



2024:DHC:6374



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Pronounced on: 23.08.2024

+ **W.P. (CRL.) 1456/2024**

JITENDRA KUMAR MEENA

..... Petitioner

Through: Mr Sanjeev Bhandari, Mr
Sushant Bali, Ms Anvita
Bhandari, Mr Kunal Mittal, Mr
Arjit Sharma and Mr Vaibhav
Vats, Advocates.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr Sanjay Lao, Standing
Counsel for the State with Ms
Priyam Aggarwal, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J.

CRL.M.A. 14191/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P. (CRL.) 1456/2024 & CRL.M.A. 14190/2024

1. The present petition has been filed by the petitioner who is presently posted as Deputy Commissioner of Police, West District, Delhi under Article 226 & 227 of the Constitution of India read with Section 482 Cr. P.C. praying, *inter-alia*, for setting aside the



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disparaging remarks made by the learned MACT-01, North, Rohini Court, Delhi in various orders as enumerated in paragraph 10 of the petition.

2. The case of the petitioner is that the learned MACT in MISC DJ/1178/2023, titled as “*ISHAK (Husband of deceased Sakina) vs. Untrace*” passed the following order on 21.02.2024: -

MISC DJ/1178/2023
CNR No.DLNT010106602023

***ISHAK (HUSBAND OF DECEASED SAKINA) Vs.
UNTRACE 21.02.2024***

Present: Petitioner in person.

IO is absent.

*Perusal of the record reveals that the present untraced DAR was filed on 25.09.2023 beyond the prescribed period of filing of the same under Section 159 MV Act. It is further transpired that no FAR was sent by the concerned SHO within 48 hours of lodging of the FIR of untraced DAR has been preferred by the IO during the investigation which is very much evident from the records. Therefore, notice be issued to the concerned DCP to conduct the inquiry in this regard and send the concrete solutions for proper monitoring of filing of DAR within the period of three months from the date of accident as within the jurisdiction of North-West District, there is a clear cut flouting of provision of law **which shows that the DCP is not monitoring the investigation of the matters which shows that he is lacking the administrative skills.***

*Concerned DCP is also directed to file the report after going through the provision of MACT Act as well as of the judgment passed by Hon'ble High Court of Delhi titled as “*Rajesh Tyagi & Anr. Vs. Jaibir Singh & Ors.*”*



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*Copy of the order be sent to concerned DCP for information and compliance **and also to the Commissioner of Police for taking note regarding the capability of DCP concerned.***

Be put up on 30.03.2024.”

3. Learned counsel appearing on behalf of the petitioner has invited the attention of Court to various identically worded orders passed by the learned MACT, the details of which have been enumerated in paragraph 10 of the petition.

4. He submits that pursuant to the directions given by the learned MACT, the petitioner has filed his reply in some of the cases stating that in compliance of the orders passed by the learned MACT, an inquiry has been conducted by the ACP, Public Grievances Cell, against the Investigating Officers ('IOs', for short) who failed to investigate the cases in a professional manner. It has also been stated in the reply that lapses have been found on the part of the IOs, who failed to take extension of time from the learned MACT to file the Detailed Accident Report ('DAR', for short) in the court. Accordingly, the learned MACT was apprised that there is a lapse on part of the IOs and show cause notices have also been sent to the said IOs. A copy each of the replies and show cause notices have been annexed to the petition.

5. One such reply dated 28.03.2024, which has been annexed as Annexure-A15 to the petition, is reproduced hereinbelow for ready reference: -

*“IN THE COURT OF SH. SUNIL KUMAR, PO, MACT-01,
NORTH, ROHINI COURTS, DELHI*



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MACT No. 1178/23

FIR No. 796/21

PS Jahangir Puri

NDOH -30.03.2024

Subject:- Court Order 21.02.2024

Hon 'ble Sir,

This is with reference to the above mentioned Court Order passed by the Hon'ble Court in the above mentioned case.

In this regard, it is submitted that in compliance of the Court order dated 21.02.2024, an enquiry by ACP/PG Cell/NWD was got conducted. Lapses have been found on the part of the following IOs:- 1) IO/ASI Subhash, No. 5522-D, PIS No. 28900454, presently posted at PS Mahendra Park, 2) IO/SI Pradeep, No. D-5069, PIS No. 16100079, presently posted at Special Branch and 3) IO/ASI Parmod Kumar, No. 134/NW, PIS No.28911094, PS Jahangir Puri, who failed to investigate the present case in professional manner. They also failed to take any time extension from the Hon'ble Court to file the DAR in the court. There is supervisory lapse on the part of following Inspr. Investigation/Jahangir Puri- 1) Inspr. Rajeev Ranjan, No. D-410, PIS No. 16050074, presently posted at Rohini District, the then Inspr. Investigation/Jahangir Puri and 2) Inspr. Dharmender Kumar, No. D-4506, PIS No. 28932659 and there is also supervisory lapse on the part. of following SHOs/Jahangir Puri:- 1) Inspr. Rajesh Kumar, No. D-I/943, PIS No. 16960027, the then SHO/Jahangir Puri presently posted at HAC/NWD and 2) Inspr. Arun Chauhan, No. D-1/975, PIS No. 16950198, who failed to supervise the instant matter/case and get the matter/case disposed off timely.

Show Cause Notices have been issued to ASI Subhash, ASI Parmod Kumar, Inspr. Rajesh Kumar, Inspr.



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Dhannender Kumar and Insp. Arun Chauhan for their aforesaid lapses.

Misconduct reports have been sent to DCP/Special Branch and DCP/Rohini for taking disciplinary action against IO/SI Pradeep and Insp. Rajeev Ranjan respectively, being their present disciplinary authority.

That after receipt of the present order all ACPs and SHOs of North West District are hereby directed to ensure that FAR, IAR and DAR are filing accordance with the procedure contained in Standing Order No. 328/2010 as well as directions of the Hon'ble Supreme Court of India and Hon'ble High Court of Delhi.

SHO/Jahangir Purl has-been directed to appear in person before the Hon'ble Court on 30.03.2024, to apprise the facts and abide by the directions passed by the Hon'ble Court, if any.

Sd/-”

6. He further submits that the impugned remarks are unwarranted and made beyond the jurisdiction of the learned MACT. There was no legal requirement to make such remarks/observations and the same has led to lowering the image and reputation of the petitioner. He submits that the remarks/strictures passed in various orders are stigmatic and the same ought not to have been passed without affording an opportunity to the petitioner to put forth his explanation in respect of the alleged delinquency. He submits that such remarks can adversely affect the service record and future career of the petitioner, who is a senior officer in the police department.

7. He has placed his reliance on the following decisions of the Hon'ble Supreme Court in ***A.M. Mathur v. Pramod Kumar Gupta &***



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Ors., (1990) 2 SCC 533, Dr. Dilip Kumar Deka and Anr. v. State of Assam and Anr., (1996) 6 SCC 234, State of West Bengal v. Mir Mohammad Omar & Ors., (2000) 8 SCC 382 and Palani Velayutham v. District Collector, 2009 (10) SCC 664.

8. Further reliance has been placed by him on the following decisions of this Court:-

i) *Ajit Kumar v. State (NCT of Delhi), 2022 SCC OnLine Del 3945;*

ii) *Sanjay Kumar Sain v. State of NCT of Delhi, 2023 SCC OnLine Del 1260;*

iii) *State (NCT of Delhi) though Deputy Commissioner of Delhi Police (South District) v. Sumit Gupta and Another, 2023 SCC OnLine Del 1441, and*

iv) *SI Maya Devi v. State (NCT of Delhi) and Others, 2024 SCC OnLine Del 2135”*

9. He submits that Section 159 of the Motor Vehicle Act, 1988 (‘Act of 1988’, for short) read with Clause 12 of Annexure-13 of the Central Motor Vehicle Rules, 1989, requires the police officer to submit accident information report to the Claims Tribunal within a period of three months from the date of accident. He also invites the attention of the Court to the following excerpts of the Scheme for Motor Accident Claims formulated by this Court in *Rajesh Tyagi & Anr. v. Jaibir Singh & Ors. 2021 SCC Online Del 4046 :-*

**“SCHEME FOR MOTOR ACCIDENT CLAIMS
FORMULATED BY DELHI HIGH COURT**

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11. Investigation of the criminal case to be completed by the police within 60 days of the accident

*The Investigating Officer shall complete the investigation of the criminal case and file the Report under Section 173 CrPC before the Metropolitan Magistrate within 60 days of the accident. The Investigating Officer shall submit the copy of the Report under Section 173 CrPC before the Claims Tribunal along with the **Detailed Accident Report (DAR)**.*

12. Form-VII

Detailed Accident Report (DAR) to be submitted by the Investigating Officer before the Claims Tribunal within 90 days

*The Investigating Officer shall complete the verification of the information and documents furnished by the driver and owner of the vehicle(s) involved in the accident and submit the **Detailed Accident Report (DAR)** with the Claims Tribunal in **Form-VII** within 90 days of the accident. The **Detailed Accident Report (DAR)** shall be accompanied with the documents mentioned in **Form-VII** including the **Site Plan in Form-VIII, Mechanical Inspection Report in Form-IX and Verification Report in Form-X**.*

10. He submits that though it cannot be disputed that the statutory provisions as well as the directions given by this Court in **Rajesh Tyagi (Supra)** have to be complied with in letter and spirit, but at times, the Investigating Officer ('IO', for short) is not able to adhere to the timelines in filing the DARs in some of the cases, *inter-alia*, for the following reasons: -

- i. In the cases of hit and run, lot of efforts are required to trace the offending vehicle, driver, search of eyewitness, analysis of CCTV footage. In such hit and run cases, at times it is difficult to trace the offending vehicle and to file



- DAR within stipulated period despite all possible efforts;
- ii. In some cases, the victim remains unidentified. Time consuming efforts are required in order to establish the identity of victim, such as report from CRO qua matching of fingerprints from data base, publication in the newspaper, W.T. Message, Hue and Cry notice etc.;
- iii. The form containing information about all the drivers involved in the accident (either of the offending vehicles or victim/ injured vehicles) regarding name, age, gender, income, driving license, period of validity of license, vehicle registration number, particular of owner and insurance of vehicle is to be submitted by the driver to the IO within 30 days but, at times, the same is not provided by the concerned driver to the IO within the stipulated time, which leads to delay;
- iv. The form containing information about the owner(s) of all the vehicles involved in the accident (either of the offending vehicles or victim/ injured's vehicles), viz., particulars of the owners, driver details, particulars of insurance policy, particulars of permit and fitness in case of commercial vehicle, RC along with the requisite documents is to be submitted by the concerned owner to the IO within 30 days. Generally, complete information is not received in time. Further, after receipt of this information, the same is to be verified by the IO from various stake holders;



- v. The victims of accident have to furnish the relevant information regarding their income, family details, profession, treatment papers along with the bills of expenditure incurred on treatment to the IO within sixty days. Most of the time, the victims and/or their families are not able to provide timely details as sometimes the medical documents are lost by the victims or the collection of same from the concerned medical institution also takes time. Even after receipt of the information and related documents, the same have to be further verified by the IO; and
- vi. Many times, it takes time to get the above-mentioned information verified from various agencies since such agencies are located in different State(s)/City i.e. areas out of Delhi, which also leads to delay.
11. Mr. Sanjay Lao, the learned Standing Counsel appearing on behalf of the State submits that the State has no objection in case remarks against the petitioner are expunged.
12. I have heard the learned counsel appearing on behalf of the petitioner as well as on behalf of the State.
13. Before proceeding to deal with the question whether the remarks and observations made by the learned MACT-01, North, Rohini Court, Delhi are required to be expunged or not, it is imperative to consider the law on the aspect of expunction of disparaging remarks against the person or authorities whose conduct comes in for consideration before a Court of law during the



proceedings of a case.

14. In ***Dr. Dilip Kumar Deha (Supra)***, the Hon'ble Supreme Court deprecated the practice of making disparaging remarks against the person or authorities who are not parties to the *lis*. The Hon'ble Supreme Court also noted the test laid down in its earlier decision in ***State of U.P. vs. Mohd. Naim, AIR 1964 SC 703***, that is to be applied while dealing with the question of expunction of disparaging remarks. The relevant part of the decision reads thus:

*“6. The tests to be applied while dealing with the question of expunction of disparaging remarks against a person or authorities whose conduct comes in for consideration before a court of law in cases to be decided by it were succinctly laid down by this Court in **State of U.P. v. Mohd. Naim [AIR 1964 SC 703 : (1964) 1 Cri LJ 549 : (1964) 2 SCR 363]**. Those tests are:*

- (a) Whether the party whose conduct is in question is before the court or has an opportunity of explaining or defending himself;*
- (b) Whether there is evidence on record bearing on that conduct justifying the remarks; and*
- (c) Whether it is necessary for the decision of the case, as an integral part thereof, to animadvert on that conduct.*

7. *We are surprised to find that in spite of the above catena of decisions of this Court, the learned Judge did not, before making the remarks, give any opportunity to the appellants, who were admittedly not parties to the revision petition, to defend themselves. It cannot be gainsaid that the nature of remarks the learned Judge has made, has cast a serious aspersion on the appellants affecting their character and reputation and may, ultimately affect their career also. Condemnation of the*



appellants without giving them an opportunity of being heard was a complete negation of the fundamental principle of natural justice.

8. Judged in the context of the first test laid down in Mohd. Naim case [AIR 1964 SC 703 : (1964) 1 Cri LJ 549 : (1964) 2 SCR 363] the above discussion of ours is sufficient to quash the impugned remarks, but we find that the remarks are vulnerable also to the second test laid down therein. On perusal of the order dismissing the revision petition we find that the remarks of the learned Judge are based solely upon the fact that the report of the Medical Board consisting of four medical experts belied their report. Indeed, except the report of the Board we have also not found any other material on record from which the learned Judge could have legitimately and justifiably obtained satisfaction to pass the above remarks against the two appellants before us. We hasten to add that in making the above observation we have left out of our consideration the materials which prompted the learned Judge to make adverse comments against the IO.

(emphasis supplied)

15. In *Palani Velayutham (Supra)*, the Hon'ble Supreme Court noted the following instances where the Hon'ble Supreme Court had deprecated certain authoritarian practices which resulted in hardship and prejudice to litigants and even non-parties in the following terms:

“21. On several occasions, this Court has deprecated certain authoritarian practices which result in hardship and prejudice to litigants and even non-parties. The well-known instances are:

- (1) passing adverse remarks against government officers or others who are not parties to the lis, without giving an opportunity to them to show cause or justify their action;*
- (2) directing the State to recover any losses or damages or costs from a particular officer (who is not*



a party) by holding him personally liable for some alleged act or omission, without giving him any opportunity to explain his position, conduct or action;
(3) directing prosecution of parties and/or non-parties, in cases which merely warrant levy of costs or admonition.”

(emphasis supplied)

16. In *Mir Mohammad Omar (Supra)*, the Hon’ble Supreme Court observed that the castigation of investigation seems to be a regular practice when the trial courts acquit accused in criminal cases on account of flaws and defects in investigation. It was observed that deprecatory remarks be made only when it is absolutely necessary in a particular case and the Court should not overlook the facts that usually such an officer is not heard in respect of such remarks made against them. The relevant observation reads thus: -

“41. Learned Judges of the Division Bench did not make any reference to any particular omission or lacuna in the investigation. Castigation of investigation unfortunately seems to be a regular practice when the trial courts acquit accused in criminal cases. In our perception it is almost impossible to come across a single case wherein the investigation was conducted completely flawless or absolutely fool proof. The function of the criminal courts should not be wasted in picking out the lapses in investigation and by expressing unsavory criticism against investigating officers. If offenders are acquitted only on account of flaws or defects in investigation, the cause of criminal justice becomes the victim. Effort should be made by courts to see that criminal justice is salvaged despite such defects in investigation. Courts should bear in mind the time constraints of the police officers in the present system, the ill-equipped machinery they have to cope with, and the traditional apathy of respectable persons to come forward for giving evidence in criminal cases which are realities the police force have to confront with while



conducting investigation in almost every case. Before an investigating officer is imputed with castigating remarks the courts should not overlook the fact that usually such an officer is not heard in respect of such remarks made against them. In our view the court need make such deprecatory remarks only when it is absolutely necessary in a particular case, and that too by keeping in mind the broad realities indicated above.”

(emphasis supplied)

17. It is also advantageous to refer to some of the decisions of the coordinate benches of this Court on the question at hand. In ***Ajit Kumar (supra)*** this Court whilst dealing with a similar issue wherein SHO concerned had moved before the Court seeking deletion of remarks made against him by trial court observed that every word forming part of a judicial order forms permanent record, thus, use of denigrating remarks against anyone, especially against police officials impeaching their credibility is not the best course to be adopted by a judicial officer. The relevant paragraphs of the said decision read as under: -

“37. Every word forming part of a judicial order forms permanent record. Use of denigrating remarks against anyone, especially against police officials impeaching their credibility and questioning their sense of dedication towards duty, is not the best course adopted by a judicial officer, that too when the same is not required for the adjudication of the case before the Court. Such criticism may have a devastating effect on the professional career of an officer. It is also bound to have everlasting affect on the reputation of a person. This Court is conscious of the fact that police officers are expected to be at the desired place and desired time with utmost efficiency, both by the general public as well by the Courts. Though the police officers are duty bound to discharge their responsibilities with utmost



conviction, the practical difficulties which are faced by them cannot be overlooked and disregarded by the Courts. At the same time, such regard by the courts can not by any stretch of imagination or interpretation be take to be lack of power of the court to pass order regarding the power to point out any irregularity omission or commission of any act as directed by the Court, or any disobedience to obey the directions of the Court. This Court rather vide this order wants to convey that judicial strictures against anyone need to be passed with utmost circumspection. The judicial power comes with utmost responsibility to exercise adjudicatory liberty to express oneself. Judicial strictures against a police officer to the extent as expressed in the present case are problematic though every disapproval expressed by exercise of adjudicatory liberty of expression may not fall in the realm of lack of judicial restraint.

38. The strictures as passed in the present case to the extent of observing that the officer in question has no sense of responsibility and devotion towards duty and further directing the Commissioner of Police to take corrective measures and take action against the police official and further observing that the Commissioner of Police, Delhi may take a call as to whether the petitioner is fit for performing duties as SHO or not goes beyond the mandate of law, judicial precedents and discipline of judicial restraint. This does amount to over stepping adjudicatory liberty of expression exercised by a judge. Such observations have the effect of stigmatizing without conviction, sentencing without inquiry and affect career in future of an officer which had to be left to the internal administrative vigilance and disciplinary proceedings to be conducted by the parent department of the officer in question.”

(emphasis supplied)

18. Similarly, in *Sanjay Kumar Sain (supra)* this Court was dealing with a case wherein the petitioner therein had filed a criminal



writ under Article 226 of the Constitution of India seeking setting aside of the orders passed by the trial court containing remarks and observation against the petitioner. The Court categorically noted that whenever the judicial officers are inclined to use harsh language against the investigating authorities and police officers on their professional capabilities and devotion towards their duty, more control and caution must be exercised since passing of such comments may impair a person's confidence, in addition to having a negative impact on his work and reputation. The relevant part of the decision reads thus:

*“38. Although the Courts must ensure that trials are conducted swiftly, fairly, and impartially, they must take into account the ground realities and position of law. Whenever the judicial officers are inclined to use harsh language against the investigating authorities and police officers on their professional capabilities and devotion towards their duty, more control and caution must be exercised, since passing such comments may impair a person's confidence, in addition to having a negative impact on his work and reputation. The loss of reputation suffered by an officer may not get restored even if the remarks are expunged by a higher court. **Therefore, a thin wall that exists between the adjudicatory liberty to point out the flaws in an investigation or on part of authorities and the obligation to exhibit judicial restraint must be kept in mind and perspective**”.*

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40. This Court is also of the view that in this case, the strictures may be negligent but are not mala fide in nature. It is not to be forgotten by courts that though the remedy of expunction of strictures is available to recipient of



strictures, many a times, the strictures live on not only in public memory but also the memory of the recipient itself. Social memories tend to stigmatize the recipient, though the person passing strictures will enjoy judicial immunity due to his adjudicatory freedom of expression. In the present case, the learned Trial Court displeased due to delay in trial, had passed the orders impugned before this Court without realizing that the cause behind the delay was not the recipient of the strictures herein but the reasons beyond his control.

(emphasis supplied)

19. Likewise, in *Sumit Gupta (supra)* this Court in the following paragraphs observed as under:

“5. Having heard the Ld. ASC and perused the records of the Court, in the considered opinion of this Court, the Ld. ASJ has far exceeded his jurisdiction and scope of powers issuing the directions as in the impugned orders as also has been unnecessarily scathing and discordant; firstly, the genesis of these directions arose while hearing a bail petition and, therefore, as noted in the decisions quoted above, was beyond the scope and jurisdiction of the Ld. ASJ who was merely adjudicating on a bail plea; secondly, directions to supplement the investigation or fill in the gaps in the investigation in a particular manner effectively amounted to taking over the manner of investigation and the method of investigation which is the sole prerogative of the investigating agency. Also, these remarks were being made during what was the hearing of a bail application, was itself unwarranted; thirdly, without giving an opportunity to the investigating officers or other police personnel for what seemed to be a lapse by the Ld. ASJ, the Ld. ASJ summarily noted that the IO was liable for departmental action. This was a highly disproportionate prejudgment on the issue and even if the Ld. ASJ had to ascertain certain facts, it could have been achieved by merely making an



observation and a request to the investigating agency to look into the same. Departmental action is a serious issue which can affect the career of a police personnel or any other public official for that matter and to make these observations/directions in such a cursory and casual manner is certainly not called for nor necessary;.....

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8. In these facts and circumstances, it is directed that all extrajudicial remarks made against the police officers including the IO, DCP (South) and the Commissioner of Police are expunged from the orders dated 08 August, 2022, 17 August, 2022, 24 August, 2022, 29 August, 2022 and 31 August, 2022 passed by the Ld. ASJ, South District, Saket Courts in Bail Application 1395/2022 arising out of FIR No. 267/2022 PS Sangam Vihar, Delhi, as also all directions for conducting inquiries against police officers or notices that have been issued to the police officers for contempt or for criminal proceedings or otherwise are recalled and stand deleted from the said orders.”

(emphasis supplied)

20. In *SI Maya Devi (supra)* as well, this Court after considering various decisions of the Hon’ble Supreme Court, as well as, of this Court on the issue at hand, held as under:

“22. There is thus merit in the contention of the Petitioner that the Sessions Court erred in directing the Police Commissioner to direct disciplinary action. This was unwarranted, legally impermissible and a judicial overreach. Law on the contours of powers to be exercised by a Court viz-a-viz the Executive/Disciplinary Authorities is no longer res integra and is premised on the two pillars of judicial restraint and Separation of Powers. In Divisional Manager, Aravali Golf Club v. Chander Hass, (2008) 1 SCC 683, the Supreme Court elucidated on



the aspect of essence of judicial powers referring to Montesquieu's The Spirit of law as follows:—

“21. The theory of separation of powers first propounded by the French thinker Montesquieu (in his book The Spirit of Laws) broadly holds the field in India too. In Chapter XI of his book The Spirit of Laws Montesquieu writes:

“When the legislative and executive powers are united in the same person, or in the same body of Magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.

Again, there is no liberty, if the judicial power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression.

There would be an end of everything, were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals.”

(emphasis supplied)

...”

In view of the aforesaid judgments, the impugned orders to the extent, show cause notice was issued to the Petitioner and thereafter directions were issued for initiation of disciplinary proceedings, cannot be sustained in law and are accordingly set aside. All observations and directions in the impugned orders relating to issuance of show cause notice including the direction to conduct the disciplinary inquiry shall be treated as expunged and deleted from the impugned orders.”



(emphasis supplied)

21. The denigrating remarks to the effect that “*DCP is not monitoring the investigation of the matters which shows that he is lacking the administrative skills*” and further direction that copy of this order be sent to the concerned DCP for information and compliance and “*also to the Commissioner of Police for taking note regarding the capability of DCP concerned*”, in the judicial orders, have every possibility of finding its way to the Annual Performance Assessment Report (APAR) of the petitioner in the form of an adverse entry. There is also strong possibility that any representation to a higher authority against such entry will be summarily rejected as the same would be premised on the judicial orders. Seen in this backdrop, strictures or disparaging remarks made in the judicial orders certainly have civil consequences because it may affect petitioner’s chances for promotion and to get other service-related benefits.

22. Apt would it be to refer to a decision of the Hon’ble Supreme Court in *State of Maharashtra vs. Public concerned for Governance Trust and others*, (2007) 3 SCC 587, wherein it was observed as under:

“.....in our opinion, when an authority takes a decision which may have civil consequences and affects the rights of a person, the principles of natural justice would at once come into play.....”

23. Clearly, the petitioner against whom the strictures or disparaging remarks have been made by the learned MACT in the judicial orders, was not given any opportunity of explaining or



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defending himself before making such remarks. Illustratively, a perusal of one such order dated 21.02.2024 passed by the learned MACT shows that the Tribunal noting the lackadaisical approach of IO(s) and SHO(s) in not furnishing the First Accident Report ('FAR', for short) within the requisite period of 48 hours as also not seeking extension of filing of untraced DAR, directed for issuance of notice to the petitioner to conduct an inquiry in this regard and send the concrete solutions for proper monitoring of filing of DAR. At the same time, it made disparaging remarks that the *petitioner is not monitoring the investigation of the matters which shows that he is lacking the administrative skills* and simultaneously, gave a direction to send the copy of the order to the Commissioner of Police for taking note regarding the capability of the petitioner.

24. Though non-adherence to the time lines provided statutorily or in the judicial pronouncements for filing the FAR, DAR etc. cannot be countenanced but at the same time the Courts should not be unmindful to practical difficulties which are encountered by the IOs in filing the FAR, DAR etc., including but not limited to, those articulated by the learned counsel for the petitioner, and noted in para 10 above.

25. As noticed, the replies were submitted by the petitioner pursuant to passing of the orders containing impugned deprecatory remarks, in which he categorically mentioned that pursuant to the orders passed by the learned MACT, an inquiry has been conducted by the ACP and lapses have been found on the part of IOs as well as SHOs and for that show cause notices have been issued to the said officers. Misconduct reports have also been sent to DCP branch.



Further, all ACPs and SHOs have also been directed to ensure that FAR, IAR and DAR are filed in accordance with the procedure contained in standing order no. 328/2010 as well as directions passed by the Hon'ble Supreme Court and this Court. Moreover, SHO(s) have also been directed to appear in person before the learned MACT.

26. Notably, the learned MACT did not wait for the petitioner to submit his concrete solutions as directed, rather the petitioner was imputed with the castigating remarks in the same order vide which the petitioner was directed to submit concrete solutions. Thus, there was no occasion for the learned MACT to consider the reply so submitted by the petitioner. Viewed in this light, the condemnation of the petitioner without affording him any meaningful opportunity to offer an explanation is a complete negation of the principles of natural justice.

27. Therefore, the learned MACT ought to have adopted a controlled and cautious approach while passing castigating remarks against the petitioner, more particularly, when such remarks could potentially affect his service career, besides having an adverse impact on his reputation. Plainly, the impugned remarks are contrary to the mandate of law and judicial precedents.

28. In the view of the above discussion, the writ petition is allowed. Consequently, the disparaging remarks "*which shows that DCP is not monitoring the investigation of the matters which shows that he is lacking the administrative skills*", as well as, the remarks "*also to the Commissioner of Police for taking note regarding the capability of the DCP concerned*" are expunged from the orders dated 21.02.2024



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passed in MISC DJ/1178/2023, order dated 23.02.2024 passed in MISC DJ/1221/2023, order dated 21.02.2024 passed in MACT/606/2023, order dated 21.02.2024 passed in MISC DJ/1167/2023, order dated 21.02.2024 passed in MISC DJ/1161/2023, order dated 21.02.2024 passed in MACT/599/2023, order dated 21.02.2024 passed in MISC DJ/1177/2023, order dated 21.02.2024 passed in MACT/606/2023, order dated 21.02.2024 passed in MACT/603/2023, order dated 23.02.2024 passed in MISC DJ/1281/2023, order dated 21.02.2024 passed in MISC DJ/1174/2023, order dated 21.02.2024 passed in MACT/605/2023, order dated 21.02.2024 passed in MISC DJ/1160/2023, order dated 22.02.2024 passed in MACT/614/2023, order dated 24.02.2024 passed in MACT/644/2023, order dated 24.02.2024 passed in MACT/645/2023, order dated 24.02.2024 passed in MACT/646/2023, order dated 23.02.2024 passed in MISC/DJ/1284/2023, order dated 24.02.2024 passed in MISC/DJ/1247/2023, order dated 23.02.2024 passed in MISC/DJ/1286/2023, order dated 24.02.2024 passed in MISC/DJ/1243/2023, order dated 24.02.2024 passed in MACT/669/2023 and order dated 21.02.2024 passed in MACT/600/2023.

29. The petition alongwith pending application, stands disposed of.
No cost.

VIKAS MAHAJAN, J.

AUGUST 23, 2024/'rs'/dss