

Manipur Government Compliance with Supreme Court Directives on Police Reform

The Government of Manipur has filed two affidavits before the Supreme Court in the Prakash Singh case.

In the December, 2006 and April, 2007 affidavits (Affidavit on behalf of the State of Manipur pursuant to the Judgement dated 22.9.2006, dated 30 December, 2006 and the Additional Affidavit on behalf of the State of Manipur pursuant to the Judgement dated 22.9.2006, dated 7 April 2007) the government attaches 21 government orders and letters addressing the Supreme Court directives.

Although the government of Manipur has passed orders and issued letters to comply with the Supreme Court 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.

Power

The government of Manipur has constituted and set up a State Security Commission (SSC) in full compliance of the Soli Sorabjee model.¹ However, it is a drawback that the Commission has not been given binding powers. The Court was clear in stating that the decisions of the SSC are binding, thus the order is violating the directive.

Conclusion

The Manipur State Security Commission has been set up in accordance with the Soli Sorabjee model however unfortunately it does not have binding recommendations on the state government thus granting their status as non compliant.

2. Selection and tenure of the DGP

¹ Government Order No. 2/8(32)/2006-H, dated Imphal, 31 March 2007

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.

Tenure

The government of Manipur has through its government order ensured that the DGP candidates are empanelled for the post on the objective selection criteria set out by the Supreme Court.² However, the two year tenure is subject to superannuation and therefore the government cannot be seen as compliant with the directive.

Conclusion

The DGP is empanelled to the post on objective selection criteria and is appointed by the state government. However, she or he does not have secure two-year tenure and therefore the government of Manipur cannot be seen as compliant with the 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.

The government of Manipur has complied with this directive as per government order No.2/8(32)/2006-H, dated Imphal December 28, 2006.

Conclusion

Police officers on operational duties have secured two-year tenure and the grounds for premature removal have been fully adhered to. The government of Manipur is fully compliant with this directive.

4. Separation of investigation and Law & Order

Directive 4

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

Separation

The government of Manipur states in its December affidavit that separation of law and order and crime investigation does not apply to them since they do not have a city with 10 lakh

² Government order No. 18/39/2006-POL/DP, dated Imphal December 28, 2006

population or more.³ However, this is a misconception of the government. The Supreme Court clearly stated that separation between the two wings should start in areas with more than 10 lakh population and gradually be extended to other cities. This clearly does not mean that Manipur would be exempt from the directive. Subsequently, the government of Manipur has not complied with the directive.

Conclusion

The separation between law and order and crime investigation has not been implemented in Manipur, hence the state can only be seen as non compliant to 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.

Function

The government of Manipur has set up a Police Establishment Board (PEB) but has not conformed to the intended function of the Board. The government order states that the PEB shall decide transfers and postings of DySP and below leaving out that the PEB shall decide on their promotions and other service related matters as well.⁴ Further, according to the order, the PEB cannot function as an appellate authority for SPs and above if they have a complaint relating to their promotions, transfers and being subjected to illegal or irregular orders. Neither has it been mandated to generally review the functioning of the police in the state, all diluting the original intent with the Supreme Court directive which was to minimise unwarranted political interference.

Conclusion

As per the government order passed on 28 December 2006, the government of Manipur has set up a Police Establishment Board but not adhered to its functions. Therefore the government cannot be seen as compliant with the directive.

6. Police Complaints Authorities

Directive 6

³ Page 5, Para 7, Affidavit on behalf of the state of Manipur pursuant to the Judgment dated 22.9.2006, dated Imphal 30 December 2006

⁴ Government order No.2/8(32)/2006-H, dated Imphal December 28, 2006

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.

Selection of members

The government of Manipur has set up Police Complaints Authorities (PCAs) at both state and district level as per the government orders attached to its April Affidavit, 2007.⁵ However, the government has not complied with the selection process of the members. The Apex Court stated that the members shall be empanelled by the State Human Rights Commission, the Lok Ayukta or the State Public Service Commission and appointed by the government. This is to ensure that the body has representatives from different sections of society on the Authorities and also to ensure that the PCAs are independent from unwarranted political interferences. However, this has not been conformed to and the members of the state level PCA are all retired IAS officers.⁶ Even though the representation of society is better conformed to at the district level PCAs the members are still directly appointed by the state government.⁷

Function

The mandates of the PCAs are adhered to but the government orders are silent on whether the chairpersons and its members will be suitable remunerated and working full time for the Authority. Neither does it mention whether the PCAs will have retired investigators to their disposal as directed by the Supreme Court.

⁵ Government order No. 2/8(32)/2006-H(i), dated Imphal 31 March 2007; Government order No. 2/8(32)/2006-H(xi), dated Imphal 31 March 2007; Government order No. 2/8(32)/2006-H(ii), dated Imphal 31 March 2007; Government order No. 2/8(32)/2006-H(iii), dated Imphal 31 March 2007; Government order No. 2/8(32)/2006-H(iv), dated Imphal 31 March 2007; Government order No. 2/8(32)/2006-H(v), dated Imphal 31 March 2007; Government order No. 2/8(32)/2006-H(vi), dated Imphal 31 March 2007; Government order No. 2/8(32)/2006-H(vii), dated Imphal 31 March 2007; Government order No. 2/8(32)/2006-H(viii), dated Imphal 31 March 2007; Government order No. 2/8(32)/2006-H(ix), dated Imphal 31 March 2007; Government order No. 2/8(32)/2006-H(xii), dated Imphal 31 March 2007; Government order No. 2/8(32)/2006-H(xiii), dated Imphal 31 March 2007;

⁶ Government order No. 2/8(32)/2007-H(xi), dated Imphal March 31, 2007

⁷ Government order No. 2/8(32)/2006-H(xii), dated Imphal 31 March 2007; Government order No. 2/8(32)/2006-H(xiii), dated Imphal 31 March 2007

Powers

The powers of the state level and the district level PCAs have been diluted and are merely of recommendatory nature, which is a direct violation of the Apex Court's order.

Conclusion

The government of Manipur has set up Police Complaints Authorities at state and district levels but has not adhered to the selection process of its members. Neither has the government given any details of the remuneration to the staff or mentioned that the members should be working full time or stated that the Authorities should have regular staff to conduct field inquiries. Further and most concerning is that neither of the state level nor the district level Authorities will have binding recommendations. In the light of this, the government of Manipur cannot be seen as compliant with the sixth and final directive of the Supreme Court.

7. Recommendations

Pursuant to the in-depth analysis the following should be considered:

1. To direct immediately compliance with directive 1, 2, 4, 5 and 6
2. To direct the Government of Orissa to report to the Monitoring Committee upon compliance within 1 month
3. To issue a notice of contempt against the Government of Orissa following their failure to comply with directive 1, 2, 4, 5 and 6 within one month

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 amend the UPSC (Exemption from Consultation) Regulation 1958 regulations to enable this

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Commonwealth Human Rights
Initiative

