



Reserved on 06.07.2026
Pronounced on 05.10.2026
A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW
PUBLIC INTEREST LITIGATION (PIL) No. - 16009 of 2017**

Mahendra Singh Pawar

.....Petitioner(s)

Versus

State of U.P. Thru. Prin.Secy to the C.M. and 2 others

.....Respondent(s)

Counsel for Petitioner(s)	: Manoj Kumar Tiwari, Asok Pande, Chandra Bhushan Pandey, In Person, Manisha Srivastava
Counsel for Respondent(s)	: C.S.C.,

Along with

2. WRIT - C No. - 31400 of 2017

Manendra Nath Rai

.....Petitioner(s)

Versus

State of U.P. Thru. Prin. Secy. Vidhi Evam Nyay.Lko and others

.....Respondent(s)

Counsel for Petitioner(s)	: In Person,
Counsel for Respondent(s)	: C.S.C.,

3. PUBLIC INTEREST LITIGATION (PIL) No. - 527 of 2022

Rama Shankar Tiwari Alias Rama Shankar and others

.....Petitioner(s)

Versus

State of U.P. Thru. Prin. Secy. Law Justice Civil Secret. Lucknow and
others

.....Respondent(s)

Counsel for Petitioner(s)	: Alok Kirti Mishra, Dinesh Kumar Tripathi
Counsel for Respondent(s)	: C.S.C.,

Court No. - 9

HON'BLE RAJESH SINGH CHAUHAN, J.
HON'BLE RAJEEV BHARTI, J.

1. Heard Shri Chandra Bhushan Pandey, learned counsel assisted by Ms. Tripti, learned Advocate, Shri Mohit Ashok, learned Advocate, Ms. Arundhati Thakur, learned Advocate, Shri Asim Kumar Singh, learned Advocate appearing for the petitioner (in WPIL No.16009 of 2017), Shri Arun Kumar Tiwari, learned Advocate, who appeared in person and argued as an intervenor (in PIL No.16009 of 2017), Shri Mahendra Nath Rai, the petitioner, who appeared in person in Writ-C No.31400 of 2017, Shri Alok Kirti Mishra, learned counsel assisted by Shri Rama Shankar Tiwari, who appeared in person, and Shri Dharmesh Kumar Dwivedi, learned counsel for the petitioners in WPIL No.527 of 2022 as well as Shri Ajay Kumar Mishra, learned Advocate General of U.P., assisted by Shri D.V. Singh, learned Additional Advocate General of U.P., Shri Kuldeep Pati Tripathi, learned Additional Advocate General of U.P., Shri Shailendra Kumar Singh, learned Chief Standing Counsel, Shri Vivek Shukla, learned Additional Chief Standing Counsel, Shri Ishan Mehta, learned Additional Chief Standing Counsel and Shri Yogesh Kumar Awasthi, learned Standing Counsel for the State- respondents.

2. Since common questions of law are involved in the aforesaid writ petitions, therefore, with the consent of learned counsel for the parties, they have been connected together and are being decided by a common judgment and order.

3. At the very outset, we find it appropriate to indicate the prayers of all the petitions which have been connected and heard by us. Prayers of leading petition i.e. Public Interest Litigation (PIL) No.16009 of 2017 read as under:-

“ i)(a) issue a writ order or direction in the nature of certiorari quashing appointment of all Law Officers whose appointments have not been made in a fair and transparent manner after selecting them through the properly constituted Selection Committee and after taking prior approval of the Hon'ble High Court and the Hon'ble Supreme Court as laid down in the case of Brijeshwar Singh Chahal.

(I)(b) issue an order, direction or writ, in the nature of certiorari quashing the notification dated 06-4-2018 issued by the respondent No.2 as contained in annexure No.6 to the writ petition.

ii) issue a writ order or direction in the nature of mandamus commanding the State Government to undertake a realistic assessment of their need in each category in which the State Law Officers are proposed to be appointed.

iii) issue a writ order or direction in the nature of mandamus commanding the State Government to constitute a Selection Committee with such number of Officers as the State Government may determine the suitable candidates for appointment of State Law Officers.

iv) issue a writ order or direction in the nature of mandamus commanding the Committee so constituted for the selection of Law Officers and to submit a panel of names to the Hon'ble Chief Justice of Hon'ble Allahabad High Court, who may set up a Committee of Judges to review the panel and make recommendations to the Hon'ble Chief Justice who may pass on such recommendations recording his views regarding suitability of candidates included in the Panel and to act accordingly.

v) Issue any other suitable writ order or direction which is deemed fit and proper in the circumstances of the case.

vi) Pay the cost of this Writ Petition.”

4. Prayers of Writ-C No.31400 of 2017 are as under:-

“1- कोई रिट आदेश या निर्देश या रिट जो उत्प्रेषण प्रकृति की हो द्वारा 23.10.2017 को जारी न्याय अनुभाग-3 द्वारा जारी राज्य विधि अधिकारियों की सम्पूर्ण चयन सूची (संलग्नक संख्या-1) को तात्कालिक प्रभाव से निरस्त कर दिया जाय।

2- कोई रिट आदेश या निर्देश या रिट जो परमादेश प्रकृति की हो विपक्षीयों को यह निर्देशित करने की कृपा करें कि उ०प्र० एल०आर०

मैनुअल के प्रावधानों में संशोधन / अद्यतन करते हुए तथा राज्य विधि अधिकारियों की नियुक्ति हेतु प्रोफार्मा व प्रक्रिया इस प्रकार से नियत की जाय की इनकी नियुक्ति में संवैधानिक प्रावधानों की अवहेलना न हो।

3- कोई आदेश निर्देश जारी करते हुए यह भी आदेशित करने की कृपा करें कि जो राज्य विधि अधिकारी इस संदर्भ में उ०प्र० राज्य के मुकदमों की पैरवी हेतु आबद्ध हो उनके आपराधिक इतिहास की जाँच करने के बाद ही उनको कार्यभार ग्रहण कराया जाय।

4- कोई आदेश या निर्देश जो वर्तमान परिस्थितियों में न्यायिक कार्यकुशलता के संदर्भ में तथा समान अवसर प्रदान करने के सम्बन्ध में आवश्यक हो न्यायालय प्रदान करने की कृपा करें तथा यह भी सुनिश्चित करने हेतु आदेश करने की कृपा करें कि यदि ये नियुक्तियां संवैधानिक प्रक्रियाओं का पालन करते हुए नहीं की गयी है तो जनता के कोष से दिये गये धन की वसूली सम्बन्धित अधिकारियों से किया जाय।

5- याचिका सब्यय स्वीकार की जाय।"

5. Prayers of Public Interest Litigation (PIL) No.527 of 2022 are as under:-

"(i) Issue a writ, order or direction, in the nature of Certiorari quashing of impugned selected list of State Law Officers/ Brief Holders (Civil and Criminal) dated 01.08.2022 vide its Letter no. D-904/7-Justice-3-22-19Writ/2017 and publish new list as termed in the undertaking given by Opp. party no.2 in SPLA (D) 220/2022 State of U.P. through Mr Ajai Kumar Mishra, Advocate General, assisted by Mr Ajeet Kumar Singh, Additional Advocate General vs. Ishan International Educational Society and Others dated 07.07.2022.

(ii) Issue a writ, order or direction in nature of Mandamus commanding the Opp. parties to constitute a committee for the appointment of the eligible Advocates as State Law Officer/ Brief Holder as per judgement of State of Punjab vs. Brijeshwar Singh Chahal.

(iii) Issue a writ, order or direction in nature of Mandamus commanding the Opp. parties to prepare a new list from eligible Advocates who fulfill all the criterias mentioned in the L.R. Manual.

(iv) Issue, a writ, order or direction in nature of Mandamus commanding the Opp. parties to reduce the number of posts of Chief Standing Counsels in High Court Lucknow.

(v) Issue a writ or order or direction in nature of Mandamus commanding the Opp. parties no.1 to conduct the enquiry for irregularities in the appointment of Advocates as State Law Officers/ Brief Holders (Civil and Criminal.)

(vi) Issue any other Writ, Order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

(vii) Award the cost of the Petition in favor of the petitioners."

6. Notably, in all the aforesaid writ petitions, the prayers of the writ petitioners are that the State Government should formulate the guidelines for making appointment of the State Law Officers i.e. Government Advocate, Additional Government Advocate, Chief Standing Counsel, Additional Chief Standing Counsel, Standing Counsel and Brief Holders (civil and criminal) strictly as per the guidelines of the dictum of the Hon'ble Supreme Court in re; **State of Punjab v. Brijeshwar Singh Chahal, (2016) 6 SCC 1** and requisite provisions be inserted in the Legal Remembrancer's Manual (hereinafter referred to as "LR Manual") in the light of the aforesaid judgment. Further, such appointments be streamlined considering the merit, integrity, length of practice of the Advocates etc.

7. In the year 2017, a list was released by the Law Department of the State containing the names of Government Counsels/ Advocates, as aforesaid, such list was assailed, therefore, this Court vide order dated 21.07.2017 asked the competent authority of the State Government to consider the list. So, a revised list was issued on 23.10.2017. Prime contention of the petitioners in the writ petitions was that the aforesaid list has not considered the principles, which were laid down by the Apex Court in re; **Brijeshwar Singh Chahal** (supra).

8. In the year 2022, one PIL No. 527 of 2022 was filed seeking almost the same prayer, which was prayed in the year 2017, and this Court vide order dated 24.08.2022 directed the competent authority of the State Government that the subject matter may be considered in the light of the dictum of the Apex Court in re; **Brijeshwar Singh Chahal** (supra) making appropriate amendment in the LR Manual, if it is so

required, as per subjective satisfaction of the competent authority. The order dated 24.08.2022 reads as under:-

“We, thus, call upon the State Government to file a counter affidavit/affidavit to be sworn in by none other than the Principal Secretary, Law/ Legal Remembrancer himself, stating therein as to what steps are being taken/proposed to be taken for ensuring that observations and directions of Hon'ble Supreme Court in the case of Brijeshwar Singh Chahal (supra) are implemented in their true spirit. The affidavit to be submitted under this order shall give a complete scheme of selection and appointment of Government Advocates which shall ensure the process to be more transparent, fair and objective. Transparency, fairness and objectivity are the hallmarks of the present-day administration and our Society has to take strides to ensure that administration is more transparent and that it functions more objectively. Accordingly, we require that the affidavit to be filed under this order shall touch upon all the aspects of the selection and appointment of the Government Advocates which may include assessment of need, eligibility, equal opportunity, process of selection and all other related and auxiliary aspects. The Court shares the concern of the petitioners that entire process should be more transparent and objective. While filing the affidavit, the endeavour of the State Government, in our opinion, should be to ensure that the process to be evolved henceforth does not lack transparency and objectivity. The said affidavit shall be filed within a period of six weeks after serving a copy thereof upon the learned counsel for the petitioners, who shall file a rejoinder affidavit by the next date of listing”.

9. In the year 2023, a new list was published by the State consisting the names of the State Law officers. We find it appropriate, at this stage to consider, briefly, the submissions of learned counsel for the parties in the writ petitions, which have been heard by us.

SUBMISSIONS ON BEHALF OF THE PARTIES IN RE; PUBLIC INTEREST LITIGATION (PIL) No.16009 of 2017.

10. The prime contention of the petitioner in the above PIL is that though he has not challenged any appointment as such in the instant petition, but he challenged the procedure for the making of the appointment, which is patently violative of the law laid down by the Hon'ble Supreme Court in the case of **Brijeshwar Singh Chaha** (supra).

11. It is submitted that the petitioner has no personal interest in the matter and stands to derive no personal benefit from the outcome of the present writ petition. The petition has been instituted bona fide in the larger public interest, with a view to ensuring transparency, fairness and adherence to the prescribed procedure in the appointment of State Law Officers/Government Counsel.

12. It is further submitted that the procedure for such appointments was professed by this Court in the case of *Ahmed Hussain Khan Vs. State of U.P. and others : PIL No.58079 of 2016 vide order dated 13.12.2016 as well as* in the light of the law laid down by the Hon'ble Supreme Court in re : **Brijeshwar Singh Chahal** (supra). However, according to the petitioner, the appointments in question have been made in clear departure from the said procedure and the State Litigation Policy.

13. The petitioner, who is a practising Advocate before this Hon'ble Court, has no personal interest or aspiration to be appointed as Government Counsel. His grievance is confined solely to the decision-making process which, according to him, resulted in the appointment of approximately 200 Government Counsel allegedly without due adherence to the principles and procedure laid down in re : **Brijeshwar Singh Chahal** (supra), as followed by this Court in *Ahmed Hussain Khan (supra)*. The petitioner, therefore, seeks appropriate intervention of this Hon'ble Court to ensure transparency and fairness in the process of appointment of State Law Officers.

14. In the aforesaid Public Interest Litigation, one **C.M. Intervenor Application No.28966 of 2018** has been filed wherein Ms. Manisha Srivastava, by way of intervention application, has submitted that the Legal Remembrancer (LR) Manual, insofar as it lacks transparent, objective criteria and fails to ensure fair representation for female lawyers in State empanelment, is *ultra vires* Articles 14, 15, and 16 of the Constitution of India; because the engagement of government law

officers is a public function, the executive instructions in the Manual cannot exercise unguided discretion that results in systemic gender discrimination, denies equal opportunity to hold an office under the State, and violates the State's constitutional obligation as a model litigant to provide a fair, non-arbitrary, and inclusive framework for female advocates.

15. She further has raised the issue of adequate, effective and meaningful representation of women in the panel of Government Advocates. She has submitted that, while examining the fairness, transparency and legality of the process of appointment of Government Advocates, this Court may also examine whether women have been accorded adequate representation in the constitution of the panel.

16. She further submitted that the first issue requiring consideration is whether the existing representation of women in the State Law officer is proportionate and adequate. For this purpose, the respondents may be directed to place on record the relevant data regarding the total number of Government Advocates, the number of women appointed, and the manner in which such appointments were made. The applicant has contended that mere formal equality of opportunity is not sufficient and that the actual composition of the panel should also reflect meaningful participation of women.

17. She further on question what should be the ideal benchmark percentage, in this regard she placed reliance upon the judgment of Apex Court in *Yogamaya MG v. Union of India & Ors. : 2025 SCC OnLine SC 2701*, wherein the issue of 30% representation of women in Bar elections was considered. On the strength of the said principle, the applicant has submitted that a benchmark of 30% may be considered as a relevant standard for assessing whether women are adequately represented in the State Law officer.

18. One Advocate Shri Arun K. Tiwari has filed another intervenor application bearing **C.M. Intervenor Application No.31/2026 (49447/2026)** in the aforesaid Public Interest Litigation (PIL) No.16009 of 2017 by submitting that the Legal Remembrancer's Manual does not contain any effective or comprehensive mechanism regulating the conduct of Government Advocates after their appointment to the Government panel. In particular, there appears to be no adequate system of continuous supervision, performance assessment, or accountability regarding the manner in which Government Advocates discharge their duties. It has further been pointed out that some Government Advocates are allegedly engaged in private practice before various forums, which, if found to be correct, may give rise to a conflict of interest and may operate contrary to the interest of the State. It is, therefore, necessary that an effective mechanism be put in place to monitor their professional conduct and performance.

19. It was further submitted that there is no proper and accessible grievance-redressal mechanism for members of the public who may be subjected to improper treatment, negligence or other forms of misconduct by a Government Advocate. The absence of such a forum may result in genuine grievances remaining unaddressed and may adversely affect public confidence in the system. It has also been submitted that the mere retention of a few Government Advocates in surplus may not, by itself, be objectionable; however, their conduct, performance and allocation of governmental work must be properly monitored so that public resources are utilized efficiently and every appointed counsel remains accountable for the responsibilities entrusted to him.

20. It has lastly been submitted that a Government Advocate holding an appointment under the State ought not to simultaneously contest an election to a Bar Association or Bar Council where such participation is inconsistent with the duties and obligations attached to the Government

appointment. If a Government Advocate desires to contest such an election, he should first resign or relinquish his Government appointment and thereafter contest the election, subject to the applicable rules. Such a requirement would ensure that there is no conflict between the responsibilities of a Government Advocate and his participation in the electoral affairs of the Bar.

SUBMISSIONS ON BEHALF OF THE PARTIES IN RE;WRIT-C
No. 31400 of 2017

21. The petitioner applied for the position of State Law Officer in 2017; his position was not considered. The principal contention of the petitioners concerning the list published in the year 2023 is that the entire process is vitiated by total non-compliance with the law laid down by the Hon'ble Supreme Court in **State of Punjab v. Brijeshwar Singh Chahal (supra)**.

22. It is submitted that no public notice or advertisement was issued before undertaking the process of appointment, thereby depriving eligible persons of a fair and transparent opportunity to participate in the selection process. Further, no justification or objective assessment has been disclosed as to why as many as 2,100 persons were selected/appointed as Government Counsel.

23. The petitioner further submits that approximately 25–30 Government Counsel/officials are appointed in each Court, despite the fact that only a limited number of them remain actively engaged in court work, resulting in a substantial number of appointments without corresponding work or requirement. Even assuming, for the sake of argument, that the sanctioned strength of Judges of the High Court were 160 and that 10 Standing Counsel were required per Judge, the maximum requirement would be approximately 1,600 Standing Counsel. However, at present, the High Court has only about 111 sitting Judges, which, on the same benchmark, would require approximately 1,110 Standing Counsel. Consequently, the appointment of nearly 2,100

Government Counsel prima facie reflects a substantial excess of approximately 1,000 counsel over the assessed requirement. At an honorarium of approximately ₹50,000 per counsel per month, the State exchequer is consequently burdened with an expenditure of nearly **₹5 crore per month** in respect of such additional appointments, notwithstanding the absence of any demonstrated assessment of actual workload or requirement. The petitioner further submits that an RTI application was submitted seeking information as to whether any criminal cases were pending against the persons appointed as Standing Counsel/Government Counsel. However, instead of furnishing the specific information sought, the authorities responded that the question itself was “**misleading**”, which, according to the petitioner, further demonstrates the absence of transparency and due diligence in the appointment process. It is, therefore, submitted that the entire exercise undertaken in respect of the 2023 list warrants judicial scrutiny, particularly in view of the constitutional requirement of fairness, transparency, institutional accountability and compliance with the principles laid down by the Hon’ble Supreme Court.

24. The applicant, appearing in person, placed reliance upon the judgment of the Hon’ble Supreme Court in ***Brijeshwar Singh Chahal(supra)***. The relevant paragraphs of the said judgment, upon which reliance has been placed, are reproduced hereinbelow:

8. A realistic assessment of the requirement is the first and foremost step that one would expect the State to take for any prudent exercise of the power of appointment of Law Officers. No such assessment has been made nor any material disclosed by the State Governments to demonstrate that they were sensitive to the need for any such assessment. Power to appoint Law Officers was all the same exercised on what appears to us to be a totally ad hoc basis without any co-relation between the workload in the courts and the number of Law Officers appointed to handle the same. There is no gainsaying that if the power to appoint is exercised not

because such exercise is called for but because of some extraneous or other reason the legitimacy of the exercise will itself become questionable. That is precisely what has been brought out by the Comptroller and Auditor General in his report of Social, General and Economic sectors (non-PSUs) for the year ending on 31-3-2012 for the State of Haryana. The report is a telling indictment of the system of appointment followed in the State of Haryana which does not provide for assessment of the manpower requirement leave alone any worthwhile process of selection of those appointed. The result is that more than half of those appointed were without any work during the test check period resulting in payment of idle salary in crores. CAG has while finding fault with the entire process recommended a realistic assessment of the number of Law Officers required on the basis of the workload and selection of the appointees in a transparent manner. The report also found the explanation offered by the State Government to be unacceptable keeping in view the daily duty roster regarding the Law Officer's work and performance.

10. We are not sure whether a similar study has been conducted qua the State of Punjab, but given the fact that the number of Law Officers appointed by that State is also fairly large, we will not be surprised if any such study would lead to similar or even more startling results. The upshot of the above discussion is that for a fair and objective system of appointment, there ought to be a fair and realistic assessment of the requirement, for otherwise the appointments may be made not because they are required but because they come handy for political aggrandisement, appeasement or personal benevolence of those in power towards those appointed. The dangers of such an uncanalised and unregulated system of appointment, it is evident, are multi-dimensional resulting in erosion of the rule of law, public faith in the fairness of the system and injury to public

interest and administration of justice. It is high time to call a halt to this process lest even the right thinking become cynical about our capacity to correct what needs to be corrected.

17. We have not been able to persuade ourselves to accept the view that even when the appointments are made to offices heavily remunerated from the public exchequer the same can or ought to remain unregulated. That is particularly so when those appointed are expected by the very nature of their appointment to discharge important public function affecting not only State interest but the quality of justice which the courts administer. There is in the case of Punjab and Haryana not even a semblance of any selection process in the matter of appointment of those chosen for the job leave alone a process that is credible in terms of its fairness and objectivity. The practice of making appointments in disregard of what is expected of a functionary sensitive to the demands of fairness and equality of opportunity even when in vogue for long, runs contrary to the true legal position settled by a long line of decisions to which we shall presently refer. The dominant purpose which ought to permeate any process of selection and appointment, namely, “protection of public interest” in courts by availing services of the most meritorious is clearly defeated by the method that the States have been following and continue to follow. What is regrettable is that even after the pronouncements of this Court have settled, the principles on which public authorities are required to act while discharging their functions, the States continue to harp on the theory that in the matter of engagement of State Counsel they are not accountable and that the engagement is only professional and/or contractual, hence, unquestionable. It is, in our view, too late in the day for any public functionary or Government to advance such a contention leave alone expect this Court to accept the same. If a Government Counsel discharges an important public function and if it is the primary duty of those

running the affairs of the Government to act fairly, objectively and on a non-discriminatory basis, there is no option for them except to choose the best at the Bar out of those who are willing and at times keen to work as State Counsel. It is also their duty to ensure that the process by which the best are selected is transparent and credible. Abdicating that important function in favour of the Advocate General of the State who, in turn, has neither the assistance of norms or procedure to follow nor a mechanism for assessment of merit will be self-defeating. We regret to say that in the matter of appointment of State Counsel, the States of Punjab and Haryana have much to do to reform the prevalent system which reform is in our opinion long overdue.

49. The question is what should be the mechanism for such consideration. There are in that regard two major aspects that need to be kept in mind.

49.1. The first is the need for assessment and requirement of the State Governments having regard to the workload in different courts. As noticed earlier, appointments appear to have been made without any realistic assessment of the need for State Counsel at different levels. Absence of a proper assessment of the requirement for State Counsel leads to situations that have been adversely commented upon by CAG in his report to which we have made a reference in the earlier part of this judgment. The problem gets compounded by those in power adding to the strength of Government Advocates not because they are required but because such appointments serve the object of appeasement or private benevolence shown to those who qualify for the same. CAG has in that view rightly observed that there ought to be a proper assessment of the need before such appointments are made.

49.2. The second aspect is about the process of selection and assessment of merit of the candidates by a credible process. This process can be primarily left to the State Government who can appoint a Committee of officers to carry out the same. It will be useful if the Committee of officers has the Secretary to Government, Law Department, who is generally a judicial officer on deputation with the Government as its Member-Secretary. The Committee can even invite applications from eligible candidates for different positions. The conditions of eligibility for appointment can be left to the Government or the Committee depending upon the nature and the extent of work which the appointees may be effected to handle. The process and selection of appointment would be fair and reasonable, transparent and credible if the Government or the Committee as the case may be also stipulates the norms for assessment of merit and suitability.

50. The third stage of the process of selection and appointment shall in the absence of any statutory provisions regulating such appointments involve consultation with the District and Sessions Judge if the appointment is at the district level and the High Court if the appointment is for cases conducted before the High Court. It would, in our opinion, be appropriate and in keeping with the demands of transparency, objectivity and fairness if after assessment and finalisation of the selection process a panel is sent to the Chief Justice of the High Court concerned for his views on the subject. The Chief Justice could constitute a Committee of Judges to review the names recommended for appointment and offer his views in regard to professional competence and suitability of candidates for such appointments. Appointments made after such a consultative process would inspire confidence and prevent any arbitrariness. The same procedure could be followed where candidates are granted extension in their terms of appointment in which case the Committee appointed by the

Government and that constituted by the Chief Justice could also look into the performance of the candidates during the period they have worked as State Counsel.

51.5. We make it clear that nothing said by us in the foregoing paragraphs of this judgment shall affect the right of the State Governments to appoint any person eligible for such appointment as the Advocate General of the State in terms of Article 165 of the Constitution of India.

51.6. We further clarify that although we are primarily concerned with the procedure regarding selection and appointment of Law Officers in the States of Punjab and Haryana and although we have confined our directions to the said two States only yet other States would do well to reform their system of selection and appointment to make the same more transparent, fair and objective, if necessary, by amending the relevant LR Manuals/Rules and Regulations on the subject.

**SUBMISSIONS ON BEHALF OF THE PARTIES IN RE; PUBLIC
INTEREST LITIGATION (PIL) No. 527 of 2022**

25. The principal contention of the petitioners concerning the list published in the year 2023 is that the entire process is vitiated by total non-compliance with the law laid down by the Hon'ble Supreme Court in **Brijeshwar Singh Chahal(Supra)**

26. Learned counsel for the applicant further highlighted that the list of State Law Officers published in the year 2022 did not even adhere to the basic provisions of the Legal Remembrancer's Manual. It was submitted that, for appointment as a Brief Holder, a minimum of five years' practice is prescribed as an essential eligibility requirement; however, certain persons whose names appeared in the said list had not even completed the requisite minimum period of five years' practice.

27. Learned counsel for the applicant further highlighted that the Hon'ble Supreme Court, *Brijeshwar Singh Chahal* (supra), has clearly emphasized the importance of a proper Selection Committee in the process of appointment of State Law Officers. It was submitted that no such Selection Committee or similar mechanism presently exists in the State of Uttar Pradesh for ensuring a transparent and merit-based selection process.

28. It was further submitted on behalf of the petitioners that as many as six persons have been appointed as Chief Standing Counsel, resulting in substantial expenditure from the public exchequer towards their salaries, allowances and other expenses. Learned counsel submitted that such expenditure of public money requires due justification and necessity.

State Side Arguments

29. The learned Advocate General for the State of Uttar Pradesh, while opposing the reliefs sought in the present Public Interest Litigation, has advanced several submissions concerning the applicability of the judgment of the Hon'ble Supreme Court in *Brijeshwar Singh Chahal* (supra), the maintainability of the present proceedings, and the nature of the State's power to appoint Government Counsel. At the outset, it has been submitted that the judgment in *Brijeshwar Singh Chahal* (supra), is distinguishable on facts and circumstances and cannot be mechanically applied to the present case. According to the learned Advocate General, the factual and administrative circumstances prevailing in the States of Punjab and Haryana, which formed the basis of the aforesaid judgment, are materially different from those obtaining in the State of Uttar Pradesh.

30. It has particularly been pointed out that the aforesaid judgment was rendered after consideration of material emanating from a CAG

report concerning the functioning and appointment of Government Counsel. In the present case, however, no comparable CAG report concerning the State of Uttar Pradesh has been placed before this Hon'ble Court. It is, therefore, submitted that the factual foundation upon which the Supreme Court proceeded in *Brijeshwar Singh Chahal* is absent in the present proceedings; in this regard, he placed reliance on ***Quinn v. Leathem***, reported in [1901] AC 495 (HL)

“....there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical code, whereas every lawyer must acknowledge that the law is not always logical at all.”

31. The learned Advocate General has further questioned whether any cogent material or evidence has been placed on record to demonstrate that the persons appointed as State Law officer in the State of Uttar Pradesh are lacking in merit, competence or professional ability. Mere allegations regarding the appointment or continuation of Government Counsel, in the absence of specific material establishing lack of merit or competence, according to the State, cannot constitute a sufficient basis for judicial interference with the administrative process.

32. The learned Advocate General has further sought to distinguish the present case on the ground that the judgment in *Brijeshwar Singh Chahal* (*supra*), principally dealt with the States of Punjab and Haryana,

where the Court found an absence of adequate and objective norms, standards and a comprehensive policy governing the appointment of Government Counsel. In contrast, it has been submitted that the State of Uttar Pradesh has an established framework in the form of the Legal Remembrancer's Manual, which regulates the appointment, functioning and related aspects of Government Counsel. The existence of such a statutory or administrative framework, according to the State, materially distinguishes the present case from the circumstances considered by the Hon'ble Supreme Court.

33. The learned Advocate General has also raised a preliminary objection regarding the maintainability of the present Public Interest Litigation. It has been submitted that the petition has been instituted by persons who are themselves interested in the subject matter and, therefore, the proceedings cannot be treated as a genuine PIL brought in the larger public interest. According to the State, where the petitioners have a personal or institutional interest in the appointment of Government Counsel, the Court ought to exercise caution before entertaining the proceedings as a Public Interest Litigation. In support of his submissions, learned Advocate General for the State relied upon the decision of the Apex Court in **Wing Commander GB Athri vs. Union of India**, LL 2021 SC 546; the relevant para is being reproduced

1. *Since the petitioner was also an aspirant to the post of the State Information Commissioner and has made an application seeking such employment as recorded in the judgment and order of the High Court impugned, we are of the view that the High Court has rightly declined to entertain the writ petition filed by him purportedly in public interest. It is well settled that an interested person is not entitled to file a public interest litigation.*

The special leave petition is, accordingly, dismissed.

34. It has further been submitted that the appointment of Standing Counsel and other Government Advocates is essentially within the executive domain and constitutes a matter of State policy and administration. The State has contended that no individual or third party possesses an inherent or enforceable right to claim appointment as Government Counsel or to interfere with the State's discretion in making such appointments, subject, of course, to the requirements of law and constitutional limitations. The learned Advocate General has therefore urged that the Court may be slow to substitute its own assessment for that of the competent authority in matters involving professional appointments and administrative policy.

35. At the same time, the learned Advocate General had submitted that the State has no objection if this Hon'ble Court considers it appropriate to provide suitable guidance, directions or pointers for improving the existing system. It has been submitted that any such observations or guidelines issued by this Hon'ble Court, aimed at ensuring greater transparency, accountability, efficiency and proper functioning of the system of Government Counsel, would be duly considered and would be most welcome by the State.

36. Thus, while maintaining its objection to the maintainability of the PIL and the applicability of *Brijeshwar Singh Chahal*, the State has expressed its willingness to adopt or consider appropriate institutional improvements suggested by this Hon'ble Court within the existing legal and administrative framework.

OBSERVATION

37. After hearing the parties at considerable length and upon careful consideration of the submissions advanced, as well as upon perusal of the record, in Public Interest Litigation (PIL) No. 16009 of 2017 The prime contention of the petitioner in the above PIL is that he challenged the procedure for the making of the appointment, which is

patently violative of the law laid down by the Hon'ble Supreme Court in the case of *Brijeswar Singh Chahal(supra)*. In this regard, it is important to discuss whether the decision rendered by the Hon'ble Supreme Court in the case of *Brijeswar Singh Chahal(supra)* would be applicable or not.

1. Whether the ratio of Chahal can be applied to the State of U.P.

38. We have gone thoroughly through the judgment of the Apex Court in *Chahal* (supra), and we find substance in the arguments of the Learned AG for the State of UP. In *Chahal* (supra), certain foundational facts were established in clear and unequivocal terms, which formed the basis for the directions issued by the Court; for example, the CAG Report and the non-availability of any norm for the appointment of the Government Advocate.

However, for the State of U.P., no such report is present. A proper LR Manual is there which governs the appointment of the State Law Officers in the State of U.P., and in the absence of the above foundational facts, the petitioners cannot claim that the ratio of *Chahal(supra)* should be applied; a precedent cannot be applied in a vacuum where the underlying factual prerequisites are absent. In this regard, it is pertinent here to place reliance on the decision of the Apex Court in *State of M.P. v. Narmada Bachao Andolan* reported in (2011) 7 SCC 639; the relevant para is being reproduced below

Precedence doctrine

64. The court should not place reliance upon a judgment without discussing how the factual situation fits in with a fact situation of the decision on which reliance is placed, as it has to be ascertained by analysing all the material facts and the issues involved in the case and argued on both sides. A judgment may not be followed in a given case if it has some distinguishing features. A little difference in facts or additional facts may make a lot of difference to the precedential value of a decision. A judgment of

the court is not to be read as a statute, as it is to be remembered that judicial utterances have been made in setting of the facts of a particular case. One additional or different fact may make a world of difference between the conclusions in two cases. Disposal of cases by blindly placing reliance upon a decision is not proper. (Vide MCD v. Gurnam Kaur [(1989) 1 SCC 101: AIR 1989 SC 38] , Govt. of Karnataka v. Gowramma [(2007) 13 SCC 482 : AIR 2008 SC 863] and State of Haryana v. Dharam Singh [(2009) 4 SCC 340 : (2011) 2 SCC (L&S) 112] .)

39. Furthermore, it is also pertinent here to place reliance on ***Quinn v. Leathem***, reported in [1901] AC 495 (HL)

“....there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical code, whereas every lawyer must acknowledge that the law is not always logical at all.”

40. Moreover, in *Chahal*(supra), the Apex Court clearly stated that other States would do well to reform their system of selection and appointment to make the same more transparent, fair and objective, **if necessary**, by amending the relevant LR Manuals/Rules and Regulations on the subject. The relevant para is being reproduced below

51.6. We further clarify that although we are primarily concerned with the procedure regarding selection and appointment of Law Officers in the States of Punjab and Haryana and although we have confined our directions to the said two States only yet other States would do well to reform their system of selection and appointment to make the same more transparent, fair and objective, if necessary, by amending the relevant LR Manuals/Rules and Regulations on the subject.

41. Furthermore, we also find substance in the submission of the learned Advocate General for the State that the most distinct contrast lies in their remuneration models. Punjab and Haryana utilize a fixed, consolidated monthly salary structure (or pay matrix mapping in Haryana) where law officers receive a uniform monthly income regardless of the number of cases handled. In contrast, Uttar Pradesh follows a hybrid fee structure consisting of a base monthly retainerhip supplemented by per-hearing or daily appearance fees, meaning a law officer's total earnings in UP fluctuate directly based on daily court appearances and brief allotments. In such a situation, the petitioners' claim that the ratio of Chahal(supra) should be applied cannot be accepted.

42. However, we make it clear that appointments must be based on merit. We also make it clear that we are not commenting upon the total number of State Law officers or how they should be appointed; that's totally the State's domain to work on; but whatever method is adopted, it must be shown that the appointments were made only on the basis of the merit and not for any other consideration. In this regard, it is important to place reliance on the Hon'ble Apex Court in *State of U.P. v. U.P. State Law Officers' Assn.*, reported in (1994) 2 SCC 204; the relevant para is being reproduced below:

*18. The mode of appointment of lawyers for the public bodies, therefore, has to be in conformity with the obligation cast on them to select the most meritorious. An open invitation to the lawyers to compete for the posts is by far the best mode of such selection. But sometimes the best may not compete or a competent candidate may not be available from among the competitors. In such circumstances, the public bodies may resort to other methods such as inviting and appointing the best available, although he may not have applied for the post. **Whatever the method adopted, it must be shown that the search for the meritorious was undertaken and the appointments were made only on the basis of the merit and not for any other consideration.***

(C.M. Intervenor Application No. 28966/2018 in re; Public Interest Litigation NO. 16009 of 2017)

43. The prime contention of Ms. Manisha Srivastava, by way of an intervention application, was that the Legal Remembrancer (LR) Manual, insofar as it lacks transparent and objective criteria and fails to ensure fair representation of female lawyers in State empanelment, is *ultra vires* Articles 14, 15 and 16 of the Constitution of India.

44. The intervention application filed by Ms. Manisha Srivastava is legally not maintainable to the extent of challenging the Legal Remembrancer (LR) Manual as *ultra vires*, because an intervener is bound by the existing framework of the main petition and cannot enlarge the scope of the *lis*, introduce a distinct cause of action, or seek independent affirmative reliefs that were never prayed for by the original petitioner; allowing such a challenge through a side-door intervention violates established procedural norms and deprives the respondents of a proper opportunity to counter the claim.

45. However, we make it clear that the Government should endeavour for appropriate representation of women in the government panel.

(C.M. Intervenor Application No. 31/2026(49447/2026) in re Public Interest Litigation NO. 16009 of 2017),

46. The prime contention in the above-mentioned intervention application is that the Legal Remembrancer's Manual lacks an effective mechanism for supervision, performance assessment, and accountability of State Law Officers. The need to regulate private practice, which may create conflicts of interest, has also been highlighted. It is further submitted that an accessible grievance-redressal mechanism should be provided for complaints against State Law Officers. The conduct, performance and allocation of work, including in respect of surplus State Law Officers, should be monitored to ensure accountability and efficient use of public resources. In this regard, it is important to decide whether State Law Officer should be allowed to do private practice before various bodies.

Whether State Law officers should be allowed to do private practice before various bodies.

47. During the course of arguments in one of the intervention applications which came before us, a pivotal point was highlighted: that some State Law officers are involved in private practice before various bodies.

48. Before entering into the merits of counsel's submission in the intervention application, it is important to revisit the provisions governing such practice for the State Law officer. Para 4.07 of the LR Manual. For the sake of convenience, we are reproducing the whole provision

4.07. Certain restrictions- (1) *The Government Advocate, which expression, in this rule, includes an Additional Government Advocate, Deputy Government Advocate or Assistant Government Advocate, shall have the right of private practice, but shall not, except under special permission of the Government, appear for the defence in any criminal or quasi-criminal case or proceedings nor shall he advise any private party regarding any criminal case which might be pending or be likely to be instituted in Uttar Pradesh.*

Save as may be required for the purposes of any case in which he appears on behalf of the State, the Government Advocate shall not, without the permission of the Legal Remembrancer, communicate directly or indirectly to any person or party the contents of any documents or convey any opinion which has come to his possession or knowledge in the course of his duties.

3) The Government Advocate shall not accept any appointment as a Director of any Company without the previous sanction of the Government.

49. During the course of arguments in the said intervention (**C.M. Intervenor Application No. 31/2026(49447/2026) in re Public Interest Litigation NO. 16009 of 2017**), when asked by this Court whether he had any evidence to support his arguments, he submitted that he would file the names of at least 5-10 State Law officers who are engaged in such type of practice. However, he has subsequently produced the name of only one advocate.

50. We are not certain as to in what capacity the said State Law Officer appeared against the State. However, on account of the non-submission of at least a few names along with supporting evidence, this Court cannot arrive at any definite conclusion in this regard. At the same time, this Court is also conscious of the need to curb this menace, and is of the considered view that such practice, if indeed prevalent, must be stopped forthwith.

51. So far, the contention regarding the supervision of the State Law Officer is concerned, the LR Manual lays down the detailed procedure in this regard; it is important to highlight the provision in the LR Manual.

Para 4.19. The LR Manual lays down the provision for returns

As soon as may be after the close of each calendar year, the Government Advocate shall submit to the Legal Remembrancer a consolidated return in Form no.27 giving a conspectus of the criminal cases conducted during the year-

(a) by him personally.

(b) by Additional Government Advocate

(c) by each Brief Holder.

52. In view of the existing supervisory mechanism provided under the L.R. Manual for overseeing the conduct and performance of government-engaged advocates, creation of a separate grievance redressal committee may not be warranted. There is also a possibility of such a mechanism being invoked for making frivolous or motivated complaints by persons having no direct or legitimate concern. The existing provisions of the L.R. Manual may, therefore, be suitably utilised and, if necessary, strengthened for effective supervision and redressal of genuine grievances.

53. The existing provisions of the U.P. L.R. Manual already provide an adequate supervisory and regulatory framework in respect of Government Counsel, including assessment of their professional conduct, integrity and performance. In view thereof, creation of a separate grievance redressal committee may not be warranted, particularly as it may give rise to frivolous or motivated complaints. The existing mechanism under the L.R. Manual may instead be suitably

strengthened and effectively enforced for redressal of genuine grievances.

54. However, the only aspect which needs to be clarified is that such disclosure/return as mentioned in LR Manual should not be confined to criminal cases alone, but should extend to every category of case handled by the State Law Officers.

55. So far as the contention of the learned Intervenor that a State Law Officer, while holding any post under the State Government, ought not to contest an election to a Bar Association or Bar Council is concerned, The proposal may be examined with reference to the applicable statutory provisions, conditions of engagement and the rules governing elections to Bar Associations. If it is found appropriate to require a State Law Officer to cease such engagement upon contesting or participating in the election of a Bar Association.

Writ-C No. 31400 of 2017

56. The main contention of this petition is that the petitioner, who had applied for the same State Law Officer position in 2017 but was not considered. He alleges absence of public notice, transparency, objective assessment, and compliance with *State of Punjab v. Brijeshwar Singh Chahal*, causing excessive appointments, financial burden, and criminal antecedents of government advocates.

57. It is pertinent here to mention that the present petition comes under the purview of Writ-C, not PIL. However, the matter was connected due to the same subject matter; in such a situation, if we apply the general rule of PIL, i.e., an interested party cannot seek remedy, then it will cause great prejudice to the petitioner.

58. Coming to the case in hand, we have already clarified why the judgment of Chahal (supra) cannot be applied to the State of U.P.

However, we cannot neglect the discrepancies which are apparent from the record. This Court cannot turn a blind eye to the facts and circumstances emerging from the record before it. During the course of hearing of the present proceedings, this Court has come across certain startling and disquieting facts which have deeply concerned the conscience of this Court, particularly concerning the following aspects:

1. When the petitioner in Writ-C No. 31400 of 2017 filed an RTI (received on 10 May 2018) to enquire whether any criminal cases are pending against the standing counsel, the reply stated that the above-mentioned question is Misleading.
2. The Lack of a preliminary “needs assessment”

59. This Court is unable to comprehend how an inquiry into the criminal antecedents of a person proposed to be appointed as a State Law Officer can, in any manner, be regarded as misleading. The State has not offered any explanation whatsoever. In these circumstances, it becomes imperative to examine whether the L.R. Manual contains any provision which may operate as a safeguard or safety valve against the appointment of persons as Government Advocates against whom serious or heinous criminal cases are pending.

Whether the LR Manual contains any provision that may serve as a safety valve for excluding from appointment as Government Advocate persons against whom serious and heinous criminal cases are pending?

60. We have carefully gone through the provisions of the LR. Manual. Surprisingly, the Manual contains no provision prescribing any disqualification for appointment or continuation of a State Law officer on account of serious criminal cases pending against him. Equally, there appears to be no provision dealing with the manner in which the State is required to assess or deal with the suitability of a person against whom

serious criminal proceedings are pending for appointment as a State Law officer. This Court firmly believes that the robe of a lawyer cannot conceal the stain of criminal conduct, nor can a law degree confer immunity from the law. The legal profession, by its very nature, demands the highest standard of integrity, probity and professional conduct. It is in this context that the Court endeavors to ensure that the oft-quoted adage:

'पैदा हुआ वकील तो शैतान ने कहा,

लो आज हम भी साहब-ए-औलाद हो गए!'

does not become the hallmark or defining identity of an advocate practicing before the Courts of Justice. An Advocate, while appearing before the Court, is not merely a representative of his client but also an officer of the court and is therefore, expected to uphold the dignity of the legal profession and maintain the highest standards of professional ethics and conducts.

62. In this regard, this Court is not alone; in ***Mohd. Kafeel v. State of U.P.*, 2025 SCC OnLine All 8008**, a learned Single Judge of this Court had called for details of advocates enrolled in the State of Uttar Pradesh against whom criminal cases were pending. Though the said direction was issued in respect of advocates generally, this Court is of the considered view that the issue assumes an even greater significance when the person concerned is a State Law officer.

63. A State Law officer does not merely appear in the capacity of a private legal practitioner; he represents the State and is entrusted with the responsibility of assisting the Court in the administration of justice. The appointment of such a person, therefore, cannot be divorced from considerations of integrity, criminal antecedents, professional conduct and public confidence. If scrutiny of criminal antecedents is warranted in respect of advocates generally, there can hardly be any justification for subjecting State Law Officers to a lesser degree of scrutiny. Rather, the standard ought to be higher.

64. The second aspect in the present petition that requires judicial scrutiny is “the lack of the need assessment”.

Whether, prior to such appointment, there is a requirement to conduct a preliminary “needs assessment”?

65. This Court is conscious that the determination of the number of such law officers is, in the first instance, within the discretion of the State in terms of Paragraph 4.01 of the Legal Remembrancer’s Manual provides for the appointment of such number of Additional Government Advocates, Deputy Government Advocates and Assistant Government Advocates as the Government may, from time to time, appoint, while **Paragraph 5.01** similarly provides for the appointment of such number of Standing Counsel as the Government may, from time to time, appoint. However, such discretion, though vested in the State, cannot be exercised arbitrarily, mechanically, or merely for the purpose of appeasement, nor can it be permitted to result in unnecessary or excessive appointments at the cost of the public exchequer. The State's funds ultimately derive from public revenue and represent the hard-earned money of taxpayers. The exercise of such discretion must, therefore, be guided by relevant considerations and supported by objective material.

66. During the course of hearing of the present PIL, the State has failed to place before this Court any material indicating that a reasoned assessment or exercise was undertaken to ascertain the approximate number of State Law Officers required to conduct and represent the State's cases effectively. Unfortunately, no such assessment, data, criteria, or methodology has been brought on record by the State.

67. We also came across several previous orders where the coordinate bench of this Court has put faith in the Learned Advocate General for the State to bring on record sufficient material to show what

methodology was adopted, despite several opportunities the State failed to bring on the proper record.

68. Whenever the exercise of such discretion is called in question before the Court, the State must be in a position to demonstrate the basis, criteria and methodology adopted by it in making such appointments. Placing such material on record would serve at least two important purposes: **first**, it would explain and justify the necessity for appointing such a large number of State Law Officers; and **second**, it would demonstrate that the appointments have been made on the basis of objective and relevant considerations, including merit and suitability, rather than on extraneous considerations.

69. Moreover, we are also of the opinion that in any system where some vacancy needs to be filled, a 'needs assessment' is first and foremost the process that must be adopted; the same should be applied in the present case also. While doing so, this Court is not in any manner hampering the State's autonomy to appoint State Law officer. We are also making it clear that the 'needs assessment' need not show the exact number of advocates necessary to facilitate the State's affairs; an approximate figure will also work, but some realistic assessment must be done.

70. We make it clear that the observations made by this Court are not intended to adversely affect or disturb appointments which have already been made. However, these observations and the deficiencies highlighted herein must be given due consideration by the State while undertaking **future appointments**, so as to ensure that the process is transparent, fair, rational and in conformity with the principles governing public appointments.

71. The principal contention of the petitioners is that the process culminating in the publication of the 2023 list of State Law Officers is vitiated by non-compliance with the principles laid down by the Hon'ble Supreme Court in *Brijeshwar Singh Chahal(supra)*. It is further contended that the earlier list published in 2022 did not comply even with the basic eligibility requirements prescribed under the Legal Remembrancer's Manual, including the minimum five years' practice required for appointment as a Brief Holder. It is also submitted that no proper Selection Committee or equivalent transparent mechanism was in place to ensure a fair, merit-based and legally compliant process for the engagement of State Law Officers.

72. We have already clarified why the judgment of Chahal (supra) cannot be applied to the State of U.P. The contention that there is no Selection Committee in the State of Uttar Pradesh for scrutinising the names of advocates proposed for engagement as State Law Officers is not factually correct. The State, through his affidavit dated 4 October 2023, filed on behalf of the State, it has been stated in the said affidavit that, in order to ensure effective consultation and proper scrutiny in the matter of engagement of State Law Officers, a Committee has been constituted under the Chairmanship of the learned Advocate General.

73. As stated in the affidavit, the said Committee has been constituted for scrutinizing the names of advocates seeking engagement as State Law Officers and for considering the continuance and renewal of the tenure of existing State Law Officers. The Committee consists of the following members:

(i) Advocate General, Uttar Pradesh — Chairman;

(ii) Principal Secretary to the Chief Minister, Government of Uttar Pradesh — Member;

(iii) Principal Secretary, Home, Government of Uttar Pradesh — Member; and

(iv) **Principal Secretary, Law/Legal Remembrancer, Government of Uttar Pradesh** — Member Secretary.

74. So far as the contention regarding the appointment of Six Chief Standing Counsels is concerned, it is important to revisit the relevant provisions of the Legal Remembrancer's Manual governing such appointments. *Chapter V* of the Legal Remembrancer's Manual, dealing with *Chief Standing Counsel and Standing Counsel in the High Court*, specifically provides under Paragraph 5.01 that there shall be **one Chief Standing Counsel for the High Court at Allahabad and another for its Lucknow Bench**, apart from such number of Standing Counsel at Allahabad and Lucknow as the Government may, from time to time, appoint.

75. This Court is unable to ascertain from the material placed on record as to why as many as six Chief Standing Counsels have been appointed. No explanation whatsoever has been furnished by the State in this regard. At the same time, this Court is conscious of the fact that the workload and administrative requirements of the High Court may, in an appropriate case, necessitate the appointment of more than one Chief Standing Counsel. However, any such appointment must be supported by a reasonable and objective assessment of the actual need and workload, as has already been emphasised by this Court hereinabove.

76. We make it clear that these observations shall not be construed as casting any adverse aspersion upon the appointments already made or upon any of the persons presently holding the office of Chief Standing Counsel. The concern of this Court is confined only to the existence of a transparent and rational mechanism governing such appointments and the proper utilisation of public funds.

77. The State may, therefore, for future appointments, consider undertaking and placing on record an appropriate assessment of the workload and necessity justifying the appointment of more than one Chief Standing Counsel, wherever circumstances so require.

What is the way forward?

78. In the earlier orders, this Court had reposed faith in the State authorities and granted them adequate opportunity to take necessary corrective measures. However, despite such opportunities and the passage of considerable time, the aforesaid irregularities and deficiencies continue to persist. In these circumstances, this Court cannot remain a mere mute spectator and permit the issues repeatedly brought to its notice to remain unaddressed, as in ***Rattan Chand Hira Chand v. Askar Nawaz Jung (Dead) by LRs*** reported in (1991) 3 SCC 67, the Apex Court insisted on the duty of the Court to step in to fill the lacuna in the event of unexpected situations and contingencies, when the legislature fails to keep pace with changing needs and values. Para-17 of the said judgment reads as follows:

“17. I am in respectful agreement with the conclusion arrived at by the High Court. It cannot be disputed that a contract which has a tendency to injure public interests or public welfare is one against public policy. What constitutes an injury to public interests or welfare would depend upon the times and climes. The social milieu in which the contract is sought to be enforced would decide the factum, the nature and the degree of the injury. It is contrary to the concept of public policy to contend that it is immutable, since it must vary with the varying needs of the society. What those needs are would depend upon the consensus value judgments of the enlightened section of the society. These values may sometimes get incorporated in the legislation, but sometimes they may not. The legislature often fails to keep pace with the changing needs and values nor is it realistic to expect that it will have provided for all contingencies and eventualities. It is, therefore, not only necessary but obligatory on the courts to step in to fill the lacuna. When courts perform this function undoubtedly they legislate judicially. But that is a kind of legislation which stands implicitly

delegated to them to further the object of the legislation and to promote the goals of the society. Or to put it negatively, to prevent the frustration of the legislation or perversion of the goals and values of the society. So long as the courts keep themselves tethered to the ethos of the society and do not travel off its course, so long as they attempt to furnish the felt necessities of the time and do not refurbish them, their role in this respect has to be welcomed.”

79. Having considered the submissions of the parties and after perusal of material available on record, we find it appropriate to carve out the guidelines for appointments of the State Law Officers, i.e. Government Advocate, Additional Government Advocate, Chief Standing Counsel, Additional Chief Standing Counsel, Standing Counsel and Brief Holders (civil and criminal). The following guidelines shall be strictly followed/acted upon by the State Government while making appointment of the State Law Officers:

I. First of all, the State shall make need-based proper assessment of the requirement of the number of State Law Officers for efficient and smooth conduct of State litigation.

II. The State shall prescribe clear objective and transparent eligibility and selection criteria, taking into consideration of the professional experience, competence, integrity, behavior and suitability for the office. It shall also be ensured that no person having criminal antecedent or undesirable behavior be appointed/inducted as State Law Officer.

III. The provision of Para 4.19 of the L.R. Manual should not be confined to criminal cases, but it should include all categories of cases handled by the State Law Officers so as to facilitate a proper assessment of workload and requirements.

IV. The entire process of selection and appointment, including eligibility criterion and assessment, shall be transparent and it shall be placed in the public domain, to the extent permissible.

V. The State shall ensure adequate representation of women advocates for appointment of State Law Officers, subject to their availability.

VI. Whenever an FIR/criminal case is registered against any State Law Officer practicing in State of Uttar Pradesh, a copy of the FIR shall be forwarded without any delay to the learned Advocate General for information and necessary action and after receiving such information, the Advocate General shall take all necessary steps as per the required benchmark of professional integrity and administration of justice.

VII. If any State Law officer is appearing or litigating a case against the State, especially in matters where the State itself is a party/opposite party, such State Law officer shall be required to obtain a No Objection Certificate (NOC) from the competent authority, and the same shall be annexed along with the Vakalatnama filed before the concerned Court. No State Law officer shall be permitted to represent any private party in a matter arising against the interest of the State without such prior NOC, and any violation in this regard shall be viewed seriously and shall entail necessary action, including disciplinary action, against the erring advocate. The aforesaid restriction shall not apply in the case of Brief Holders and shall be subject to restriction mentioned in para no.6.11 of Chapter VI of the L.R. Manual.

VIII. The State Government shall examine whether a State Law Officer, while continuing to hold such office or engagement under the State Government, may contest or participate in an election to a Bar Association or Bar Council. Such examination shall be undertaken with reference to the applicable statutory provisions, the terms and conditions governing the engagement of State Law Officers, and the rules governing such elections. Before taking a final decision, the State Government shall undertake appropriate consultation with all relevant

stakeholders, including representatives of the Bar, Bar Associations, the Bar Council, State Law Officers and such other stakeholders as may be considered necessary. The State Government shall thereafter take an appropriate decision and where necessary, issue suitable directions regulating the continuance of engagement of the State Law Officers participating in such elections.

80. Hence, all the aforesaid writ petitions/PILs are **disposed of** in the aforesaid terms.

81. Before parting with judgement, this Court places on record its appreciation for the valuable research assistance rendered by Mr. Saurabh Singh, Research Associate.

(Rajeev Bharti,J.) (Rajesh Singh Chauhan,J.)

October 05.10.2026
Shukla.