

MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

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SHRC/VGM/06/2009/2055

Case No.-357/30/2006-07

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Name of the Complainant:

Vinay Sahasrabudhe &
Milind Arolkar

Rambhau Mhalgi Prabodhini
17, Chancal Smruti, G D Ambekar Marg,
Wadala, Mumbai - 400 031

Vs.

1. The Commissioner of Police, Than
2. Principal Secretary Home Department,
Mantralaya, Mumbai - 400 032

Date:

25 June 2009

Coram

Justice V G Munshi, Member

O R D E R

Read the allegations made in the complaint and report received from the Commissioner of Police, Thane. Read the case papers. Heard the parties.

2.

Before proceeding with the merits or the case,

Points to be decided etc, it is necessary to acquaint ourselves, with the facts and circumstances of the case/wish, which we are concerned.

Present complaint is filed by 'Rambhau Mhalgi Prabodhini, NGO in special consultative status with the Economic and Social Council of United Nations. (Here after called Prabodhini)

The complainant is carrying 'out all such activities of Raining, teaching, research' etc since year 1982. Riot taken place in Bhiwandi on 5th' of, July 2006: It was alleged that attack, assault etc. was made' on Police' Officials, Police Officers and such other persons by the persons of particular community. Some persons died while number of other persons was injured. Even huge Government and private property was damaged. The, complainant Prabodhini runs "Human Rights Study and Awareness Centre". This Centre formed study group and did research in this matter. They recorded statements of number of witnesses, taken interviews, collected several documents and huge information. The Centre thus, prepared one detailed Report about the happening of the incident dated 5th July 2006. The said Report was published on 5th of October 2006. From the averments made in the complaint, it appears to be the intention and motive of the complainant, to bring before people} real incidents in their sequence Occurred in Bhiwandi on 05.07.2006. According to the complainant, the Police Officers and Officials, who all the while, {act for the safety and protection of people, they also got human rights. The complainant have come with a case that, they in this Report made sincere efforts, to bring before people, the human rights of Police Officers, Police Officials and how they were violated, in such tragic incident dated 05.07.2006. The complainant made deep study of this subject. In the last the complainant made number of suggestions and recommendations, in order to protect the, human rights of Police men and to see that, no such unpleasant incident, is repeated anywhere in future.

3. The Respondent Commissioner of Police, Thane by Filing their Report given Para wise reply to the allegations / averments made in the complaint. The Respondent Commissioner of Police, Thane by filing their reply in details, made it clear that, they do not agree with the number of findings and observations made in the Report for more than one reasons.

4. The complainant did file on record, the Report dated 13.2.2008 given by the Study Group. According to the complainant, all these suggestions or recommendations, made in the Report are valuable and if they are accepted or implemented, it will prevent the happening similar incident in future. The recommendations / suggestions made by the 'study group' areas under.

(1) The construction of Police Station at Bhiwandi be completed as early as possible, in response to the wishes of residents of Bhiwandi and the Police Station should be well equipped.

(2) The Government made certain statement, in State Assembly, about construction of Police Station building at Bhiwandi, but till today no decision to taken in this matter.

- (3) High Court, Bombay that on .09.10.2007 given permission to the Respondent to proceed with the construction of Police Station building at Bhiwandi.
- (4) Human Rights Cell should be established in every Police Commissionerate to hear the grievances of Policemen and to protect their human rights.
- (5) The Police machinery should make study of the background of this incident dated 05.07.2006 and to take into consideration that, present incident is outcome of, lack of awareness understanding and caste spirit of the persons of particular religion etc. The complainant recommends that, accordingly necessary changes should be made in the Administration,
- (6) Inquiry is made by State Mahila Commission about assault and severe beating given to the Police Constable Anita More by women, when she was doing her duty.
- (7) Because of happening of such incident dated 05.07.2006 in Bhiwandi / the family members of Policemen feel very unsafe, unprotected. Therefore, Human Rights Commission should take necessary steps for the protection of these Policemen, who are given duty to protect life and property of all the persons in Society.
- (8) It was alleged that this incident is the result of failure of proper action by Police Officers. It was suggested by the complainant that the Government should make inquiry or such officer about Dereliction of duty.
- (9) There is confusion among the Police Officers and Officials about their duty, powers, etc and therefore, because of lack of confidence, they are unable to work properly.
- (10) It was alleged that number of persons pretending themselves to be members of Human Rights Committee or Sanstha, pressurize the Police. It was suggested that the Commission should publish list of such Committees and it should be made available to Police and the persons from society.
- (11) If any person makes legations or complaints against Policemen, before Commission, then it should be made compulsory for that person to file an affidavit in order to substantiate his case.
- (12) According to the complainant, it was transpired after study that such incidents are outcome of the action taken by Police; against some particular community, by way of revenge and such incidents increased during last few years.
- (13) If the Policemen are deputed on bandobast duty, they should be given sufficient arms, weapons, and other equipments for their protection. Medical service to be given to Policemen should be more efficient.

(14) The Government should bear all the medical expenses of the Policeman, who is injured in such incident and the leave period should be treated as duty period.

(15) First aid or medical facility should be made available in every Police Station or Police Chowki etc.

Now let us proceed further on this background.

5. Therefore, it is necessary to view the case of the Complainant in the light of facts and circumstances brought on record and also in the light of Report filed by the Commissioner of Police, Thane.

(i) Recommendation No. 1,2,3

The Construction of new building, on the given place, appears to be the cause, for the hampering of such incident. The complainant did file or Record, news items, appeared in different Newspapers. The Report shows that Suit no.185/2006 in respect of this property was filed and pending before Wakf Tribunal at Aurangabad. Attention was drawn over news items. Appeared in Newspaper 'DNN on 10.10.2007, which mentions that, High Court given certain directions to State Government in respect of the construction of said building. In view of such Situation it will not be proper on the part of this Commission to enter so deep into the merits of the case, when Hon'ble High Court passed certain directions about construction of the new building. In that case the Commission hopes and trusts that, the Government would act in obedience to- the directions given by Hon'ble Court, in this matter and would do the needful.

(ii) Recommendation No.4

This suggestion pertains to the human rights of Policemen.. According to the complainant, the Policemen have got human rights and their rights are violated every now and then. Even care they are required to work and there is nobody to take their care etc. There cannot be any difference of opinion on the point that, the Policemen also have got human rights and there are instances, of violation of their rights. The Commissioner of Police is competent Authority to take cognizance of such incidents and to take suitable action according to law, if such thing is brought to take suitable action according to law, if such thing is brought to his notice by aggrieved person. The Commissioner of Police, can create some system, in order to monitor and supervise such incidents. In suitable cases, any such matter can, be referred to the Commissioner for necessary action according to law.

(iii) Recommendation No.5,7,9 and .12

It was alleged that persons belonging to particular community made, pre-planned attack on Police persons and therefore, it must be viewed seriously. It is a fact that, such incident took place in Bhiwandi on 05.07.2006, number of persons died, and several persons were injured and huge property was damaged. The Report of Commissioner of Police, Thane shows that in respect of these incidents (riot) in all 9 offences were registered in Police Stations, 258 persons were arrested. The Police even take preventive action against number of persons, who were released on bail. After completing investigation, in all these matters, charge sheets were filed in court and matters are sub-judice before Court. Whether it was a communal riot or attack on Police was made by the persons of some particular community, whether there was criminal conspiracy among the persons of particular community, or the attack was pre-planned, whether the accused persons were at or they did commit the offences etc and all such other are to be heard and decided by the Court / Courts where criminal cases are pending or sub-judice and not by the Commission. In other words, the Commission cannot go so deep into the merits of these cases, and to record findings / observations, when same matters are sub-judice before competent Court and that too without jurisdiction.

The Report shows that, Police all the while acted properly, taken several meetings of peace committee, and made sincere attempts to maintain peace, law and order. The Police acted properly, in the discharge of their duties in order to maintain peace, law, order, and thus calls for no adverse remarks.

(iv) Recommendation No.6

It was suggested that inquiry should be made by State Mahila Commission about the attack made and beating given to Lady Police Constable Anita More, while she was doing her duty. In this regard, it is necessary to mention that, the aggrieved person or the complainant as the case may be, is at liberty to move the said Commission, for necessary action.

(v) Recommendation No.8

It was the observation made by the study group that the incident dated 05.07.2006 is the result of the inaction, inefficiency, lack of leadership, lack of decision taking capacity of the Police. It was suggested that, inquiry should be made of the persons who were at fault. The Report submitted by Commissioner of Police, Thane shows that, the Police who were on duty did their best to control the situation and acted properly while discharging their duties. I see no reason to disagree with the Report. It is necessary to mention that the Commission cannot record findings or observations on these issues and that too without jurisdiction. All the aspects referred in Recommendation No.8 are to be considered by Commission of Inquiry

and not by Human Rights Commission. In such circumstances, it will not be proper on the part of this Commission, to direct Departmental! Inquiry of Officers / Officer for dereliction of duty.

(vi) **Recommendation No. 10.**

Attempt was made to bring to the notice of this Commission, that. Every where number of Human Rights Committees or Sanstha are established by some persons in the Society. The members of such Committees pressurize the Police / at the instance of some members of particular community and did not allow the Police to do their work or to discharge their duties. It was suggested that, list of recognized committees be published and it be made available to Police and members of the Society. The .Commission is established under the provisions of the Protection of Human Rights Act, 1993 and the Commission clone can consider and decide the cases of violation of human rights. It is necessary to mention that Government of Maharashtra 3 in Horne Department issued **GR No.SHRC- 0109/No, 49/Pol-14 on 04.06.2009** on the recommendations made by the State

Human Rights Commission. The Government Resolution covers all such cases including the cases cited by the complainant. Provision is made, for action against the wrong *doerl* according to law. Therefore, no further action is necessary in this matter .

(vii) **Recommendation No. 11**

The study group suggested that in every complaint filed before Commission against Police, it should be made compulsory for the complainant to file affidavit in order to substantiate his/her case. The procedure to be adopted, while making enquiry into the allegations of violation of human rights, is governed by provisions of the Protection of Human Rights Act, 1993 and Regulations framed under, Maharashtra State Human Rights Commission (Procedure) Regulations, 2001. Many times and wherever deemed fit, the complainant is required to file, an affidavit, in support of his case. It will not be proper, to make it compulsory in every case, to file an affidavit.

(viii) **Recommendation No. 13, 14.and 15**

There is no scope for doubt that, the Police Department has to provide proper protection to their Policemen, when they are deputed on bandobast duty. They should be given sufficient number of arms and weapons in order to protect the lives and property of people and to protect own life. Care should be taken to make the Police machinery more strong. And efficient. After the recent attack by terrorists on Mumbai City, the Government has taken all

.the necessary steps to make the Police force strong and efficient. Vehicles, weapons etc are provided to Police force. The expenditure of medical treatment of injured Police man is borne by the Government. Their leave etc is governed by their service rules. The Police Department considers such cases sympathetically. In other words, it will not be proper on the part of the Commission, to recommend that the leave period should, be treated as duty period. As suggested *by* the complainant, medical aid or medical facility, should be made available, in every Police Station or Police Chowki.

6. After going through the Report of the Study Group and Report of Commissioner of Police, Thane it is seen that some suggestions / recommendations made by the complainant are valuable and are in the interest or for the protection of Policemen. At the same time we cannot, forget that the policemen also have got human Rights and there is every possibility of violation of such rights. . There is no scope for doubt that, the Respondent Commissioner of Police, Thane/ Government, are taking maximum care of their staff.

The Commission hopes and trusts that, the Respondent would take ail the necessary steps, in this direction and to see that no such unpleasant incident is repeated; n future.

Copy of this order be sent to Principal Secretary - Home Department, Mantralaya, Mumbai for information and necessary action - as deemed fit.

Copies are sent to the parties.

With these observations Case No. 357/30/2006-07 is disposed or accordingly.

Dated: 25 June 2009

(Justice V G Munshi)
Member, SHRC