



CWP No. 6542 of 2011-G

23.05.2013. Present: Mr. Navlesh Verma and Mr. Sunil K. Banyal, Advocates, for the petitioner.

Mr. Pramod Thakur & Ms. Meenakshi Sharma, Additional Advocate Generals, with Mr. Neeraj K. Sharma, Deputy Advocate General, for respondents No. 1 to 3.

Mr. Ajit Saklani, Advocate, for respondent No. 4.

Mr. Amit Singh Chandel, Advocate, for respondent No. 5.

Mr. Lalit Sehgal, Advocate, vice Mr. Peeyush Verma, Advocate, for respondents No. 7 and 8.

Order, dated 7th July, 2009, whereby the petitioner was ordered to be arrested under Sections 107/151 Cr.P.C. read with Annexure P-8 and Annexure P-12, dated 10th July, 2009 are, prima facie, in violation of the mandatory provisions of Chapter VIII of the Code of Criminal Procedure.

2. Respondent No. 4 has issued the order to arrest the petitioner on 7th July, 2009 without issuing any show cause notice to the petitioner as contemplated under the law. The petitioner was arrested on 10th July, 2009 under Sections 107/151 Cr. P.C. The respondent No. 5 has not accepted the surety bond executed by Shri Nathu Ram and has sent the same for verification to the concerned Patwari.



The petitioner was released on 13th July, 2009. He has remained in custody for more than 72 hours.

3. The respondents No. 4 and 5 have violated the mandate of Chapter VIII of the Code of Criminal Procedure as well as the guidelines laid down by this Court in CWP No. 496 of 2005 read with instructions issued by the State Government on this issue from time to time. Since the liberty of the petitioner has been infringed by respondents No. 4 and 5 with impunity, the disciplinary proceedings are ordered to be initiated against them and they are ordered to be placed under suspension in accordance with law.

4. The Principal Secretary (Revenue) and Principal Secretary (Forests) were directed to file the reports. The report till date has not been filed. The whole issue has been treated by the State Government in a very non-satisfactory manner. However, in the interest of justice, the Principal Secretary (Revenue) and Principal Secretary (Forests) to the Government of Himachal Pradesh are directed to file report within a week from today.

5. Since the petitioner, prima facie, due to illegal orders passed by respondents No. 4 and 5, has remained in illegal custody for more than 72



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hours, the respondent-State is directed to deposit by way of an interim compensation a sum of ₹two lacs in the Registry of this Court.

6. List on **31st May, 2013**.

7. A copy of this order be sent to the Heads of Departments of respondents No. 4 and 5 through the office of learned Advocate General forthwith.

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**(Rajiv Sharma),
Judge.**

May 23, 2013
(bhupender)