

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 39 of 2018

Ashok Singroul S/o Jivan Ram Singroul, Aged About 32 Years R/o Village Prankhaira, Police Station Kunda, District Kabirdham Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Food And Public Distribution, Mantralaya, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Collector, Kabirdham, Distt. Kabirdham Chhattisgarh.
3. Sub Divisional Officer (Revenue), Block Pandariya, Distt. Kabirdham Chhattisgarh.
4. Food Inspector, Block Pandariya, Distt. Kabirdham Chhattisgarh.
5. Thana Incharge, Police Station Kunda, Distt. Kabirdham Chhattisgarh.
6. Annpurna Mahila Swa Sahayata Samuh, Through Its President, Radhika Kashyap R/o Village Prankhaira, Police Station Kunda, District Kabirdham Chhattisgarh.

---- Respondents

For petitioner – Shri Yogeshwar Sharma, Advocate.
For State- Shri Bhaskar Payashi, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

23/01/2018

Heard.

1. Learned counsel for the petitioner submits that despite complaint was initially made by the petitioner against respondent No.6 that by manipulating the record ration which are due to public is being manipulated and less quantity has been supplied for which enquiry was initially held by the Food Inspector and FIR was recommended to be registered as per Annexure P-3. As per letter dated 29/12/2016 despite that nothing has been transpired and the FIR is not been registered though report was made to the Police Station Kunda, Tehsil Pandariya and the other office, therefore submits that cognizable offence is made out.

2. Petitioner has claimed the following reliefs in this petition:-

(i) Issue a writ of mandamus directing the respondents to register an FIR against respondent No.6 under applicable sections.

(ii) Issue a writ of mandamus directing the respondents to withdraw registration and recognition of respondent no.6.

(iii) Pass any other order the Hon'ble Court may deem fit in the interest of justice.

3. The Supreme Court in *Lalita Kumari Vs. Government of Uttar Pradesh and others* {(2014) 2 SCC 1} has held as follows:-

“120. In view of the aforesaid discussion, we hold:

120.1. The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

120.2. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

120.3. If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

120.4. The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

120.5. The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

120.6. As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

(a) Matrimonial disputes/family disputes

(b) Commercial offences

(c) Medical negligence cases

(d) Corruption cases

(e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months' delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

120.7. While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time-bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

120.8. Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or

leading to an inquiry, must be mandatorily and meticulously reflected in the said diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.”

4. Considering the above law laid down by the Supreme Court, the writ petition is disposed of with a direction to the concerned Police Station to investigate the matter in accordance with law laid down by the Supreme Court in **Lalita Kumari** (supra) and may proceed further.

Sd/-

(Goutam Bhaduri)

JUDGE