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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **W.P.(C) 6613/2017, CM No. 14750/2018**  
**ASHISH KHETAN**

..... Petitioner

Through: Mr. Sunil Fernandes, Adv. with  
Mr. Arnav Vidyarthi & Ms. Anju  
Thomas, Advs.

versus

**UNION OF INDIA AND ORS**

..... Respondent

Through: Mr. Rajat Gava, Adv. for Mr. Sanjeev  
Narula, CGSC for R-1/UOI  
Mr. Gautam Narayan, ASC with  
Ms. Mahamaya Chaterjee, Adv. with  
SI Gyan Singh, Spl. Cell, Delhi Police  
Ms. Rajdipa Behura, SPP for CBI  
with Mr. Philomon Kani, Ms. Kriti  
Handa, Ms. Hansika Sahu &  
Ms. Damini K., Advs.

**CORAM:**  
**HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**ORDER**  
% **30.08.2018**

**CM No. 14750/2018 (on behalf of respondents seeking condonation of 60 days delay in filing short reply)**

For the reasons stated in the application, the delay of 60 days in filing short reply stands condoned. Application stands disposed of.

**W.P.(C) 6613/2017**

1. The present petition has been filed by the petitioner with the

following prayers:-

*“It is, therefore, under the facts and circumstances of the present case most humbly prayed, that this Hon’ble Court may be pleased to:*

*(i) Issue an appropriate writ, order or direction in the nature of mandamus or any other writ of like nature, directing the Respondents herein to frame Uniform Guidelines and/or Standard Operating Procedures (SOP), to be strictly followed by various Law Enforcement Agencies throughout the country, whenever any citizen of the country is threatened or rights under Article 21 and 19 of the Constitution of India are threatened to be violated by any extremist or radical right wing organizations and;*

*(ii) Pass any other such appropriate orders / directions as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.”*

2. It is the case of the petitioner and contended by Mr. Fernandes, that the petitioner seeks to bring to the attention of this Court the fact that there are no uniform guidelines or Standard Operating Procedure both at the Centre and the States level to deal with the exigencies including threats from radical right wing organizations. If a person is at the receiving end of such threats and is close to the Government of the day then the protection is provided to him. However, if a person does not enjoy good relations with the Government then there is unfortunate tendency to ignore the threats meted out to such person. Such threats, according to Mr. Fernandes infringe the right of the citizens under Article 21 and 19 of the Constitution of India.

He stated due to lack of uniform guidelines and SOP, the aggrieved citizen is left at the mercy of the Government in power to protect his constitutionally enshrined right to life and liberty. It is precisely for that reason, the present petition has been filed praying that this Court may lay down guidelines or the SOP, which shall govern such exigencies.

3. He stated, the petitioner is a journalist and social activist and has been target of criticism. The petitioner had deposed as a prosecution witness in three major Gujarat riots cases. In one of the judgments, the learned Trial Court found the testimony of the petitioner herein cogent, trustworthy and reliable and made it as one of the basis for conviction against the accused. He also refers to the fact that in the year 2005, the petitioner had deposed as a witness before the Registrar General of this Court with regard to an enquiry into the circumstances leading to Ms. Zahira Sheikh as a prosecution witness in the Best Bakery Case. It is stated, the petitioner has received anonymous letter threatening him with dire consequences. Despite complaining to the Police Commissioner, no response was received from the Delhi Police. The writ petition avers that on May 09, 2017, the petitioner again received a threatening letter in Hindi at his office claiming that his death is imminent. He refers to various communications made by the

petitioner to the police authorities with regard to the threats received by him. It is stated that inaction on the part of the State machinery, specifically in the absence of guidelines and SOP, in cases where death threats are effortlessly issued to those who challenge the dominant ideology, be it the journalist, free thinkers, rationalists, secularists, anti-superstition and critical thinkers etc will soon lead to murdering those with differing opinions or agendas on regular basis and the norm being acceptable to the society as a whole. A proper procedure need to be laid down wherein an individual is not left at the mercy and pleasure of the concerned governments.

4. A status report has been filed by the Delhi Police wherein they have referred to Standing Order No. 357/2014 relating to provision of security of individuals by Delhi Police. The relevant paras of the status report being paras 2 to 6 are reproduced as under:-

*2. At the outset it is submitted that in so far as the answering respondent is concerned, a Standing Order (No. 357/2014) relating to provision of security to individuals by Delhi Police is already in existence. It deals with the manner in which personal security cover/additional security cover is to be provided to individuals, who are the target of any threat. It is further clarified that such security cover is granted after a comprehensive assessment of threat perception conducted by the Ministry of Home Affairs or the Special Cell of Delhi Police or on the basis of orders passed by Hon'ble Courts. A true copy of Standing Order No. 357/2014 is annexed herewith as Annexure 'A'.*

3. That on the receipt of information regarding the threats, received by the Petitioner by way of anonymous type written letters, an officer of Special Cell was detailed to look into the same. He contacted the Petitioner on 17.05.2017 in his office, situated in the Delhi Secretariat. Since this amounts to an offence under section 507 IPC, which is a non-cognizable offence an NCR vide No. 2/17 u/s 507 IPC was registered by PS Special Cell on 25.05.2017. Thereafter, an application was filed in the Court of Shri Sumit Dass, CMM, New Delhi, Patiala House Courts, New Delhi soliciting permission to investigate NCR No. 2/17. The Hon'ble Court, vide its order dated 02.06.2017, issued direction for the registration of an FIR and investigate the same. Accordingly, an FIR No. 43/2017 dated 20.06.2017 u/s 507 IPC police Station Special Cell, Delhi was registered and investigation is in progress. Since, the investigation of the case is being conducted by the specialized agency of Delhi Police i.e, Special Cell, all the aspects of threat will be looked into during the investigation of this case. A copy of the FIR dated 20.06.2017 has been provided to the Petitioner.

4. During investigation, original letter and the envelope which contained the same, was obtained from the Petitioner and a request has been moved to the General Post Office, Kashmiri Gate, Delhi to provide the detail of post office from where the letter was posted. However, the Deputy Chief Post Master, Kashmiri Gate reported that the stamp on the envelope was not clear and therefore, it was not possible to determine as to from where it was posted. The envelope has been sent to the Forensic Science Laboratory, Rohini, for ascertaining the location, from where the letter was posted, on the basis of the stamps. However, investigation of the case is in progress. Moreover, as a precautionary measure, the petitioner has been advised to get the CCTV cameras installed at his office and residence.

5. That regarding the complaint dated 27.08.2016, filed by the petitioner in Police Station Darya Ganj, it is respectfully

*submitted that Sh. Ashish Khetan has been informed in writing about the status of his complaint vide letter 23.10.2017. A copy of letter dated 23.10.2017 is annexed as Annexure "B".*

*6. That the complaint dated 15.05.2017 was enquired into through ACP /Civil Lines, Delhi and the security threat assessment of Shri Ashish Khetan was conducted by the specialized agency of Delhi Police i.e. Special Cell, Delhi Police. Though no specific threat perception to Shri Ashish Kheitan came to notice still the Petitioner has been provided with one PSO from 8 AM to 8 PM from Police Station Darya Ganj, Delhi w.e.f. 10.10.2017. Further, the office of the Petitioner is situated near Delhi Vidhan Sabha, which is a secured area. However, Beat Staff and all the Patrolling Staff of the area have also been sensitized in this regard. The Petitioner has also been informed in this regard in writing vide letter 23.11 .2017. A copy of letter dated 23.11 .201 7 is annexed as Annexure "C".*

5. A rejoinder affidavit has been filed by the petitioner.

6. We find, a short reply has been filed by the respondent No.1 wherein it is stated that the security arrangement is carried out in accordance with the Yellow Book guidelines for personal protection. As per the said guidelines, any individual who faces any specific or perceivable threat to his/her security can be provided with appropriate personal security cover commensurate with the threat perception. It is also stated that the '*Public Order*' and '*Police*' is a State subject. Accordingly, security of any individual is the responsibility of the concerned State/UT Administration, in whose territorial jurisdiction the individual ordinarily resides or may happen

to be. Security is provided by the concerned State / UT Government according to the threat perception assessed by them for an individual, for which State Governments have their own mechanism. That apart, it is also stated that Central Government can also provide security to an individual on the basis of the threat assessment made by the Central security agencies on the basis of inputs from its units in the concerned State / UT. Categorisation protection is provided in five categories i.e Z+, Z, Y+, Y and X, based on threat assessment carried out by Central Security Agencies. There is a system of periodical review of the security provided to a person on the basis of latest threat perception and in light of the same, the security provided to a person is downgraded/upgraded/withdrawn/continued.

7. Having considered the stand of the parties and heard the learned counsels, we may, at the outset state that it is the case of the petitioner as there were threats made to him, he had approached the police authorities for grant of security. He referred to various communications made to them. He also referred to a letter written by Ashish Bhatia, Director General of Police and Convenor, CID (Crime & Railways) in the State of Gujarat dated September 06, 2017, wherein a recommendation has been made to provide proper security to the petitioner herein. It is stated by the Delhi Police that a

PSO has been provided from 8 AM to 8 PM from Police Station Darya Ganj, Delhi w.e.f. October 10, 2017. It is also stated, that Beat Staff and all the Patrolling Staff of the area have also been sensitized in this regard. The grant of security to the petitioner surely demonstrate that the threats made to the petitioner for dire consequences have been answered to.

8. The larger question, which has been raised by the petitioner by referring to few cases which according to him, had happened because of suspected involvement of members of few organizations and as such, it is necessary for this Court to formulate uniform guidelines and / or standard operating procedure to be followed by the law enforcement agencies throughout the country. The respondent Delhi Police as well as the Ministry of Home Affairs, have referred to the Standing Order NO. 357/2014 and the Yellow Book, which lays down the guidelines for personal protection. The same is granted when an individual faces specific or perceivable threat to his / her security conducted by the MHA or the Special Cell or on the basis of the orders of the Court. Based on the threat perception, security commensurating the threat perception, is granted. It is also the case of the respondent Delhi Police / MHA that the periodical review of the security provided to a person is made, based on which security is

downgraded/upgraded/withdrawn/continued. We feel that the aforesaid procedure does take care of granting security in case of a threat, provided, the individual who has received the threats informs the police / security agencies, who have to assess the threat perception through their own sources before taking a decision.

9. The plea of the petitioner that guidelines and / or SOP have to be laid down to counter the threat perception from the organizations as named in the petition is concerned, the same, according to us, is a totally misconceived argument. A threat to an individual shall not vary / differentiated on the basis of the source / organization. In other words, a threat remains a threat, regardless of the source. The endeavour of the police / the security agencies is to ensure that the individual who receives a threat is appropriately secured. We feel, Standing Order No. 357/2014 as well as reference made by the Ministry of Home Affairs to the Yellow Book, which according to them lays down the guidelines for providing personal protection surely meets the requirement. The sufficiency of the police protection cannot be assessed by this Court. It is for the police / security agencies to assess the same and provide appropriate security. The scope of judicial review is only when the guidelines / instructions are not followed. So, a direction calling

upon this Court to frame uniform guidelines / SOP to enable the law enforcement agencies to follow the same cannot be a subject matter of a PIL, as it is for the police / agencies who have expertise to assess the nature / dimension of threats to formulate / review guidelines / instructions to prevent any mis-happening.

10. We do not find any merit in the petition. The same is dismissed.

**CHIEF JUSTICE**

**V. KAMESWAR RAO, J**

**AUGUST 30, 2018***/ak*