

ITEM No.3

Court No. 1

SECTION PIL

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

WRIT PETITION (C) NO.310 OF 1996

PRAKASH SINGH & ORS.

Petitioner(s)

VERSUS

U.O.I. & ORS.

Respondent (s)

(With appln.(s) for extension of time and clarification/modification of Court's order and directions)

Date : 11/01/2007 The Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.K. THAKKER
HON'BLE MR. JUSTICE R.V. RAVEENDRAN

For Petitioner(s) Mr. Prashant Bhushan, Adv.

For Respondent (s) Mr. Gopal Subramaniam, ASG
Mr. T. Srinivasa Murthy, Adv.
Ms. Sushma Suri, Adv.
Ms. Sandhya Goswami, Adv.

Mr. Vikas Singh, ASG.
Mr. Vikas Sharma, Adv.
Mr. D.S. Mahra, Adv.
Mr. R.C. Kathia, Adv.

Mr. B.B. Singh, Adv.
Mr. Kumar Rajesh Singh, Adv.

Ms. Suparna Srivastava, Adv.
Ms. Pooja Matlani, Adv.
Mr. Rajesh Srivastava, Adv.

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Ms. Rachana Srivastava, Adv.

Mr. Anil Shrivastav, Adv.

Mr. Arun Jaitley, Sr. Adv.

Ms. Vibha Datta Makhija, Adv.

Dr. Rajeev Dhawan, Sr. Adv.

Dr. R.G. Padia, Sr. Adv.

Mr. S.W.A. Qadri, Adv.

Mr. Rajeev Dubey, Adv.

Mr. Kamendra Mishra, Adv.

Mr. K.N. Balagopal, AG of Nagaland

Mr. S. Balaji, Adv.

Mr. Aruneshwar Gupta, AAG

Mr. Naveen Kr. Singh, Adv.

Mr. Mukul Sood, Adv.

Mr. Shashwat Gupta, Adv.

Mr. D.P. Singh, Adv.

Mr. A.K. Sinha, Adv.

Mr. J.S. Attri, AAG, HP

Mr. Vivek Singh Attri, Adv.

Mr. Shekhar Nafade, Adv.

Mr. Ravindra Adsure, Adv.

Mr. Sanjay R. Hegde, Adv.

Mr. Anil K. Mishra, Adv.

Mr. Vikrant Yadav, Adv.

Mr. Sashidhar, Adv.

Mr. Ranjan Mukherjee, Adv.

Mr. Atul Jha, Adv.

Mr. D.K. Sinha, Adv.

Ms. Krishna Sarma, Adv.

Ms. Minakshi Sarma, Adv.

for M/s. Corporate Law Group, Adv.

Mr. Sonam P. Wangdi, AG, Sikkim

Mr. A. Mariarputham, Adv.

Mrs. Aruna Mathur, Adv.

for M/s. Arputham, Aruna & Co., Adv.

Mr. V.G.Pragasam, Adv.
Mr. S. Vallinayagam, Adv.
Mr. Prabu Ramasubramanian, Adv.

Ms. Indu Malhotra, Adv.

Mr. Manjit Singh, Adv.
Mr. Ajay Siwach, Adv.
Mr. T.V. George, Adv.

Mr. KH. Nobin Singh, Adv.
Mr. S. Biswajit Meitei, Adv.
Mr. David Rao, Adv.

Mr. K.T.S. Tulsi, Sr.Adv.
Mrs. H. Wahi, Adv.
Ms. Shivangi, Adv.
Mr. Kumar Amit, Adv.

Mr. K.N. Madhusoodhanan, Adv.
Mr. R. Sathish, Adv.

Mr. Tara Chandra Sharma, Adv.

Mr. S. Wasim A. Qadri, Adv.
Mr. D.S.Mahra, Adv.

Dr. Rajeev Dhawan, Sr.Adv.
Mr. Gopal Singh, Adv.
Mr. Nishakant Pandey, Adv.

Mr. Gopal Singh, Adv.
Mr. Rituraj Biswas, Adv.

Mr. U. Hazarika, Adv.
Mr. Satya Mitra, Adv.
Ms. Sumita Hazarika, Adv.

Ms. A. Subhashini, Adv.

Mr. Anis Suhrawardy, Adv.

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Mr. P.V. Dinesh, Adv.

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Mr. Shri Narain, Adv.
for M/s. S. Narain & Co., Advs.

Mr. V.N. Raghupathy, Adv.

Ms. Kavita Wadia, Adv.

Mr. J.K. Das, Adv.

Mr. R. Ayyam Perumal, Adv.

Mr. Ashok Mathur, Adv.

Mr. Mohanprasad Meharia, Adv.

Mr. K.K. Rai, Adv.

Mr. Anuvrat Sharma, Adv.

Mr. Gopal Singh, Adv.

Ms. Anil Katiyar, Adv.

Mr. Gopal Prasad, Adv.

Mr. Rajesh Srivastava, Adv.

Upon hearing counsel the Court made the following
O R D E R

Urgent need to usher in police reforms has been receiving attention of all concerned Governments, authorities and bodies for about three decades. Various Commissions and Committees were set up which gave their reports. As far back as in November, 1977, the Government of India had appointed National Police Commission which gave reports in number of volumes after examining the matter from various angles for nearly four years. A petition filed in this Court ultimately resulted in issue of directions by judgement and order dated 22nd September, 2006, in Prakash Singh & Ors. vs. Union of India & Ors. (2006 (8) S.C.C.1). The judgement refers to the reports of the National Police Commission and other committees.

devotion and accountability of the police has to be only to the rule of law. In fact, none disputed then or now the need to introduce the police reforms. It also cannot be seriously questioned that these reforms have to be introduced very expeditiously now. The judgement further notices that the supervision and control has to be such that it ensures that the police serves people without any regard, whatsoever, to the status or position of any person while investigating a crime or taking preventive measures. It's role has to be defined so that, in appropriate cases, where on account of acts of omission and commission of police, rule of law becomes a casualty, guilty police officers are brought to book and appropriate action taken without any delay.

The directions in the judgement were issued after hearing, besides counsel for the petitioner, learned Solicitor General for the Union of India, Ms. Indu Malhotra, learned counsel representing National Human Rights Commission, Ms. Swati Meta, learned counsel appearing for Commonwealth Human Rights Initiatives. It is pertinent to note that notice of the petition was given to all the State Governments/Union Territories. When the arguments were heard, none of the State Governments/Union Territories made any submission or suggestion that the suggestions given in the reports either by the National Human Rights Commission or in Rebeiro Committee or Sorabjee Committee or in the Police Commission be not accepted. Same position was taken by the learned Solicitor General who appeared for the Government of India in the

matter. Reference has also been made to a letter that was sent by a Union Home Minister in the year 1997 to the State Governments revealing a distressing situation and expressing the views that, if rule of law has to prevail, the situation must be cured.

After perusing various reports, directions were issued to the Central Government, State Governments and Union Territories for compliance thereof on or before 31st December, 2006, so that the bodies directed to be constituted become operational on the on-set of the new year. The top bureaucrats in the Central Government/State Governments/Union Territories were directed to file affidavits of compliance by 3rd January, 2007. Considering that every one concerned realises the need of expeditious introduction of police reforms, we were fairly hopeful that three months' time was sufficient to comply with the directions issued on 22nd September, 2006. Some of the State Governments have complied with some directions but none, except State of Sikkim, has complied with all the directions.

We have heard Dr. Rajiv Dhavan, learned counsel for the States of Bihar, Uttar Pradesh and Andhra Pradesh, Mr. Vikas Singh, learned Additional Solicitor General for National Capital Territory of Delhi, Mr. Gopal Subramaniam, learned Additional Solicitor General for the Union of India, Mr. Arun Jaitley, learned counsel for the State of Madhya Pradesh, Mr. B.B. Singh, learned counsel for the State of Jharkhand, Mr. T.R. Andhyarujina, learned counsel for the State of

Tamil Nadu, Ms. Rachana Srivastava, learned counsel for the State of Uttarakhand and other counsel appearing for some other States, like Nagaland. We have also heard submissions made by Mr. Prashant Bhushan and Ms. Swati Mehta, learned counsel.

Though directions ought to have been complied within the time frame already granted but now prayer has been made for grant of further time. At the outset, we wish to make it clear that by indirect method or in the garb of filing affidavits or I.A. No.16 filed by the State of Jharkhand and other applications filed by other States seeking modification, we cannot permit review of our judgement and order dated 22nd September, 2006. There is a proper procedure for seeking review on permissible grounds only. In this connection, it becomes important to again note that the matter was heard for number of days and practically no State Government/Union Territories objected to the suggestions contained in various reports. In this view, we would only consider the prayer for grant of further time to comply with such of the directions for which steps may have to be taken by the Central Government/State Governments/Union Territories.

Direction No.2 relates to the selection and minimum tenure of the Director General of Police; Direction No.3 relates to the minimum tenure of the Inspector General of Police and other officers; and Direction NO.5 by itself provides for the composition of the Police Establishment Board. Insofar as these three directions are concerned, they are self-executory and no question

of grant of further time, therefore, arises. Whatever steps have to be taken should be taken forthwith and, in any case, not later than four weeks from today.

In regard to Direction No.1 relating to the State Security Commission, Direction No.4 in relation to separation of investigating from law and order and Direction No.6 in relation to Police Complaints Authority, having regard to the submissions made on behalf of the State Governments, we extend the time for compliance till 31st March, 2007. If any State Government has constituted any Commission or Authority, which is not in conformity with the direction of this Court within the extended time, it will constitute such a Commission or Authority in terms of the directions of this Court.

With regard to the National Security Commission, we have perused the Notification dated 2nd January, 2007. It is strictly not in accordance with the direction given by this Court. To constitute a State Commission in terms of our direction, further time up to 31st March, 2007, is granted to the Central Government. In view of the aforesaid orders, the time is, accordingly, allowed and insofar as other reliefs are concerned, the applications are dismissed since we have already noted that review of a judgement cannot be ordered in the garb of modification of the order. We direct the same officers, as mentioned in Paragraph (31) of the judgement dated 22nd September, 2006, to file the requisite affidavits of compliance by 10th April, 2007.

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We may, however, state that the elections have been ordered in any State would not be ground not to comply with the directions in the time-frame in this order.

[T.I. Rajput]
A.R.-cum-P.S.

[V.P. Tyagi]
Assistant Registrar