

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****PUBLIC INTEREST LITIGATION NO. 25 OF 2014**

Association for aiding Justice .. Petitioner
versus
Union of India & Ors. .. Respondents

Mr. Dipesh Siraya for Petitioner.

Mr. Parag Vyas with D. A. Dubey for Respondent No. 1.

Mr. A. B. Vagyani – GP with Mr. M. M. Pabale – AGP for State –
Respondent Nos. 2 to 4.

**CORAM: DR. MANJULA CHELLUR, C. J. AND
M. S. SONAK, J.**

DATE : 25 NOVEMBER 2016

P.C.:

1] The petitioner before us contending that inspite of successful government promising police reforms to the people of India and inspite of Apex Court's direction in the case of ***Prakash Singh & Ors. vs. Union of India & Ors.***¹, the respondents State has not taken any measures to amend the existing guidelines, statutes, regulations in consonance with the directions in the case of *Prakash Singh* (supra). According to them, in the light of development in the forensic science and other technical education, there is a need to change the work culture in the police organization by introducing various methods and in implementing the work culture so as to strengthen the ability of the police organization. In other words, the specific prayers for which the present PIL is filed are as under:

“a) that this Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction thereby directing the Respondents to submit the report explaining the steps adopted by the Respondent No. 2 in implementation of

¹ (2006) 8 SCC 1

*direction passed by the Hon'ble Supreme Court in **Prakash Singh & Ors. vs. Union of India & Ors. (2006) 8 SCC 1**, in absence of which the Respondent No. 2 be directed to immediately implement the order passed by the Hon'ble Supreme Court;*

b) that this Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction thereby directing the Respondent No. 2 to submit adopt and or carryout amendment in Bombay Police Act, 1951 as per the Soli Sorabjee Committee;

c) that this Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction thereby directing the Respondent No. 1 to submit report explaining a time bound structure for implementation of policy to ensure proper and effective working of the police force;

d) that pending the hearing and final disposal of the petition, this Hon'ble Court be please to direct the Respondents to take effective measures immediately for :
i. creating an friendly work atmosphere in the Police Station;
ii. fill up vacant post among the department
iii. take immediate steps to ensure proper and effective working of the police force.

e) for ad-interim reliefs in terms of prayer clauses (c) and (d) above;

f) for costs;

g) for such other and further reliefs as the nature and circumstances of the case may require.”

2] The respondents State has placed on record that till date several effective steps are taken not only to fill up the vacant posts, to upgrade forensic science laboratories, provide adequate training facilities and strengthening the investigation system as such. According to them

after the decision in the case of *Prakash Singh* (supra), the State of Maharashtra has enacted Maharashtra Police [Amendment and Continuance] Act of 2014 which has come into force with effect from 1st February 2014. This Act provides for tenure of the DGP and the higher status police officers, the State Security Commission, establishment of the board for the police and authority to look into the complaints and matters so as to avoid influence and pressure etc.

3] In the affidavit filed by the Deputy Secretary, Government of Maharashtra, the steps taken by the State in the matter of implementation of the directions in the case of *Prakash Singh* (supra) have been set out. Paragraph 8 of the said affidavit, reads thus:

“8. Till date the State Government has taken effective steps in regard to filling up vacant posts, upgradation of Forensic science laboratories, adequate training, strengthening the investigation etc. which details are as under:

(a) Practice of investigating officers attending Sessions trials, at least when the important witnesses are being examined in Sessions cases;

Comments :

Instructions have been issued to the Director General office to issue a circular requiring the Investigation Officers (I.O.) to remain present in the Sessions court, as and when summons is served as per the directions of the Public Prosecutor.

(b) Outsourcing the work to private reputed forensic laboratories / hand writing experts for getting expert reports at the earliest, by constituting a panel;

Comments :

Government of Maharashtra has taken various active steps for upgradation of Forensic Science Laboratories (the FSL's) in the State as mentioned herein below:

(i) Government has already established Regional Forensic Science Laboratories (RFSL's) at Nanded and Kolhapur in years 2015 and 2016 respectively.

(ii) Government has also decided to establish five mini laboratories at Thane, Ratnagiri, Solapur, Dhule and Chandrapur. The process for administrative approval is under the active consideration of the Government.

(iii) Government has created forty five mobile forensic support units in every Police Commissionerate at respective cities and district places to help the investigating agencies for collection, preservation and forwarding of clue material to FSL.

(iv) The new services like Psychology, Cyber Forensic, Tape Authentication and Speaker identification (**TASI**) have been established in Mumbai FSL since the year 2007.

(v) In the year 2015 Cyber forensic facility has been expanded in RFSL's at Nagpur and Pune and **TASI** facility has been expanded in RFSL's at Pune, Nagpur, Aurangabad, Nashik and Amravati.

(vi) The DNA facility has already been started at Mumbai, Nagpur and Pune FSL's and in future it will be expanded in all remaining FSL's.

(vii) The High Power Committee under the chairmanship of the Chief Secretary, on 20th June 2016 has accorded its sanction for creation of additional 312 permanent posts (Class I – 42, Class II – 125, Class III - 45) and 106 posts by outsourcing (Class – III – 10 and Class IV – 96) to strengthen the FSL's in the State.

(viii) To clear the pendency of cases in the divisions like Biology, Toxicology, Ballistics, General analytical & Instrumentation, Prohibition & Excise and Physics in the FSL's Government has already sanctioned 49 units (each unit consisting of one Assistant Chemical Analyser, one Scientific Assistants and one Attendant).

(ix) Also to clear the pendency of cases in the divisions like Psychology, Cyber Forensic, Tape authentication and Speaker Identification (**TASI**) Government has sanctioned and filled in 164 posts of Scientific Officers and Scientific Assistants on contract basis for the period from October 2016 to September 2017.

Looking to the present developments in the State Forensic Science Laboratories the work load in future will be drastically

reduced and decentralized, which will help the investigation agencies to get the chemical analysis report within time.

(c) At the highest level, a system of maintaining data in respect of criminal cases of serious nature in which investigation has been kept pending for more than one year and continuous monitoring of the same by an officer not below the rank of Superintendent of Police of a district;

(d) Responsibility of the district heads of police in monitoring and forwarding quarterly reports in respect of the investigation in serious cases and reasons for pendency of investigation.

The Director General of Police has issued instructions to all unit commanders vide Circular dtd. 22/11/2016 regarding taking of review of all serious cases pending for more than one year. The Circular also directs to take quarterly review of all such cases at the level of Commissioner of Police and Special Inspector General of Police for Range and to guide the Unit Commanders. The copy of the said circular is annexed hereto.

(e) In-house mechanism for looking into cases where faulty investigation was conducted by the Investigating Officers:

Comments :

Government Resolution dtd. 12th May, 2015 has been issued to maintain a separate data and records of the cases and the orders of trial courts therein and to take a note of this in the Confidential Report of the concerned Investigation Officer and Senior Police Officers. Also, by the Government Resolution dtd. 17th October, 2015 committee's have been constituted for fixing the responsibility on the investigation agency or the prosecution agency where the decision goes against the State because of negligence on their part. The copy of the said G.Rs. dated 12.05.2015 and 17.10.2015 are annexed hereto.

(f) Approval of charge-sheets by responsible Senior Officers and maintaining record of the same;

Comments :

In order to enhance the conviction rate the State Government had taken various steps. A Monitoring committee has been setup at Magistrate's Court and Session's Court level vide G.R. dtd. 12th May, 2015, which will look into the quality of the Charge sheet before submitting it in the Court. The copy of the said G.R.

Is annexed hereto.

(g) In-house mechanism at Taluka, district and regional level for evaluating performance of Investigating Officers relating to quality of investigation;

Comments :

Government Resolution dtd. 12th May, 2015 has been issued to maintain a separate data and records of the cases and the orders of trial courts therein and to take a note of this in the Confidential Report of the concerned Investigation Officer and Senior Police Officers. Further, by the Government Resolution dtd. 17th October, 2015 committee's have been constituted for fixing the responsibility on the investigation agency or the prosecution agency where the decision goes against the State because of negligence on their part. The copy of the said G.Rs. dated 12.05.2015 and 17.10.2015 are annexed hereto.

(h) Examining observations made by the trial courts in case of acquittal orders passed by the trial court and the reasons thereof:

Comments :

The State Government has instructed the Director of Prosecution to examine the observations made in the orders passed by the trial courts in cases of acquittal and submit report thereof to all the Unit Commanders and also to submit a quarterly report, in that behalf, to the Government in view of the provision of rule 56 of the Rules for the Conduct of the Legal Affairs of the Government, 1984.

(i) Fastening responsibility on the investigating officer for filing final reports belatedly without any sufficient cause :

Comments :

Committee has been constituted vide G. R. dtd. 17.10.2015, to look into the above aspect.

(j) Adequate training from experts from various fields to the investigating officers attached to units under the Standing order.

Comments :

A proposal for creation of separate budget head with regard to the provision of training will be taken up with the Finance department. Also, the proposal to increase the rates of honorarium of Guest lectures is under active consideration of the

Government.

The State Government, vide its letter dtd. 26th May, 2016, has accorded sanction to fill up 75% of the vacant posts (8641) of police personnel, excluding Gadchiroli district. In respect of Gadchiroli district, sanction to fill up 100% vacant posts (167) has been accorded.

Director General of Police has submitted a proposal of recruitment of Police Sub-Inspector (Unarmed) for the 750 posts. The said proposal is under process. Meanwhile, a provisional requisition for the above posts is submitted to the Maharashtra Public Service Commission on 22nd November, 2016. The copy of said letter is annexed hereto."

4] According to learned counsel for the petitioner, the amendment brought to the existing Act deals with the organization of police other than the police working in the metropolitan city. Therefore there is disparity between the same cadre of police officers who work in the city and who work outside the metropolitan city. If by amendment now proposed or as brought to be in the new amended Act creates such disparity, we are afraid, it becomes service matter which cannot be entertained in a public interest litigation. If any of the police personnel are aggrieved by such alleged disparity so far as their services and the benefits attached to the service, they are always at liberty to approach the court in their individual capacity seeking redressal of their grievances.

5] By and large the amendment now brought to the existing Act answers the grievances of the petitioner and accordingly for the reasons stated above, we dispose of the PIL.

CHIEF JUSTICE

(M. S. SONAK, J.)