

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

SUO MOTO WRIT PETITION NO.7025 OF 2008

The Registrar,
High Court of Bombay,
Bench at Aurangabad.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through it's Secretary,
of Home Department,
Mantralaya, Mumbai,
- 2) The Director General of Police,
Maharashtra State, Maharashtra.

...RESPONDENTS

...
Mr.S.L. Bhapkar Advocate appointed as Amicus
Curiae for Petitioner.
Mr.A.B. Girase, Government Pleader, for
Respondent Nos. 1 & 2.

...

**CORAM: S.S. SHINDE AND
S.M. GAVHANE, JJ.**

DATE OF RESERVING JUDGMENT : 14TH FEBRUARY, 2018

DATE OF PRONOUNCING JUDGMENT: 21ST FEBRUARY, 2018

JUDGMENT [PER S.S. SHINDE, J.] :

1. The Division Bench of this Court (CORAM:N.V. DABHOLKAR AND N.D. DESHPANDE, JJ.), on 24th November, 2008, passed following order:

"1. Article appeared in daily Lokmat yesterday i.e. dated 23-11-2008 was brought to the notice of Registrar (Administration) of this Court, by Advocate Shri S.L. Bhapkar with a suggestion that it may be treated as public interest litigation and placed before appropriate Bench for suitable directions. Registrar has placed that Article before us with the permission of Senior Judge at the Bench. The Article throws lights upon shortcomings, with which the department is suffering and also plight of common individual employed in the department.

2. The news item highlights following defects-

I, Inadequacy of strength (only 137 policemen per 1,00,000 population).

II. Entire machinery is engaged in maintaining law and order and consequently compelled to be negligent towards investigation and Court attendance.

III. Practically each police station is required to maintain law and order over an area of 100 sq. mtrs. which is generally manned with only 50 police personnel.

3. Cases ending in acquittal because the investigating officers are over burdened with number of investigations and consequent failure to collect best possible evidence.

4. No separation of the department into Wings such as law and order, investigation and other duties, etc. We feel that some of the grievances expressed in the news paper article can also be experienced by others in daily life. Society has not flinched in putting unnecessary burden on the police machinery by going to all festivities, gatherings, morchas and protest, etc. With the passage of time, the notions of security have changed and police personnel are required to accord protection to VVIPs and VIPs and at times, even to witnesses, may be under the orders

of the Court, and therefore, a note is required to be taken of inadequacy of man power at the disposal of police force. Needless to say that one is required to agree that, with the pressure of work and with the chronology of priority, law and order, security, investigation and Court attendance, even the criminal law justice system suffers with inadequate assistance from police department and, therefore, we are inclined to take a note of the news paper article, treating the same as public interest litigation.

5. We appoint Advocate Shri S.L. Bhapkar, who has drawn our attention to the matter, as amicus curiae, to prosecute writ petition. We have, therefore, directed Advocate Shri Bhapkar to draft appropriate petition reciting State of Maharashtra, Secretary, Home Department and Director General of Police, as respondents. We have directed Government Pleader Shri N.B. Khandare to render necessary assistance in the form of statistical data, which demonstrates the inadequacies of the department and necessity for strengthening of the force either by addition to the man power or by addition of better equipment or by

reorganization of the force into branches etc. We expect Advocate Shri Bhapkar to file appropriate petition, by 19-12-2008. We also expect learned Government Pleader to keep Secretary, Home Department and Director General of Police, informed of our action of treating the matter as public interest litigation. We expect them to co-operate with the amicus curiae, by placing their difficulties before the Court. this need not be treated as ordinary litigation, wherein adversaries contest.

. Authenticated copy allowed for the use of either party."

2. Thus, this Court has taken *suo moto* cognizance of a news published in Daily Lokmat on 23rd November, 2008, in respect of deficiencies in relation to crime investigation at the hands of the police department and inadequacy of infrastructure as well as paucity of police personnel, which has adversely affected the quality of investigation and having an impact on

law and order situation. Therefore, as per the directions given by this Court a *Suo Moto* Writ Petition has been filed by learned *Amicus Curiae* Mr. Bhapkar.

3. Thereafter, from time to time, affidavits in replies were filed by the Respondents trying to show that the police department is taking effective steps to address the concern expressed by this Court in its order dated 24th November, 2008.

4. While hearing this Petition on 10th November, 2017, this Court noticed that several issues of public importance which are raised in the Petition, are not replied by the Respondents. This Court in the said order dated 10th November, 2017, has also made reference to the directions issued by the Supreme Court in the case of Prakash Singh and others vs. Union of India and others,¹

¹ 2006(8) SCC 1

and also in the case of Vineet Narain and others vs. Union of India and another².

5. Pursuant to said order, detail affidavit on behalf of the State of Maharashtra has been filed on 9th January, 2018. Paras 5, 6 and 7 of the said affidavit read as under:

"5. I say and submit that as per report dated 1st January, 2017 of Bureau of Police Research and Development, Ministry of Home Affairs, Government of India regarding policemen per lakh population of all States/UTs in India, the population of State of Maharashtra is 12.09 Crores and sanctioned strength of police personnel is 2,20,126 and according to this report the police personnel per lakh population in the State of Maharashtra is 182. As per abovesaid report the State of Maharashtra is having highest police personnel per lakh population among the most populated States of the Country. Also with respect to the jurisdiction of Aurangabad Commissionerate, Aurangabad city has got a population of

² 1998(1) SCC 226

16.56 lakhs and sanctioned strength of Police Personnel for Aurangabad Commissionerate is 3730 which comes to 225 police personnel per lakh population of the city.

6. I say and submit that in consideration with the present population of the State, the Government of Maharashtra has sanctioned total 12043 posts of police personnel vide Government Resolution dated 4th March, 2014 and 20th November, 2014.

7. I say and submit that the State Police force has got a total of 2,20,100 posts of police personnel out of which 2,07,568 posts have been filled up and total 12,532 posts are vacant. Out of these vacant posts recruitment of total 5265 posts of police constables is under process through the Police Recruitment Examination - 2017. Further in case of total 3149 vacant posts of Police Sub Inspectors, Maharashtra Public Service Commission has declared the final result on 5th May, 2017 for recruitment of total 828 posts and accordingly appointment of selected candidates is underway and further recruitment of total 322 posts of Police Sub Inspectors is under process at the

level of Maharashtra Public Service Commission. Also the requisition letter for recruitment of total 1400 posts of Police Sub Inspectors has been sent to Maharashtra Public Service Commission.

In order to fill up the vacant posts from the rank of Superintendent of Police to Director General of Police, the meeting of Scrutiny Committee was organized on 6th December, 2017 and the said vacant posts will be filled soon."

6. Therefore, it appears from the aforesaid portion of the reply that State Government has taken maximum possible efforts/ steps to recruit number of police personnel all over the State of Maharashtra. During the course of hearing of this Petition, learned Government Pleader, on instructions, submits that in this respect if further steps are needed, the Government will take effective steps.

7. So far as the modernization of the police

force is concerned, Para 8 of the reply reads thus:

"8. I say and submit that Government of Maharashtra has taken effective steps for modernization of police force details of which are as follows:-

Modernization of Police Forces Scheme.

I The Modernization of Police Forces Scheme is introduced by Government of India (GoI) since the year 2000-01 wherein, GoI contributes funds along with respective State Governments, in share ratio.

II Until the year 2011-12, the share pattern was 75:25 i.e. Central share 75% and State share 25% respectively. Since the year 2012-13 the share pattern is now in 60:40 ratio.

III Under the scheme, the funds are allocated and utilized by the State Government for the components namely:- Construction of Residential and Non-residential Buildings, Mobility, Equipments, Communication, Arms and

Ammunitions and Training.

IV Since last five years, the total amount of Rs.12068 Cr. has been utilized by GoM out of which, for Construction of Residential and Non-residential Buildings Rs.12.72 Cr. for Mobility Rs.8.26 Cr., for Equipments Rs.46.77 Cr., for Communication Rs.34.44 Cr., for Arms and Ammunitions Rs.15.90 Cr. and for Training and other purposes Rs.2.59 Cr. have been spent.

V. Megacity Policing is a part of Modernization of Police Forces Scheme. Under the Megacity Policing, GoI has sanctioned a total plan of Rs.229.00 Cr. in two phases for city of Bruhanmumbai. In phase I, the GoI has approved plan of Rs.57.00 Cr. in which the central share is of Rs.45.00 Cr. and the respective State share is of Rs.12.00 Cr. The amount Rs.45 Cr. has been released by GoI to GoM in the year 2015-16 and same has been spent for the equipments purchased by Commissioner of Police, Bruhanmumbai."

8. In respect of modernization of police force also, the Government Pleader submits that it

is an ongoing process and if some steps are remained to be taken, the same will be taken in future by the Government of Maharashtra.

9. Detail reply has been filed in respect of weapon policy of Maharashtra State Police. The reply is filed in respect of 'finger print bureau' and steps taken by the State Government in that behalf. There is also reply in respect of 'Computerization', with respect of 'Automated Multi-Modal Biometric Identification System, with respect to 'Dog Squad Policy' and with respect to 'Crime Criminal Tracking Network and System Project'. There is detail reply about improving method of investigation, wherein it is stated that police training for various ranks is organized at four levels and there is also provision with respect to Fire-Arms Training. Therefore, prima facie it appears that the Government of Maharashtra has improved substantially the methods of investigation. In respect of modern technique

in police investigation, the steps taken are mentioned in Para 29 to 33 of the reply.

10. Learned Government Pleader appearing for the State submits that the Government of Maharashtra is committed to ensuring the autonomy and independence of the police force and providing necessary infrastructure to the police stations in the State.

11. Upon careful perusal of various replies filed on behalf of the State and particularly the reply filed on 9th January, 2018, we are of the opinion that the concern expressed by this Court in the order dated 10th November, 2017 has been addressed by the State Government. Apart from it, the statement is made on behalf of the State of Maharashtra that the State Government has taken effective steps to make compliance of the directions issued in the case of Prakash Singh and others vs. Union of India and others, cited supra,

and also in the case of Vineet Narain and others vs. Union of India and another, cited supra. So far as the directions issued by the Supreme Court in the case of Prakash Singh and others vs. Union of India and others, cited supra, and in the case of Vineet Narain and others vs. Union of India and another, cited supra, if there is non-compliance by the State Government, the State Government would be answerable before the Supreme Court. There is also order passed by the Bombay High Court at Principal Seat on 25th November, 2016 in the Public Interest Litigation No.25 of 2014 (Association for aiding Justice vs. Union of India and others), expressing the concern about not taking effective steps by the State to comply the directions issued in the case of Prakash Singh and others vs. Union of India and others, cited supra. In Para 3 of the said Judgment the Court has taken the note of affidavit filed on behalf of the Government of Maharashtra and ultimately the Public Interest Litigation came

to be disposed of at the Principal Seat of the Bombay High Court. Para 4 of the said Judgment dated 25th November, 2016, reads thus:

"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."

12. Keeping in view the detail affidavit filed by the Government of Maharashtra on 9th

January, 2018 and also discussion in foregoing paragraphs, in our opinion further continuation of the Writ Petition is not necessary. As assured by the Government Pleader/ Public Prosecutor while arguing for the State, the State Government has assured that the State Government will continue to take steps, if already not taken, in future so as to address the concern expressed by this Court through various orders passed from time to time.

13. In that view of the matter, we dispose of this Writ Petition, however with a note of caution to the Respondent State that the State Government shall continue to endeavour to take the effective steps even in future in relation to the issues crop-up in the present Writ Petition.

14. With the above observations and directions, the Writ Petition stands disposed of. Rule made absolute in above terms.

15. Since, Mr. S.L. Bhapkar, learned counsel is appointed as Amicus Curiae to prosecute the cause in the *Suo Moto* Petition, his fees be paid as per the schedule of fees maintained by the High Court Legal Services Sub-Committee, Aurangabad.

[S.M. GAVHANE, J.]

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[S.S. SHINDE, J.]