

Arunachal Pradesh Government Compliance with Supreme Court Directives on Police Reform

The Government of Arunachal Pradesh has filed one affidavit before the Supreme Court in the Prakash Singh case. In the affidavit (Affidavit dated 15 March 2007) the government attaches six notifications addressing the Supreme Court directives.

Although the government of Arunachal Pradesh has passed notifications in relation to these directives there are still deviations from the Supreme Court order, categorising the state as non compliant with the judgement.

1. State Security Commission

Directive 1

Constitute a binding State Security Commission to (i) ensure that the state government does not exercise unwarranted influence or pressure on the police, (ii) lay down broad policy guidelines, and (iii) evaluate the performance of the state police. In the composition of this Commission, governments have the option to choose from any of the models recommended by the National Human Rights Commission, the Ribeiro Committee or the Sorabjee Committee.

Composition

The Arunachal Pradesh government passed a notification on 18 December 2006 which was complying with the composition and function of the State Security Commission (SSC) as directed by the Supreme Court.¹ However, two months later the government changed its mind and altered the composition and the functions of the SSC diverting from the directive.²

An analysis of the February notification discloses that the composition of the SSC does not follow any of the suggested models. The government has, apart from the Chief Minister, the Leader of Opposition, Chief Secretary and DGP, included the Commissioner Home and the IGP as members on the SSC, tilting the balance to the advantage of the government. It has further appointed five members in their personal capacity without any criteria as to who and what these people represent and these too are government held posts thus questioning their true independence from the government.

Powers

The Supreme Court directive states that the recommendations of the SSC shall be binding on the state government however this has been omitted in the notification breaching its intended powers.

¹ Notification No. HMB(A)23/06 (Pt-V), dated 18 December, 2006 published in the Arunachal Pradesh Gazette 29 December 2006

² Notification No. HMB(A)-23/6, dated Itanagar, the 27 February 2007



Conclusion

The government of Arunachal Pradesh sets up a State Security Commission but does not adhere to the composition ensuring the Commission making it government dominated. Further, the SSC has not been empowered with binding recommendations as envisaged by the directive, thus making the government non-compliant with this directive.

2. Selection and tenure of the DGP

Directive 2

Ensure that the Director General of Police is appointed through a merit based, transparent process with the involvement of the UPSC and enjoys a minimum tenure of two years.

The government of Arunachal Pradesh is compliant with this directive according to the Notification No HMB (A)-23/06(pt-1), dated Itanagar 18 December 2006.

Conclusion

The government of Arunachal Pradesh is compliant with this directive.

3. Tenure for police officers on operational duties

Directive 3

Ensure that other police officers on operational duties (Superintendents of Police in-charge of a district, Station House Officers in-charge of a police station, IGP (zone) and DIG (range)) also have a minimum tenure of two years.

As per Notification No. HMB (A)-23/06 (Pt-II), dated Itanagar 18 December 2006, the government of Arunachal Pradesh is compliant with this directive.

Conclusion

The government of Arunachal Pradesh is compliant with this directive.

4. Separation between Investigation and Law & Order

Directive 4

Separate the investigation and law and order functions of the police.

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The government of Arunachal Pradesh is compliant with this directive and has separated law and order from the crime investigation, according to the notification No.HMB(A)-23/06(Pt-III), dated 27 February, 2007.³ To begin, this separation will take place in nine police stations.⁴

Conclusion

The government of Arunachal Pradesh is thus compliant with this directive.

5. Police Establishment Board

Directive 5

Set up a Police Establishment Board, which will decide all transfers, postings, promotions and other service related matters of police officers of and below the rank of Deputy Superintendent of Police and make recommendations on postings and transfers of officers above the rank of Deputy Superintendent of Police. This Board will comprise the Director General of Police and four other senior officers of the police department, and will be empowered to dispose of complaints from SPs and above regarding discipline and other matters.

As per Notification No.HMB(A)-23/06(Pt-IV), dated 14 December 2006, Arunachal Pradesh is compliant with this directive.

Conclusion

The government of Arunachal Pradesh is compliant with this directive.

6. Police Complaints Authorities

Directive 6

Set up independent Police Complaints Authorities at the state and district levels to look into public complaints against police officers in cases of serious misconduct, including custodial death, grievous hurt, rape in police custody, extortion, land grabbing and serious abuse. The Complaints Authorities are binding on criminal and disciplinary matters.

The state level authority is to be chaired by a retired judge of the High Court or Supreme Court to be chosen by the state government out of a panel of names proposed by the Chief Justice. It must also have three to five other members (depending on the volume of complaints) selected by the state government out of a panel of names prepared by the State Human Rights Commission, the Lok Ayukta and the State Public Service Commission. Members of the authority may include members of civil society, retired civil servants or police officers or officers from any other department.

The district level authority is to be chaired by a retired district judge to be chosen by the state government out of a panel of names proposed by the Chief Justice of the High Court or a High Court Judge nominated by him or her. It must also have three to five members selected according to the same process as the members of the state level Police Complaints Authority.

³ Government Notification No.HMB(A)-23/06(Pt-III), dated 27 February 2007

⁴ *Id.*



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Creation

The government of Arunachal Pradesh has set up a state Police Complaint Authority (PCA) in compliance with the Supreme Court order. However, it states in its letter from the Chief Secretary, dated 8 December 2006, to the Registrar of Guwahati High Court that the complaints against the police in Arunachal Pradesh is very few and therefore will only constitute a state level Police Complaint Authority.⁵

It is further concerning to see that the Chief Secretary in his letter states that the Chairperson of the PCA will be paid an honorarium of Rs. 2000/ hearing and Rs 1,500 to the members especially since it is constituted that the PCA shall only meet once or twice a month. This is in direct violation of the notion that the chairperson and members shall be full time staff and fully remunerated as stipulated in the directive.

Conclusion

The government of Arunachal Pradesh has set up a state level Police Complaints Authority in full compliance of the Supreme Court order. However, it has not created a district level Police Complaint Authority claiming that there are very few complaints against the police in the state. This renders them as only partially compliant with the directive.

7. Recommendations

In light of the above analysis, the following should be considered:

1. To direct immediate compliance with directives 1 and 6.
2. To direct the Government of Arunachal Pradesh to report to the Monitoring Committee upon compliance within 1 month; and
3. To issue a notice of contempt against the Government of Arunachal Pradesh if it fails to comply with directives 1 and 6 within one month's time.

It is further generally submitted to the Monitoring Committee that the following should be considered:

4. To report to the Supreme Court that it consider directing the UPSC to nominate candidates for the post of State DGPs and to recommend the amendment of the UPSC (Exemption from Consultation) Regulation 1958 regulations to enable this to happen.

New Delhi, 9 December 2009

Commonwealth Human Rights Initiative

⁵ Letter No HMB(A)/23/2006, dated 8 December 2006

