



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

CRIMINAL WRIT PETITION NO. 332 OF 2024

1. Shrikrishna s/o Dattatraya Kokate,
Age : 48 yrs, Occu. Service as
Superintendent of Police, Nanded.
2. Sachin s/o Bapu Sangle,
Age : 42 yrs, Occu. Service as
Assistant Commissioner of Police,
At present Thane City,
Thane.
3. Sohan s/o Kaniyan Machre,
Age : 50 yrs, Occu. Service as PI,
At Degloor Police Station,
District Nanded, at present Nasik Crime Branch.
4. Shrikant Madhavrao More,
Age : 34 yrs., Occu. Service as
PSI, Degloor Police Station,
District Nanded,
At present MIDC, Latur PS.
5. Sunil Omprakash Patre,
Age : 41 yrs., Occu. Service as Police Naik at
Degloor Police Station.
6. Namdeo Shamrao More,
Age : 40 yrs., Occu. Service as
As Police Naik at Degloor Police Station,
Dist. Nanded.
7. Deepak Pralhadrao Joge,
Age : 52 yrs., Occu. Service as
Police Head Constable at Degloor Police Station,
District Nanded.
At present PS Markhel.
8. Kshitij Ganpatrao Bhosale,

Age : 35 yrs., Occu. Service as
Police Constable at Degloor,
Police Station, Dist. Nanded.

...Petitioners
(Orig. Respondent Nos. 2 to 9)

Versus

1. The State of Maharashtra
Through its Principal Secretary,
Home Department, Mantralaya,
Mumbai.
2. State Police Complaints Authority,
Maharashtra State, Mumbai,
Through its Registrar.
3. Somesh Marotrao Kaletwad,
Age : 48 yrs., Occu. Agril.,
R/o. Natkargalli, Degloor,
Tq. Degloor, Dist. Nanded.

...Respondents
(Resp. No. 3 is orig. complainant)

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Mr. S. S. Thombre – Advocate for the Petitioners
Mrs. V. S. Chaudhari – APP for respondent/State
Miss Pradnya S. Talekar i/b Talekar & Associates for Resp. No.3

.....

AND

CRIMINAL WRIT PETITION NO. 614 OF 2023

Somesh Marutirao Kaletwad,
Age : 46 years, Occu : Agriculturist,
R/o. Natkar Galli, Deglur,
Taluka Deglur, District Nanded.

....Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

.....

Miss Pradnya S. Talekar i/b Talekar & Associates for Petitioner
Mrs. V. S. Chaudhari – APP for respondent/State

.....

**CORAM : R. G. AVACHAT
AND
NEERAJ P DHOTE, JJ.**

DATED : 20TH MARCH, 2024

ORDER : -

1. Heard learned advocates appearing for the Petitioners in both the Petitions and Assistant Government Pleader for respondent/State.

2. Criminal Writ Petition No. 614 of 2023 was filed for directions to the respondents for registration of First Information Report against certain police officers and others. This Court, vide order dated 18.10.2023, issued directions which read thus : -

“5. On perusal of the documents filed on record, we found that something alleged incident happened there and report was not registered by the police authority. Considering the fact and circumstances of the case, it would be proper to direct the petitioner to submit the application before the committee under Section 22R(2)(c) of the Maharashtra Police Act. The committee shall submit its report to the State Government and copy thereof to this Court within two months. It is expected that the proposed accused shall not have right of audience before the said committee.”

3. The Committee had passed order dated 02.02.2024 in SPCA/Complaint Case No. 57 of 2023 and thereby disposed of the said complaint.

4. The said order passed by the State Police Complaint Authority has been challenged in Criminal Writ Petition No. 332 of 2024

mainly on the ground that it has been passed without hearing the Petitioners, in the light of order of this Court. Learned advocate for the Petitioners submits that, in view of the Maharashtra State Police Complaints Authority (Administration and Procedure) Regulations, 2017 [hereinafter referred to as 'Regulations of 2017'], the Petitioners are to be heard. He relied upon Regulations No. 7, 9 and 10 of the Regulations of 2017, pertaining to the procedure for conduct of inquiry, conduct of hearing and appearance at a hearing, which read thus : -

“7. Conduct of enquiry

- (1) Where the Authority decides to conduct an inquiry in any complaint, it shall issue notice, as per Annexure “B” appended to these Regulations, to all respective officer or officers who are related with that matter or against whom a complaint has been made.
- (2) Every notice issued by the Authority to the respondent officer or officers under sub-regulation (1), shall be accompanied with a copy of documents, along with supporting documents, if any filed along with the complaint.
- (3) Where a notice is issued to an officer of the rank of Superintendent of Police and above, a copy of notice shall also be sent to the Director General of Police.
- (4) If the respondent officer is of the rank of Director General of Police, then a copy of the notice along with supporting documents shall be transmitted to the Government.
- (5) Where a notice is issued to an officer below the rank of Superintendent of Police, a copy of the notice with all supporting documents shall be transmitted to his superior Commissioner of Police or Superintendent of Police or Officer-in-charge of the Unit, as the case may be.
- (6) A respondent officer shall submit his reply to the Authority within thirty days of the receipt of the notice, issued under sub-regulation (1), along with supporting documents, if any, if he so desires.
- (7) The Member – Secretary or designated officer shall transmit to the complainant, free of charge, copy of the reply and the copies of supporting documents received from the respondent

officer within seven working day of receipt of such a reply.

- (8) In case the Authority refers a complaint received to its own investigator or any other agency or officer from the purpose of conducting an enquiry, such agency shall complete the enquiry into the matter as expeditiously as possible, and submit a report along with supporting documents to the Authority within a period of sixty days.
- (9) The Member-Secretary or designated officer shall transmit to the complainant, free of charge, a copy of the report received, under sub-regulation(7), within seven days from the date of receipt of report.
- (10) The Member-Secretary or designated officer shall maintain a case record and progress report of each complaint on every day of proceedings in writing.
- (11) The Member-Secretary or designated officer shall maintain records of the meeting and shall obtain signature of the Chairperson and the members on the said minutes of the meeting.

9. Conduct of Hearing

- (1) The Authority shall observe principle of natural justice in the conduct of every hearing in the enquiry.
- (2) The hearing shall be conducted in the official language of the State. However, as an exception, the hearing may be conducted in Hindi or English also.
- (3) The Member-Secretary or designated officer of the Authority shall maintain a record of the proceedings of every hearing.

10. Appearance at a hearing

- (1) The parties to a complaint shall appear at a hearing in person or through their Legal Representative.
- (2) Legal representative of persons can attend a hearing by obtaining leave of the Authority, which the Authority may grant for reasons recorded in writing.
- (3) The Authority may issue summons to any person (as per Annexure "C"), who has knowledge of the matter and facts relating to the complaint, to appear at a hearing for purpose of examination, obtaining evidence on oath or producing documents or record relevant to the case or both or as the case may be, as the Authority deems fit.
- (4) Time limit for completion of enquiry and grant of adjournment.
- Every enquiry initiated on the basis of a complaint received by

the Authority shall be completed and submit report to the State Government, as expeditiously as possible and in any case within a period of ninety days from the date of receipt of complaint.

Provided that, the authority shall not grant more than three adjournments to respondent officer or complainant, during the pendency of a complaint.

- (5) In the report submitted to the State Government after expiry of the time limit mentioned in the above sub-regulation (4), the Authority shall record the reasons for delay in writing.
- (6) The complainant or a victim or a respondent officer may apply for adjournment of a hearing at least three days in advance before the date of hearing.
- (7) Ordinarily the Authority shall not grant adjournment of hearing unless reasonable cause is shown by the concerned party to a case and in every instance, the Authority shall record reasons in writing for grant of adjournment.
- (8) Where an adjournment is granted on the plea of respondent officer for reasons of performance of unavoidable official duty, the hearing may be held on the next working day;

Provided that, the Authority shall not grant more than three adjournments to a Respondent Officer, during the pendency of a complaint against him.

- (9) Where a complainant or a victim or the Respondent Officer fails to appear before the Authority, the Authority shall proceed with the case *ex parte*.”

5. Admittedly, the petitioners were not heard before passing the impugned order since this Court had directed not to hear them. Admittedly, the said Regulations were not brought to the notice of this Court when the said order dated 18.10.2023 was passed.

6. Learned advocate Miss Talekar for the Petitioner in Writ Petition No. 614 of 2023, on instructions, submits that the matter be relegated to the said committee for deciding afresh as per the Rules and

Regulations. Even the learned advocate for the Petitioners in Writ Petition No. 332 of 2024 assails the order of Committee mainly on the ground of no opportunity of hearing.

7. In view of the above, we proceed to pass the following order :

ORDER

- [i] Writ Petition No. 332 of 2024 is allowed.
- [ii] The impugned order dated 02.02.2024 passed by Respondent No. 2 – State Police Complaints Authority, Maharashtra State, Mumbai in SPCA/Complaint Case No.57 of 2023, is quashed and set aside.
- [iii] The parties are relegated to the said committee. The parties shall appear before the committee on 1st April, 2024.
- [iv] The committee shall hear the concerned parties as per Rules and Regulations and submit its report within a period of six (06) weeks from the date of appearance of the parties.

8. Writ Petition No. 332 of 2024 stands disposed of in the above terms.

9. Writ Petition No. 614 of 2023 be listed after six (06) weeks.

[NEERAJ P. DHOTE]
JUDGE

[R. G. AVACHAT]
JUDGE

SG Punde

Signed by: Sandeep Gulabrao Punde

Designation: PS To Honourable Judge

Date: 22/03/2024 12:48:57