

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

SUO MOTU WRIT PETITION (CIVIL) NO(s). 139 OF 2013

IN RE: "PUNJAB COPS BEAT UP WOMAN IN PUBLIC" AND "POLICE LATHI-CHARGE  
PROTESTING CONTRACTUAL TEACHERS IN PATNA" PUBLISHED IN VARIOUS NEWSPAPERS  
OF THE COUNTRY DATED 5.3.2013 & 6.3.2013

(With appln.(s) for exemption from filing O.T. and office report)

With  
I.A. Nos.9-10 (appln(s) for exemption from filing OT and intervention)

Date: 06/05/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MRS.JUSTICE RANJANA PRAKASH DESAI  
HON'BLE MR. JUSTICE SHARAD ARVIND BOBDE

For the appearing parties Mr. G.E. Vahanvati, AG for India  
Mr. Anoopam N. Prasad, Adv.  
Ms. Nilam Pasha, Adv.  
Mr. Anandh Kannan, Adv.  
Ms. Tara Narula, Adv.

Mr. Harish N. Salve, Sr. Adv. (AC)

Mr.U.U.Lalit, Sr.Adv.(A.C.)

Mr.Prakash Singh (A.C.)

For State of T.N. Mr.L.Nageswara Rao, Sr.Adv.  
Mr. Subramonium Prasad, Adv.  
Mr. B.Balaji, Adv.  
Mr. R.Rakesh Sharma, Adv.

For State of Bihar Mr.L.Nageswara Rao, Sr.Adv.  
Mr.Abhinav Mukerji, Adv.  
Mr.Angad Kochhar, Adv.

For State of U.P. Mr.Gaurav Bhatia, AAG  
Mr.Anuvrat Sharma, Adv.  
Mr.Piyush Vashistha, Adv.  
Ms. Alka sinha, Adv.  
Mr. Pankaj Pandey, Adv.

For State of Punjab Mr.Ajay Bansal, AAG  
Mr.Kuldip Singh, Adv.  
Mr.Pardaman Singh, Adv.  
Mr.Gaurav Yadav, Adv.

For U.O.I. Mr. Gourab Banerji, ASG  
Mr. D.L.Chidananda, Adv.  
Mr. S.A.Haseeb, Adv.  
Mr. Sahil Tagotra, Adv.

For State of Andhra Pradesh Mr.R.Venkataramani, Sr.Adv.  
Mr. G.N.Reddy, Adv.  
Mr.Debojit, Adv.  
Mr.Sodhan Babu, Adv.  
Ms. Neelam Singh, Adv.  
Ms. Supriya Garg, Adv.

For UT of Puducherry Mr.R.Venkataramani, Sr.Adv.  
Mr.V.G.Pragasam, Adv.  
Mr.S.J.Aristotle, Adv.  
Mr.Prabu Ramasubramanain, Adv.

For States of M.P. and Chhattisgarh Mr.C.D.Singh, Adv.  
Mr.Sunny Choudhary, Adv.  
Mr.Anshuman Srivastava, Adv.

For State of Haryana Mr.Manjit Singh, AAG  
Mr.Tarjit Singh, Adv.  
Mr.Kamal Mohann Gupta, Adv.

For State of Kerala Mr. C.S. Rajan, Sr. Adv.  
Mr. M.T. George, Adv.  
Ms. Kavitha K.T, Adv.

For State of Jharkhand Mr. Tapesk Kumar Singh, Adv.  
Mr.Mohd. Waquas, Adv.

For State of Raj. Mr.Jasbir Singh Malik, AAG  
Mr.Varun Punia, Adv.

For State of H.P. Mr.Suryanaryana Singh, AAG  
Ms.Pragati Neekhara, Adv.

For State of Meghalaya Mr.Subhro Sanyal, Adv.

For State of Sikkim Ms.Aruna Mathur, Adv.  
Mrs. Morita, Adv.  
Mr. Yusuf Khan, Adv.

For State of Uttarakhand Mr.Ashutosh Kr.Sharma, Adv.  
Mr.J.K.Bhatia, Adv.

For State of Assam Mr.Riku Sarma, Adv.  
Mr.Navnit Kumar, Adv.

For State of Arunachal Pradesh Mr.Anil Shrivastav, Adv.  
Mr.Rituraj Biswas, Adv.

For State of Nagaland Ms.K.Enatoli Sema, Adv.  
Mr.Amit Kr. Singh, Adv.

For State of Tripura Mr.Gopal Singh, Adv.  
Mr.Rituraj Biswas, Adv.

For State of J & K Mr. Sunil Fernandes, Adv.  
Ms.Astha Sharma, Adv.  
Ms.Insha Mir, Adv.  
Ms. Snigdha Pandey, Adv.

For State of Manipur Mr.Khwairakpam Nobin Singh, Adv.

For State of Gujarat Ms.Hemantika Wahi, Adv.  
Ms.Subhada Deshpande, Adv.

For State of Karnataka Mr.V.N.Raghupathy, Adv.

For State of W.B. Mr.Bikas Kar Gupta, Adv.  
Mr.Avijit Bhattacharjee, Adv.  
Mrs.Sarbani Kar, Adv.

For U.T., Chandigarh Mr.Ashok Thakur, Adv.  
Mr.Imran K.Burney, Adv.  
Mr. Anil K. Chopra, Adv.

for State of  
Maharashtra

Mr.Sanjay V.Kharde, Adv.  
Ms. Asha Gopalan Nair, Adv.

Mr. Radha Shyam Jena, Adv.

Mr. Siddharth Luthra, ASG  
Mr. S.W.A. Qadri, Adv.  
Ms.Manju Jena, Adv.  
Ms. Minakshi Grover, Adv.  
Ms. Sunita Sharma, Adv.

Mr. Pragyan Sharma, Adv.  
Mr. Heshu Kayina, Adv.

Mr. Pratap Venugopal, Adv.  
Mr. Gaurav Nair, Adv.  
Mr. Debarshi Bhuyan, Adv.

Mr. Trideep Pais, Adv.  
Mr. Shadan Farasat, Adv.

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

On 6.3.2013, this Court had taken cognizance of the reports published in the newspaper about the atrocities committed by the police officials/officers of Punjab and Bihar on heldless and unarmed ladies. Since then several directions have been given by the Court requiring the State Governments and Administration of the Union Territories to file affidavits.

On 25.4.2013, the Court had directed the filing of affidavits by the Commissioner of Police, Delhi and the Additional Chief Secretary of Uttar Pradesh. The Chief Secretaries of the States of Rajasthan, Haryana, Uttar Pradesh, Andhra Pradesh, Maharashtra and Goa were also directed to file affidavits on the issue of compliance of direction no.1 contained in the judgment of this Court in Prakash Singh vs. Union of India (2006) 8 SCC 1.

In compliance of the aforesaid order, the Commissioner of Police, Delhi and the Additional Chief Secretary, Uttar Pradesh have filed their respective affidavits.

The Chief Secretaries of the States of Rajasthan, Haryana, Uttar Pradesh, Andhra Pradesh and Goa have also filed their respective affidavits within the time specified in the Court's order but affidavit on behalf of the State of Maharashtra was filed today in the Court.

We have gone through the affidavit filed on behalf of the State of Uttar Pradesh with reference to the incident which happened in Aligarh and are not at all satisfied with the same. The concerned officer has avoided the issue of atrocities committed on unarmed and helpless woman who was demonstrating against the inaction of the police in relation to rape and murder of a minor child aged six years.

The tenor of the affidavit shows that the concerned officer has not understood the grave consequence which may follow if the police authorities fail to take timely action to apprehend the persons who are alleged to have committed the heinous crime.

Let a proper affidavit be filed by the State of Uttar Pradesh within a period three days from today.

The affidavit filed by the Commissioner of Police is also laconic and the supporting documents have not been filed. Shri Siddharth Luthra, learned Additional Solicitor General appearing for the Commissioner of Police undertakes that the required documents will be made available on the next date of hearing.

We have gone through the affidavit of Shri C.K. Mathew, Chief Secretary of Rajasthan, the provisions of the Rajasthan Police Act, 2007 which was published in the official Gazette dated 01.11.2007 and notification dated 05.05.2013 issued by Additional Chief Secretary, Government of Rajasthan, Home (Group-I) Department, which

happens to be a Sunday.

After going through the affidavit of Shri C.K. Mathew and the relevant provisions of the Act, we enquired from Shri Jasbir Malik, learned counsel for the State of Rajasthan as to why the State Police Commission was not constituted for a period of five years and five months after enactment of Rajasthan Police Act, 2007. Shri Malik could not offer any explanation for this long delay. This, prima facie, indicate that the State Government has not taken the directions given by the Court as well as the law enacted by its own Legislature seriously.

Shri P.K. Chaudhery, Chief Secretary, Government of Haryana has filed an affidavit and stated that after enactment of the Haryana Police Act, 2007, the State Police Board was notified on 24.12.2009 and one meeting of the Board was held on 3.10.2012.

The averments contained in the affidavit of Shri P.K. Chaudhery, prima facie, demonstrates that the State Government was neither serious in constituting the State Police Board nor in its functioning else there was no reason for holding only one meeting in a period of over three years.

Shri P.K.Mohanty, who is presently holding the charge of the post of Chief Secretary has filed affidavit on behalf of the State of Andhra Pradesh. The affidavit is accompanied by copy of G.O. Ms No.110 dated 4.5.2013 whereby the State Government has constituted the State Security Commission.

After going through the affidavit of Shri Mohanty and the G.O., we pointed out to Shri R. Venkataramani, learned senior counsel appearing for the State of Andhra Pradesh that the Commission constituted by the State Government is not in conformity with the direction given by this Court in Prakash Singh case (supra). Shri Venkataramani responded by saying that he will advice to the State Government for ensuring total compliance of the direction no.1 contained in Prakash Singh case (supra).

Shri Jayant Kumar Banthia, Chief Secretary, Government of Maharashtra has filed affidavit dated 04.05.2013 today in the Court, perusal of which reveals that the State Government had constituted State Security Commission on 25.07.2008. An amendment in the constitution of the Commission was made vide Government Resolution dated 14.04.2010. The State Commission has held six meetings in last two years and two months. However, the minutes of the meeting annexed with the affidavit of Shri Jayant Kumar Banthia shows that no concrete suggestion has been made for meeting the efficiency of the police force.

The State of Uttar Pradesh has filed affidavit on 02.05.2013 in which it is mentioned that the State Government has constituted the State Security Commission on 02.12.2010. However, no meeting of the Commission has been held so far.

Shri Harish N. Salve, learned amicus presented a petition under Article 32 of the Constitution titled Amicus Curiae v. Union of India and 15 others States which have enacted Police Act after the judgment in Prakash Singh (supra).

The Registry is directed to register the writ petition and list the same before the Court on 09.05.2013.

For further consideration, list Writ Petition No. 139 of 2013 on 09.05.2013.

(Parveen Kr. Chawla)  
Court Master

(Phoolan Wati Arora)  
Court Master