

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

WRIT PETITION (CIVIL) NO.310 OF 1996

PRAKASH SINGH & ORS.

Petitioner(s)

VERSUS

U.O.I. & ORS.

Respondent(s)

(For directions with office report)

Date: 06/12/2010 This Matter was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE AFTAB ALAM
HON'BLE MR. JUSTICE K.S. PANICKER RADHAKRISHNAN

Mr. Raju Ramachandran, Sr. Adv. (A.C.)

For Petitioner(s)

Mr. Prashant Bhushan, Adv.
Mr. Rohit Kumar Singh, Adv.
Mr. Pranav Sachdeva, Adv.

For Respondent(s)

Mr. Anis Suhrawardy, Adv.
Mr. P. Parmeswaran, Adv.
Mr. Aruneshwar Gupta, Adv.
Mr. H.K. Puri, Adv.
Mr. Akshat Jain, Adv.
Mr. Khwairakpam Nobin Singh, Adv.
Mr. Sapam Biswajit Meitei, Adv.
Mr. Ashok, Adv. Genl.
Ms. Anitha Shenoy, Adv.
Mr. V.N. Raghupathy, Adv.
Ms. Kavita Wadia, Adv.
Mr. Sanjay R. Hegde, Adv.
Mr. Abhishek Malviya, Adv.
Mr. Vikrant S. Bais, Adv.
Ms. Vibha Datta Makhija, Adv.

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- 2 -

Mr. Ranjan Mukherjee, Adv.
Mr. S. Bhowmick, Adv.
Mr. S.C. Ghosh, Adv.

Mr. Lakshmi Raman Singh, Adv.

Mr. Kamendra Mishra, Adv.

Ms. Hemantika Wahi, Adv.
Ms. Nupur Kanungo, Adv.

Ms. Sumita Hazarika, Adv.

Mr. R. Ayyam Perumal, Adv.

Mr. Riku Sarma, Adv.
for M/s. Corporate Law Group, Adv.

Mr. Ashok Mathur, Adv.

Mr. Mohanprasad Meharia, Adv.
for M/s. S. Narain & Co., Adv.

Mr. Anuvrat Sharma, Adv.

Mr. Gopal Singh, Adv.
Mr. Manish Kumar, Adv.

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

Mr. Anil Shrivastav, Adv.
Mr. Rituraj Biswas, Adv.

Mr. Gopal Subramaniam, SG.
Mr. Mohan Jain, ASG.
Mr. D.K. Thakur, Adv.
Mr. Deepak Jain, Adv.
Mr. S.W.A. Qadri, Adv.
Mr. S.N. Terdal, Adv.
Ms. Yogita Yadav, Adv.
Mr. S.S. Rawat, Adv.
Mr. Mukesh Verma, Adv.
Ms. Saima Bakshi, Adv.
Ms. Sadhana Sandhu, Adv.
Ms. Anil Katiyar, Adv.
Mr. D.S. Mahra, Adv.

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- 3 -

Mr. Rajiv Nanda, Adv.

Mr. Gopal Prasad, Adv.

Mr. Rajesh Srivastava, Adv.

Mr. Pragyan P. Sharma, Adv.
Mr. Siddharth Lodha, Adv.
Mr. P.V. Yogeswaran, Adv.

Ms. Anitha Shenoy, Adv.

Mr. Atul Jha, Adv.
Mr. Dharmendra Kumar Sinha, Adv.

Mr. T.V. George, Adv.

Mr. Radha Shyam Jena, Adv.

Ms. Rachana Srivastava, Adv.

Mr. Ashoka Kumar Thakur, Adv.
Mr. M.P. Jha, Adv.
Mr. Ram Ekbal Roy, Adv.
Mr. Harshvardhan Jha, Adv.

Ms. A. Subhashini, Adv.

Mr. Ravindra Keshavrao Adsure, Adv.

Mr. Tara Chandra Sharma, Adv.

Ms. Neelam Sharma, Adv.
Mr. Kishan Datta, Adv.

Ms. Binu Tamta, Adv.

Ms. Sushma Suri, Adv.

Mr. Harish N. Salve, Sr. Adv.
Mr. S.R. Singh, Sr. Adv.
Mr. Shail Kumar Dwivedi, Addl. Adv. Genl.
Mr. Manoj K. Mishra, Adv.
Mr. A.M. Prasad, Adv.
Mr. Manoj Kumar Dwivedi, Adv.
Ms. Vandana Mishra, Adv.
Mr. Ashutosh Sharma, Adv.
Mr. Aviral Shukla, Adv.
Mr. Gunnam Venkateswara Rao, Adv.

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- 4 -

Mr. Ashok H. Desai, Sr. Adv.
Mr. T.R. Andhyarujina, Sr. Adv.
Mr. T. Harish Kumar, Adv.
Mr. P. Prasanth, Adv.
Mr. V. Vasudevan, Adv.

Mr. Jana Kalyan Das, Adv.

Mr. V.G. Pragasam, Adv.
Mr. S.J. Aristotle, Adv.
Mr. S. Prabu Ramasubramanian, Adv.
Mr. L.A.J. Selvam, Adv.

Mr. Manjit Singh, Addl. AG.
Mr. Kamal Mohan Gupta, Adv.

Mr. Naresh K. Sharma, Adv.

Mr. Edward Belho, Adv.
Ms. K. Enatoli Sema, Adv.

Mr. U.U. Lalit, Sr. Adv.
Mr. Sanjay V. Kharde, Adv.
Ms. Asha Gopalan Nair, Adv.

Dr. Manish Singhvi, AAG, Rajasthan
Mr. D.K. Devesh, Adv.
Mr. Sahil S. Chauhan, Adv.
Mr. Milind Kumar, Adv.

Mr. D. Mahesh Babu, Adv.
Mr. Ramesh Allanki, Adv.

Mr. A. Mariarputham, Adv. Genl., Sikkim.
Ms. Aruna Mathur, Adv.
Mr. Yusuf Khan, Adv.
Mr. Avneesh Arputham, Adv.

Mr. Sunil Fernandes, Adv.
Mr. Sidhanth Goel, Adv.
Ms. Renu Gupta, Adv.

Mr. Sanjay Parikh, Adv.
Mr. Anish R. Shah, Adv.
Ms. Mamta Saxena, Adv.
Mr. A.N. Singh, Adv.
Ms. Soumya Ray, Adv.

Mr. Ajay Pal, Adv.

Mr. P.V. Dinesh, Adv.

Ms. Sindhu T.P., Adv.

Mr. K.N. Madhusoodhanan, Adv.

Mr. R. Sathish, Adv.

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

In Re.: State of West Bengal:

Mr. Tara Chandra Sharma, learned counsel appearing on behalf of the State of West Bengal, on instructions from the Chief Secretary, who is present in Court today, states that, within four weeks from today, the State will issue an appropriate Notification/Government Order to make the composition of State Security Commission in line with the recommendations made by Thomas Committee. It may be mentioned that, as of date, the State Security Commission is headed by the Health Minister. Learned counsel for the State of West Bengal states that this error will be corrected within four weeks from today. We also give State of West Bengal four weeks' time to submit Action Taken Report with regard to the recommendations/directions on which Thomas committee has commented in the matter of non-implementation of the judgement of this Court in the case of Prakash Singh & Ors. vs. Union of India & Ors., reported in 2006 (8) S.C.C.1. The State is further directed to submit the proposed time table within which it will implement, in a phased manner,

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- 6 -

the directions regarding separation of investigation from law and order in the Action Taken Report to be filed within four weeks.

As far as appointment to the post of DGP is concerned, learned Solicitor General states that, within one week, he will revert to this Court with proper instructions. Accordingly, one week's time is given to examine the question as to whether the relevant Rule/Regulation needs amendment by the Union of India.

As far as other steps at the ground level are concerned, the matter shall stand over four weeks.

Presence of the Chief Secretary of the State of West Bengal is dispensed with.

In Re.: State of Karnataka:

Learned Advocate General for the State of Karnataka states that the State Security Commission is now duly constituted and the first meeting has been convened to be held on 14th December, 2010. Thus, the Commission will now become functional as the composition of the Commission is now complete.

Learned Advocate General further states that the State of Karnataka, in future, will consult Union Public Service Commission from time to time in the matter of appointment of DGP and IGP.

He further states that State of Karnataka has agreed to

provide two years' tenure, subject to superannuation. In our view, that is not possible. It goes against the spirit of the judgement of this Court in the case of Prakash Singh [supra]. However, we adjourn this case on this aspect for four weeks to enable learned counsel for the State

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- 7 -

to take instructions. In the meantime, the Central Government will also consider amending the relevant Rule/Regulation dealing with Cadre Management Rules. On this aspect, learned Solicitor General will take instructions within one week. He also states that, by Order dated 3rd December, 2010, the State of Karnataka has also constituted State Level Police Complaint Authorities and District Level Police Complaint Authorities. He further states that, on 24th August, 2009, Police Establishment Board has also been constituted. Since then, the same has become functional.

Learned Amicus Curiae points out that fixed tenures are not being provided for SPs range DIGs and IGs [Zone]. However, learned Advocate General states that two years of posting is fixed for police officers on operational duties in the field, like Inspector General of Police in-charge range, Superintendent of Police of Districts and SHOs of police stations, subject to reasons to be recorded by the Chief Minister in writing to transfer these police officers before the expiry of two years.

Presence of the Chief Secretary of the State of Karnataka is dispensed with.

In Re.: State of Maharashtra:

Mr. U.U. Lalit, learned senior counsel appearing for the State of Maharashtra, states that the State of Maharashtra has opted for Sorabjee model. There is some discrepancy as to whether a retired Judge should be a Member of the State Security Commission. We are of the view that, in order to maintain uniformity in the composition of

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- 8 -

the State Security Commission, a retired Judge should be a Member of the Maharashtra State Security Commission. Accordingly, we direct the State of Maharashtra to incorporate the retired Judge of the High Court as one of the Members in the State Security Commission within a period of six weeks from today. Needless to add that the State would move the Chief Justice of the High Court for nominating a retired Judge to be a Member of the State Security Commission.

As far as institutionalization and appointment of Members to the State Security Commission are concerned, this Court will examine that aspect at a later stage and arguments in that regard are expressly kept open.

As far as appointment of DGP is concerned, the problems narrated earlier still persists. However, learned Solicitor General has sought one week's time to take instructions with regard to amendment of relevant Rule/Regulation as regards appointment and tenure of DGP. We direct the State of Maharashtra to submit a status Report on the Action Taken with regard to non-implementation of Thomas Committee Report, as indicated in the chart, within a period of six weeks.

Presence of the Chief Secretary of the State of Maharashtra is dispensed with.

In Re.: State of Uttar Pradesh:

The State of Uttar Pradesh was directed to file its affidavit. We are informed that the affidavit was to be submitted today. However, learned senior counsel, Mr. Harish N. Salve, states that he is not satisfied with the affidavit. Mr. Salve states that the State of Uttar Pradesh will

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- 9 -

comply with the recommendations/directions suggested by Thomas Committee and the State will file the compliance Report in the form of an affidavit within six weeks from today. It is made

clear that compliance by State of Uttar Pradesh would be subject to the Central Government taking its decision to amend Rule/Regulation in the matter of appointment and tenure of DGP.

Presence of the Chief Secretary of the State of Uttar Pradesh is dispensed with.

Place the matter on 10th January, 2011, regarding compliance to be given by State of Uttar Pradesh.

Place the matter regarding amendment of relevant Rule/Regulation in respect of appointment of DGP in consultation with Union Public Service Commission also on 10th January, 2011.

As regards formation of Directorate of Prosecution and issue of selection and minimum tenure of DGP in consultation with the State Security Commission, place the matter on 17th January, 2011.

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

ITEM NO.MM

COURT NO.1

[Madhu Saxena]
Assistant Registrar
SECTION PIL

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Date: 06/12/2010 This Matter was mentioned today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE AFTAB ALAM
HON'BLE MR. JUSTICE K.S. PANICKER RADHAKRISHNAN

Mr. Raju Ramachandran, Sr. Adv. (A.C.)

For Petitioner(s)

For Respondent(s)

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

In the Order dated 8th November, 2010, at Page 7, first paragraph, instead of the words "the Thomas Committee has given a chart, which is quoted at Page 12 of the compilation given by the learned amicus curiae", the following words be read: "the Thomas Committee has given its conclusions on the basis of which the amicus curiae has prepared a chart at page 12 of the compilation".

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

[Madhu Saxena]
Assistant Registrar