court.

73. The question, in such circumstances, would be that the Chief Justice, since is having absolute power on the administrative side, to control the administration of the High Court, through the Registry, and if the Chief Justice is of the view that the system is to be made more streamlined and to achieve that goal, if certain instruction is issued, as per the conferment of power, under Rule 70, however, if the same was to be sent to the Full Court and the Full Court would decide to decline it, then what will happen to the sanctity of power conferred to the Chief Justice, as under Rule 70. That is the reason the list of matters has been earmarked as under Rule 15(1), as to which matter is to be placed before the Full Court for is concurrence, wherein there is no

reference of subject matter, as under Chapter VIII, which pertains to filing and listing of cases.

74. According to the considered view of this Court, the Standing Order has been issued to fortify the Jharkhand High Court Rules as contained under Rule 69 and 78 thereof, which pertain to filing and listing of cases. Also, the Standing Order does not speak anything that is alien to what has been provided in the Rule 69 and 78, wherein also it has been reflected that the filing of the cases will only be accepted, if found to be defect free and in case of any defect having been pointed out by the Stamp Reporter, the filing will be accepted, subject to removal of the defect.

75. Likewise, under the provision of Rule 78 of the Jharkhand High Court Rules, the defect free cases are to be listed. Hence, this Court is of the view that the Standing Order cannot be said to be inconsistent or in derogation of the Jharkhand High Court Rules, rather, it is only for the purpose of fortifying the said Rule so that the basic object and intent of the Rule be achieved.

76. In fact, the provisions relating to process of filing have been clarified by issuing the present Standing Order. No time limit for stamp reporting has been fixed in the Jharkhand High Court Rules and it has been provided in the Standing Order that the stamp reporting will be done on the same day and the remaining files on the next working day. The said

stipulation will thus expedite the listing of cases before the Bench. The provision of SMS alert to learned lawyers or party-in-person for the defective cases will make them aware of the defect so that the same is removed in the defect removal section itself. Further opportunity for removing the defect has been given before the Lawazima Board of Joint Registrar Judicial where the party/his counsel has opportunity to remove defect within two/three weeks. The party has also the liberty to file interlocutory application for ignoring the defects within the stipulated period given by the Lawazima Board of Joint Registrar, Judicial. Thus, while issuing Standing Order No.9 of 2024 dated 09.07.2024 a balance has been maintained between the conveniences of the party/lawyer vis-à-vis the smoothness in listing of cases before the Bench.

77. The provision for filing interlocutory application by the learned counsel/party-in-person as has been stipulated under Clause 7 of the Standing Order is also not in derogation of the provisions of the Jharkhand High Court Rules, rather the same supplements to what has been provided in the said Rules. If the party has any arguable point for getting the defects pointed out during Stamp Reporting ignored, he/she can raise his/her claim by filing an interlocutory application and thereafter the matter is to be

placed before the Bench for considering the claim of the party.

78. The Standing Order further provides that the registration of cases will be done after removal of defects. This provision is also not in conflict with the Jharkhand High Court Rules, rather the same has already been provided in rule 70 itself according to which if on scrutiny the document is found in order, it shall be duly registered and given a serial number of registration.

79. As regards the power given to the Designated Officer under Clause 8 of the Standing Order to reject the case when the defect is not cured or ignored by the Lawazima Board and in the event no interlocutory application is filed, we are of the view that the same is in consonance with Rule - 71 which empowers the Registrar General/Designated Officer to decline to receive the document if the same is filed without satisfying the mandatory requirement of the Jharkhand High Court Rules.

80. So far as Clause 9 of the Standing Order is concerned, the same is in conformity with rule 77 of the Jharkhand High Court Rules, which provides that where the Designated Officer is of the opinion that there is bonafide arguable point pertaining to any defect, he shall refer the matter to the Bench for “Orders” or “Admission”.

81. We are, therefore, of the view that the present Standing Order is not de hors the Rules rather the same supplements the provisions already existing the Rules. Since the standing order has been issued in exercise of the power conferred under rule 70 and 307 of the Jharkhand High Court Rules, 2001 and thereby some provisions of the said Rules have been given clarity whereas some supplementary provisions have been made, which are in consonance with the Rules, it cannot be said that the same is in consistent with the provisions of the Jharkhand High Court Rules.

82. Accordingly, these issues are hereby answered.

83. The Issue No.(v) is as to whether it would be considered to be in conformity with the principle of judicial discipline for a Single or Division Bench of the High Court to interfere with the decision taken by the Chief Justice on the administrative side, particularly, concerning decision on filing and daily listing of the cases, even on judicial side.

84. It is settled position of law that the Judicial discipline and propriety are the two significant facets of administration of justice and every court is obliged to adhere to these principles to ensure hierarchical discipline on the one hand and proper dispensation of justice on the other. Settled canons of law prescribe adherence to the rule of law with due regard to the prescribed procedures. Violation thereof may not always result in invalidation of the judicial action, but

normally it may cast a shadow of improper exercise of judicial discretion. Reference in this regard may be taken from the judgment rendered by the Hon'ble Apex Court in the case of **Kishore Samrite v. State of U.P., (2013) 2 SCC 398**, the relevant paragraph of the aforesaid Judgment is being quoted as under:-

“29. Judicial discipline and propriety are the two significant facets of administration of justice. Every court is obliged to adhere to these principles to ensure hierarchical discipline on the one hand and proper dispensation of justice on the other. Settled canons of law prescribe adherence to the rule of law with due regard to the prescribed procedures. Violation thereof may not always result in invalidation of the judicial action but normally it may cast a shadow of improper exercise of judicial discretion. Where extraordinary jurisdiction, like the writ jurisdiction, is very vast in its scope and magnitude, there it imposes a greater obligation upon the courts to observe due caution while exercising such powers. This is to ensure that the principles of natural justice are not violated and there is no occasion of impertinent exercise of judicial discretion.”

85. The law in this regard is already settled that the administrative decision taken by the Chief Justice of a High Court is not amenable under the provision of judicial review, otherwise the same will hit the principle of judicial discipline.

86. It further needs to refer herein that if the decision taken by the Chief Justice on the administrative side will be amenable to the judicial review, then what will happen to the

decision taken by the Chief Justice on the administrative side, as under Article 229 of the Constitution of India.

87. The law is well settled in this regard that if any decision has been taken by the Chief Justice under Article 229, the same is not amenable under Article 226 of the Constitution of India, under the power of judicial review. Reference in this regard be made to the judgment rendered by Hon'ble Apex Court in the case of ***High Court of Judicature for Rajasthan vs. Ramesh Chand Paliwal*** (Supra) [Para 30 & 38], as quoted hereinabove.

88. Further the Hon'ble Apex Court in the case of ***Renu v. District & Sessions Judge, (2014) 14 SCC 50*** while referring the article 229 has categorically observed that in the internal administration of the High Court, no other power, except the Chief Justice should have domain. For ready reference the relevant paragraph is being quoted as under:-

“22. As a safeguard, the Constitution has also recognised that in the internal administration of the High Court, no other power, except the Chief Justice should have domain. In order to enable a judicial intervention, it would require only a very strong and convincing argument to show that this power has been abused. If an authority has exercised his discretion in good faith and not in violation of any law, such exercise of discretion should not be interfered with by the courts merely on the ground that it could have been exercised differently or even that the courts would have exercised it differently had the matter been

brought before it in the first instance or in that perspective.”

89. The learned Division Bench has referred in the order that the members of the Bar are facing great difficulties.

90. Here, it would be relevant to refer the affidavit filed on behalf of the Advocates' Association. The relevant paragraph of the affidavit which has been filed by the President of the Advocates' Association needs to be referred herein :-

“3. That it is stated and submitted that Advocates' Association has placed a representation addressed to the Ld. Registrar General, High Court of Jharkhand dated 15.07.2024 for re-viewing the standing order no. 09/2024 dated 09/07/2024, particularly, the conditions at clause nos. 7, 8 & 9.

4. That it is stated and submitted that the issues raised in representation dated 15.07.2024 was also mentioned before Hon'ble the then Chief Justice and on the assurance given by Hon'ble the then Chief Justice, even on that count (clause no. 7,8 & 9) there is no objection as of now since the issues has been openly discussed during court proceedings in this Hon'ble Court and Hon'ble Full Bench gave patient hearing to all the issues raised by Advocates' Association, Ld. Senior Members and Ld. Members and assured that things will be streamlined will take some time.”

91. It would appear from paragraph-4 that there is no objection as of now, since the issues have been openly discussed, during court proceeding in the Court.

92. The State Bar Council has also filed an affidavit pursuant to the order dated 01.08.2024. The relevant

paragraphs of the aforesaid affidavit are being quoted hereunder as :-

“4. That the Advocates in general practicing in the Jharkhand High Court has no grievance except some modification which has been already suggested. Therefore, the Standing Order No. 09/2024 is much more for getting the cases listed immediately once the process of filing is complete and the same would also be helpful for the litigants to get the cases decided at the earliest

5. That the instant Public Interest Litigation was listed on 01.08.2024 and many lawyers were present in the Court Room while the instant Public Interest Litigation was being heard. The Hon'ble Court had been pleased to invite the learned Members of the Bar including the Senior Members of the Bar to assist the court with respect to the issues which has been cropped up due to passing of the order dated 30.07.2024 by the Hon'ble Division Bench in Filing No. Cr.Appeal (DB) No. 17440/2024.

6. That the learned Senior Members of the Bar who were present in the Court submitted that the system evolved vide Standing Order No. 9/2024 is acceptable and the aforesaid system is running smoothly. Although, it needs to be further streamlined. None of the learned Members of the Bar present on said date, objected or opposed against implementation of the Standing Order No. 09/2024.

7. That some suggestions were given to the Hon'ble Court on the said date of hearing by the learned Members of the Bar which if additionally added in the Standing Order No. 09/2024, that will further help in streamlining the procedure of filing as well as listing of the cases.

8. That so far the legal issues are concerned, it is stated that the Standing Order No. 09/2024 dated 09.07.2024 is in consonance with the Rule 70 of the Jharkhand High Court Rules as well as to strength the

provision contained in Rule 69 & 70 of Jharkhand High Court Rule. The aforesaid Jharkhand High Court Rules has vested power with the Hon'ble Chief Justice for issuing instructions from time to time with regard to the procedure of filing specially having regard to computerization requirement and, once issued, those instructions shall be applicable and enforceable as being part of this chapter. Therefore, under the Rules the Hon'ble Chief Justice has vested with the power for issuance of standing order in relation to the subjects provided under Rule 70 of the Jharkhand High Court Rules and the decision of the Hon'ble Chief Justice does not appear to have been further required for approval from the full Court of Hon'ble Jharkhand High Court.

9. That the Hon'ble Chairman, Jharkhand State Bar Council was also present in the court on 01.08.2024 and none of the learned lawyers present in the court on 01.08.2024, was in opposition of the Standing Order No. 09/2024 save and except some further suggestions given which require to be taken care of for streamlining the filing system pursuant to the Standing Order No. 09/2024.”

93. It is evident from the aforesaid paragraphs of the affidavit, wherein it has been stated, as under paragraph-4 that the Standing Order No.9 of 2024, is much more for getting the cases listed immediately once the process of filing is complete and the same would also be helpful for the litigants to get the cases decided at the earliest.

94. It is mentioned at paragraph-5 that on 01.08.2024 many lawyers were present in the Court Room while the instant Public Interest Litigation was being heard. The Court has invited the learned members of the Bar including the

senior members to assist the Court with respect to the issue which has cropped up due to passing of the order, dated 30.07.2024.

95. It has been stated at paragraph-6 that the learned senior members of the Bar who were present in the Court submitted that the system evolved vide Standing Order No.9 of 2024 is acceptable and the aforesaid system is running smoothly. Although, it needs to be further streamlined.

96. At paragraph-8 it has been stated that the Standing Order No.9 of 2024 dated 09.07.2024 is in consonance with the Rule 70 of the Jharkhand High Court Rules as well as to strengthen the provision contained in Rule 69 and 70 of Jharkhand High Court Rules.

97. It has further been stated in paragraph-9 that the Chairman, Jharkhand State Bar Council was present in the court on 01.08.2024 and none of the learned lawyers who were present in the court on 01.08.2024 were in opposition of the Standing Order No.9 of 2024 save and except some further suggestions given which require to be taken care of for streamlining the filing system pursuant to the Standing Order No.9 of 2024.

98. It is, thus, evident from the affidavits filed on behalf of Advocates' Association, as also from the order passed by the learned Division Bench that the main stake holders, i.e., Advocates' Association, has not been called upon and, as

such, the observation which has been made in the order passed by the learned Division Bench, to the effect that the large number of members of the Bar are facing severe difficulty appears to be based upon no foundation since in the affidavit filed on behalf of the State Bar Council it has been stated at paragraphs-4, 6 and 9, that they are having no difficulty, rather, the system is going on smoothly.

99. It needs to be referred herein that a Judge cannot become party to a cause, in the present case the administrative decision of the Chief Justice, so long as such decision taken, on the administrative side, has not been questioned by any party claiming to be aggrieved, the position that is not evident from the order passed the learned Division Bench, while staying the Standing Order dated 09.07.2024.

100. This Court, therefore, is of the view that the learned members of the Bar, who are members of the Advocates' Association, as also the Bar Council, have not raised any objection, rather, they are concurrently in support, and obviously they will be in support, because the Standing Order is for the purpose of streamlining the filing system, so as to achieve the object and intent of the Jharkhand High Court Rules, for the purpose of getting rid of the pendency of the defective cases, as has been brought to the notice of this

Court, in the affidavit filed by learned Registrar General of this Court.

101. This Court, in view of the aforesaid discussions and based upon the legal proposition, is of the view that the Standing Order No.9 of 2024 dated 09.07.2024, is not in the teeth of Jharkhand High Court Rules, rather, it is only to achieve the object and intent of the Jharkhand High Court Rules, for which the then Hon'ble the Chief Justice has exercised the power, only to fortify the rules that are already in existence, available for filing and listing.

102. It further needs to be referred herein that in the Standing Order the language which has been used in its preamble, that notwithstanding any provision contained in the High Court of Jharkhand Rules, 2001, the same has wrongly been interpreted, rather, if the entire Standing Order will be taken into consideration, regarding the condition which is to be followed, is to achieve the object and intent of Rule 78 of the Jharkhand High Court Rules by observing the provision, as contained under Rule 69 thereof.

103. This Court, considering the aforesaid is of the view that the order passed by the learned Division Bench needs interference.

104. Accordingly, the order dated 30.07.2024 passed in Filing No.:-Cr.Appeal (D.B.) No.17440 of 2024 is hereby quashed and set aside.

105. The matter is consigned.

(Sujit Narayan Prasad, A.C.J.)

(Rajesh Shankar, J.)

(Arun Kumar Rai, J.)

Birendra/**A.F.R.**