

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1386 OF 2014

- 1) Bahujan Mukti Party,
Political Party registered with the
Election Commission of India,
bearing registration No.56/05/201/PPS-I,

Through its General Secretary,
Mr. Rajratna s/o Ashok Ambedkar,
Having its Registered Office at
Flat No.14, Asha Pushpa Vihar,
Sahkari Samiti, Sector 14, Koushambhi,
Gajiyabad, Uttarpradesh,

- 2) Rajratna s/o Ashok Ambedkar,
Age-32 years, being Indian
Resident residing at Badlapur,
District Mumbai, at present
residing at Pournima Nagar,
Nanded, Tq. & Dist-Nanded.

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through the Secretary,
Home Department,
Mantralaya, Mumbai-400 032,
- 2) The Director General of Police,
of State of Maharashtra,
Having its office at Mumbai
(Maharashtra),

- 3) The Chief Electoral Officer,
General Administration Department,
Mantralaya, Mumbai-400 032,
- 4) Paramjit Singh Dahiya,
The Superintendent of Police,
Nanded, Tq. & Dist-Nanded,
- 5) Vijay Kabade,
Deputy Superintendent of Police,
Nanded, Tq. & Dist-Nanded,
- 6) Subhash Rathod,
Incharge Police Inspector,
Of Air Port Police Station,
Nanded, Tq. & Dist-Nanded,
- 7) Nanda Manohar Telange,
Lady Constable of Air Port
Police Station, Nanded,
Tq. & Dist-Nanded,
- 8) Sanjay Pise,
Assistant Police Inspector
of Air Port Police Station,
Nanded, Tq. & Dist-Nanded.

...RESPONDENTS

...

Mr.Sanjay Singhavi, Senior Counsel with
Mr. G.A. Gadhe Advocate for Petitioners.
Mr. B.L. Dhus, A.P.P. for Respondent Nos.
1, 2 and 4 to 8.

...

**CORAM: A.B. CHAUDHARI AND
 INDIRA K. JAIN, JJ.**

DATE : 28TH SEPTEMBER, 2015

ORDER :

1. Following are the prayers in this Petition:

"A) That this Hon'ble Court may be pleased by a writ of mandamus or in the nature of mandamus or any other appropriate writ order of direction to direct a judicial inquiry into the incident of beating of the Petitioner no.2 and other workers on the Petitioner no.1 on the night of 1st and 2nd October 2014 and the incident of filing a false case against them;

B) That this Hon'ble Court may be pleased by a writ of mandamus or in the nature of mandamus or any other appropriate writ, order or direction to direct Respondents nos. 2 and 3 to hold an appropriate inquiry into the conduct of the police officers of the Airport Police Station, Nanded, in general and of Respondents no. 4 to 8 in particular, with regard to the allegations that the Petitioner No.2 and other workers of Petitioner no.1 were beaten in custody on the night of 1st and 2nd October 2014 and that a false case was foisted on them and to take the appropriate action upon the results of that inquiry;

C) That this Hon'ble Court may be pleased by a writ of mandamus or in the nature of mandamus or any other appropriate writ order or direction to direct Respondent no. 2 to suspend Respondents no. 4 to 8 pending the inquiry aforementioned;

D) That this Hon'ble Court may be pleased by a writ of mandamus or in the nature of mandamus or any other appropriate writ order or direction to the respondent no. 1 and 2 to pay Rs.1 crore to Petitioner No.2 as compensation for illegal arrest and hand cuffing and the same amount should be recovered from the respondent no. 4 to 8 from their salary or as like pending revenue;

E) That this Hon'ble Court may be pleased by a Writ of Mandamus or in the nature of Mandamus or any other appropriate writ, order or direction to direct Respondent no. 3 to conduct an inquiry into the incident aforesaid under the relevant provisions of the Representation of People's Act. "

2. In support of the prayers, we have heard learned Senior Counsel Mr. Singhavi with Mr. Gadhe

learned Advocate for the Petitioners at length. We have also perused the affidavit in reply filed by Respondent No.3, so also another one filed by Shri Sanjeev Dayal, Director General of Police, Maharashtra State, Mumbai and affidavit filed by Dr. Bhushan Kumar Upadhyay, Principal Secretary (Special), Government of Maharashtra, Home Department, Mumbai. We have heard learned A.P.P. for the Respondents.

3. Learned senior counsel for the Petitioners submitted that the First Information report and the Charge-sheet filed against the Petitioners by the police department about the alleged attack on the police station and the police personnel would be suitably defended by the Petitioners in the Court. However, in the present Petition the grievance of the Petitioners is, about the ill-treatment given to them i.e. Petitioner No.1's party workers and in particular Petitioner No.2 - Rajratna Ambedkar and one Rahul

Yengde by the police staff and judicial inquiry into the said ill-treatment should be ordered, inter-alia, the prayers for compensation etc. from the State Government.

4. From the perusal of the record of the Writ Petition and the affidavits in reply, we find that the Petitioner No.2 - Rajratna Ambedkar is the leader of the particular political party, namely Bahujan Mukti Party, which is said to have been duly registered with the Election Commission of India. It appears that during the election period, rival political group to the Petitioners viz. Bahujan Samaj Party clashed with the Petitioners and their party workers on 1st October 2014 and a fight had taken place between the two rival groups over the issue as to the leaders of Petitioner No.1 party making speeches in a particular area. According to the Petitioners, the rival group i.e. Bahujan Samaj Party workers, assaulted the party workers of the Petitioner No.1

but the police did not entertain them nor took any action on their complaint against the members of the rival political group and on the contrary the Petitioners were arrested. It is, on these facts or incident, the Petitioners have claimed that there should be judicial inquiry as to why the Petitioners were arrested and why action was not taken on their complaint and why Petitioner No.2 and their prominent worker Rahul Yengde, were assaulted by the police.

5. As against the affidavits in reply filed by the Respondents, police department and the officers named by us above, it is stated that on 1st October 2014 the Petitioners and their large number of workers barged their entry into the police station and they created ruckus in the police station, they abused the police personnel present in the police station, so also the ladies police staff in filthy language and not only that, these party workers, big in number, also assaulted

some of the lady police constables by means of hands and fist blows. Not only that, after making entry in the police station as above with force, they even attempted dacoity by attempting to remove the valuable articles from the person of the ladies police constable. The act of the party workers of the Petitioners trespassing into the police station and then creating ruckus in the police station amounted to cognizable offences and therefore the Petitioner No.2 - Rajratna Ambedkar and their prominent worker Rahul Yengde and some other party workers were arrested. It is therefore, stated that the Petitioners and other party workers having thus committed offences of serious nature, the police did nothing wrong in taking action against them and therefore the question of any judicial inquiry does not arise.

6. The learned senior counsel for the Petitioners submitted that the Petitioners sought judicial inquiry because they have no faith in the

inquiry by the higher police officers in the matter regarding their arrest and therefore they want this Court should order holding of judicial inquiry for the arrest and alleged ill-treatment to the workers of the Petitioner No.1 party.

7. Upon perusal of the affidavits filed by the high ranking officers of the State Police Department and Home Department of the State, we quote Para 4 from affidavit in reply filed by Sanjeev Dayal, the Director General of Police, Maharashtra State, Mumbai:-

" I say that on 01-10-2014 the petitioner had arranged a Bahujan Mukty Party rally near Pournima Nagar within the jurisdiction of P.S. Vimantal, Nanded, Petitioner alleged that during the rally at about 20.00 hrs, one Pappu Rawangaonkar supposed to be an activist of Bahujan Samaj Party, along with 10 other activists came near the spot of rally and obstructed the petitioner and raised slogans against him, they also assaulted the activists of Bahujan Mukti Party. It is alleged that the

chairs were thrown towards the leaders and activists of Bahujan Mukti Party and slogans were raised and the perpetrators ran away from the spot. After this alleged incident petitioner along with other supporters came into the Police Station, Vimantal in an extremely aggressive mood and started arguing with the police personnel on duty regarding the above said incident. They were shouting in threatening language and it was quite clear that they had come with the intention to create a scene and disturb public peace. The police staff on duty tried to pacify them and asked them to give a proper written complaint about the alleged incident rather than create a scene. However, inspite of maximum restraint shown by police personnel, the police staff along with the lady police constables were manhandled by the mob assembled in the police station. Further the golden ornaments of one lady police constable were attempted to be snatched by the group and Vilas Kharat and Rahul Yengde caught hold of a lady police constable Nanda w/o Manohar Telang. Police staff which were present on the duty tried to handle the matter with maximum restraint, but the petitioner and other activists of party prevented the police officers from performing their duties and indulged in outright goondaism right within the premises of the

Police Station. Consequently, on 01-10-2014 at about 23.00 hrs. an offence was registered against petitioner and the members of Bahujan Mukti Party with Police Station Vimantal vide crime No.138/2014 u/s 143, 147, 149, 186, 353, 332, 294, 354, 395, 511, 504, 506 of IPC r/w Sec. 7 of Cri. Law Amendment Act and r.w. Sec. 135 of Maharashtra Police Act. After detailed investigation, the investigating officer has submitted the charge sheet in the Hon'ble Court vide charge sheet no. 133/2014 dated 26.12.2014. I say that, regarding Para no.11 of the Petition:-

(ii) As mentioned in the Para No.11 of the Petition, the Petitioner had organized campaign at Poornima Nagar. Regarding the incident mentioned at the end of Para No.11 of the Petition, the Police of Vimantal Police Station has taken necessary action immediately and registered a crime vide crime number 139/2014 u/s 127 Representation of Peoples Act, 1951 r.w. 147, 148, 149, 323, 504, 506 of I.P.C. with Police Station Vimantal against Pappu Rawangaonkar and other ten accused. Investigation of this crime has carried out by P.S.I. Shri. Ganpat Rathod of Police Station, Vimantal. After detailed investigation, the investigating officer has submitted charge sheet against accused in Hon'ble Court vide

charge sheet no.06/2015 dated 04.02.2015.

(iii) I say that with regard to para No.5 of the affidavit filed on behalf of Respondent No.4 to 8, it is stated that the fact is that one activist of Bahujan Mukti Party Shri Quereshi Ahemad Usman r/o Sugat Nagar, Nanded had given an application on date 29.09.2014 for getting permission to conduct election campaign. In his application, the applicant has mentioned Hanuman Mandir Road, Pournima Nagar as the name of place where election meeting is to be held. Upon this application, the Municipal Corporation, Nanded had given no objection certificate to conduct election meeting at **Hanumanghad Ground instead of Hanuman Mandir Road, Pournima Nagar** as stated in the application. The Municipal Corporation, Nanded had not given no objection to petitioner to conduct election meeting at the place which was mentioned in the application (i.e. Hanuman Mandir Road, Pournima Nagar) of the applicant Shri. Quereshi Ahemad Usman r/o Sugat Nagar, Nanded.

(iv) I say and submit that, after no objection given by Municipal Corporation Nanded, the Police Department issued permission for use of Loudspeaker at Hanuman Mandir Road, Pournima Nagar on the same

application dated 29.09.2014 of the applicant Shri. Quereshi Ahemad Usman r/o Sugat Nagar, Nanded. On the permission letter issued, instead of mentioning the name of the place i.e. Hanumanghad Ground, where no objection was given by the Municipal Corporation Nanded, the police officer on duty at the Single Window System has erroneously mentioned the name of the place i.e. Hanuman Mandir Road, Pournima Nagar which was mentioned in the application of the applicant Shri. Quereshi Ahemad Usman r/o Sugat Nagar, Nanded. This mistake is happened mainly due to heavy work load during election period at Single Window System."

8. We find from affidavits from these high ranking officers, that the investigation was made into the grievances of the Petitioners as well and ultimately it was found that it was the Petitioners and their party workers who took law in their hands, barged their entry in the police station, abused police staff in filthy language and even attacked them. The inquiry also indicated that the allegations made by the Petitioners

against the police officers or the police staff about the ill-treatment or victimization were false and baseless, and in fact the Petitioners and their party workers were at fault in assaulting the police personnel, that too in the police station. We have no hesitation in accepting the above inquiries made by various officers of the high rank in the police department. We do not want to believe that merely because the inquiries were made by police officers, the same would not be truthful as alleged by the Petitioners. We cannot forget the fact that the Petitioners and their party workers took law in their hands by barging their entry in the police station and on the contrary they are alleging that their arrest was illegal or that they were victimized or that they were hand cuffed.

9. Insofar as prayer for judicial inquiry is concerned, we specifically told the learned senior counsel for the Petitioners that holding of

judicial inquiry by the person of the rank of District Judge results into spending of huge tax payers' money from the Government Treasury and looking to the manner of incident that took place, the Court was not inclined to order holding of judicial inquiry at the cost of the State Government or tax payers' money. Learned senior counsel was, therefore, offered that if the Petitioners deposit the entire sum required for holding of judicial inquiry, this Court may think of making such order. But learned senior counsel, in the second half of the hearing, came with the instructions and made a statement that the Petitioners would be in a position to deposit only Rupees One Lakh to show bona fides and nothing more. In our opinion, holding of judicial inquiry by District Judge or retired District Judge is a matter which involves huge expenditure and therefore since the Petitioners want that the tax payers' money should be spent for holding of judicial inquiry, we have no other alternative

but to reject the request, particularly because the Petitioners want that tax payers' money should be spent. This cannot be allowed.

10. We then find that there are political groups and groups, small or big, numbering about thousands and then in the name of politics there is a clash amongst themselves which has overburdened the police machinery and machinery meant for maintaining law and order in the State. There is Mushroom growth of such political groups or units every where and for their political purpose they fight amongst themselves and when the police action is taken to maintain the law and order, such petitions are filed, making allegations against the police department either for judicial inquiry or for claiming compensation from the Government for the alleged illegal arrest and so on. As in the instant case, there is prayer clause (D) for demanding Rupees One Crore compensation for the illegal arrest and hand cuffing of

Petitioner No.2. It is thus, clear that the Petitioners think that by asking compensation in the sum of Rupees One Crore from the tax payers' money, first, they would get the compensation for the alleged wrong done to them. We must make it clear that the tax payers' money is not meant for being squandered for such horrendous activities detrimental to the peace in the society. In our opinion the free flow of so-called number of political parties, units, small or big, thousands in numbers, is in fact destructing the peace in the society in the name of democracy. In our opinion, this is nothing but the abuse of democracy and steps are required to be taken to curb this, as the common man is already suffering from different types of melodies.

11. To repeat, the learned senior counsel for the Petitioners submitted that because of the alleged illegal arrest of Petitioner No.2 and Rahul Yengde and hand cuffing, their human rights

are violated. When the learned senior counsel was asked as to the human rights of the police personnel who were abused in filthy language and were assaulted and the modesty of the lady constable was outraged, who was first informant, by the Petitioners and their party workers including said Rahul Yengde, the learned senior counsel had no answer. In other words, in the name of alleged violation of human rights, Petitioners bother only about their human rights and not of the others though the Petitioners were guilty of barging entry in the police station and taking law in their hands. In our opinion, the submission about the violation of human rights of the party workers like Rahul Yengde, who has criminal background, is unfathomable. Rahul Yengde has five previous serious offences registered against him with various police stations and not only that, externment proposal No.8 of 2014 was also sent against him by the concerned police station. Thus, the Petitioners are more concerned with the

alleged human rights of said Rahul Yengde and Petitioners are not speaking about the human rights of police personnel. We condemn such type of conduct of the Petitioners by raising the issue of human rights and the bogey of human rights. The report against Rahul Yengde is that he always troubles Government officers and propagate the peoples in the name of different community and thereby disturbs public tranquility. We cannot countenance such concept of human rights propagated by the learned senior counsel before us.

12. In our considered opinion, if at all Petitioners had any grievance about their complaint not being registered against the rival group which attacked them, the law provides for remedies including the remedy to approach the superior officer, namely, the Superintendent of Police. Still in the instant case, as a matter of fact, it is not that no action was taken against

the rival group but it is disclosed from the affidavits, that immediately on the next day the F.I.R. was registered against the rival group who had allegedly made assault on the Petitioners and their party workers. It is, therefore, wrong to say that the police acted with partisan attitude, as alleged.

13. To sum up, we are satisfied that the inquiry made by the high rank police officers in the State of Maharashtra, was satisfactory, non partisan and the Petitioners cannot have any grievance about it. We, therefore, reject the prayer clause (A) for the judicial inquiry, as we do not want that the tax payers' money should be squandered in the manner sought by the Petitioners. Insofar as prayer clauses (B), (C), and (E) are concerned, we have already held that the inquiry made by the high rank officers, as disclosed in the affidavits, is good enough and no further indulgence is necessary. Insofar as prayer

clause (D) for compensation is concerned, the same obviously lacks bona fides and must be rejected, which we do.

14. In the result, we find no merit in the present Writ Petition. We, therefore, dismiss the Writ Petition with costs of Rs.5,000/- (Rupees Five Thousand) payable by the Petitioners to the Respondents within EIGHT WEEKS from today.

[INDIRA K. JAIN, J.]

asb/OCT15

[A.B. CHAUDHARI, J.]