

IN THE SUPREME COURT OF INDIA
(ORIGINAL CIVIL JURISDICTION)
WRIT PETITION (C) NO.310 OF 1996

IN THE MATTER OF:

PRAKASH SINGH & ORS.

...PETITIONERS

VERSUS

UOI & ORS.

...RESPONDENTS

Status as on March 10, 2008

1. The Hon'ble Court had, on September 22, 2006, given a set of seven directions for Police Reforms in the country. Six of these concerned the states, one was for the Central Government. The directions were to be implemented by December 31, 2006. Summary of these directions is given below:

A. State Security Commission: It was to be constituted in every state to ensure that state government does not exercise unwarranted influence or pressure on the state police and for laying down broad policy guidelines. States were to adopt one of the three models recommended by NHRC, Ribeiro Committee or Sorabjee Committee. Members were to be chosen in such a manner that it functions independent of government control.

B. Selection and Minimum Tenure of DGP: DGP was to be selected from amongst three senior most officers empanelled for promotion to that rank by UPSC. He should have a minimum tenure of at least two years irrespective of superannuation.

C. Minimum Tenure of IG Police and Other Officers: All police officers on operational duties like IG i/c Zone, DGI i/c Range, SP i/c District and SHO should have a prescribed minimum tenure of two years.

D. Separation of Investigation: Investigating work should be separated from law and order work in bigger towns/urban areas.

E. Police Establishment Board: Such a Board comprising DGP and four other senior officers of the department should be constituted to decide all transfers, postings, promotions and other service related matters of officers of and below the rank of Dy.SP. The Board would also make recommendations to the state government regarding postings and transfers of officers of and above the rank of SP.

F. Police Complaints Authority: There would be such an Authority at the state and district levels to look into complaints against police officers. The Authority would be headed by a Judge.

G. National Security Commission: Government of India would set up the Commission which would prepare a panel for selection and placement of heads of central police organizations, who would also be given a minimum tenure of two years.

2. The Hon'ble Court heard the matter again on January 11, 2007, and on finding that most of the states had yet to implement the new arrangements, directed that the "self-executory" directions be implemented within four weeks and the rest by March 31, 2007.
3. Review petitions filed by the states of Gujarat, Karnataka, Maharashtra, Punjab, Tamil Nadu and Uttar Pradesh were dismissed by the Hon'ble Court on August 23, 2007.
4. Considering that the outer limit for the implementation of the Supreme Court's directions was March 31, it is now almost one year, and yet the level of compliance is far from satisfactory.
5. At the last hearing on December 14, 2007, all the states were asked to file the status report within a period of six weeks
6. So far, only eight states namely, Gujarat, Kerala, Maharashtra, Orissa, Sikkim, Tamil Nadu and Uttarakhand have filed their affidavits. This reflects on the seriousness of the states on a subject of great public importance in respect of which the Hon'ble Court had issued directions.

7. The affidavits filed do not show any substantial change in the situation as it was at the last hearing.
- **Gujarat** has merely drawn our attention to the Bombay Police (Gujarat Amendment), Act, 2007 which had been commented upon by us in the last affidavit filed on behalf of the Petitioners. It was stated therein that the State Security Commission does not conform to any of the three models prescribed by the Supreme Court and, besides, the tenure of the DGP and other police officers in the field was to be “ordinarily” two years which implied that the rule may not be observed generally. Police Establishment Board was given powers only to the level of Inspector (and not Deputy SP, as proposed by the Hon’ble Court). The State Compliance Authority is to be headed by a retired High Court Judge or a retired Principal Secretary, which is contrary to the Hon’ble Court’s directions. The District Complaints Authority is also to be headed by the Superintendent of Police, which again is in violation of the directions of this Hon’ble Court.
 - **Kerala** has drawn our attention to the Kerala Police (Amendment) Bill, 2007 passed by the State Assembly on September 19, 2007. The Bill, as mentioned in the last affidavit, gives power to the government to reject or modify the recommendations of the State Security Commission. Besides, the Police Establishment Board has been given power to post/transfer officers up to the level of Inspectors only.
 - **Maharashtra** in their latest affidavit mentions “legal and practical difficulties in the implementation of certain directions of the Hon’ble Court”. They have set up a Police Establishment Board, but its powers have not been defined. The state level Complaints Authority may be headed by a retired Chief Secretary/Addl. Chief Secretary/Principal Secretary of the State Government, which is contrary to the directions of the supreme Court.
 - **Orissa** has constituted a Drafting Committee under the chairmanship of the Chief Secretary to draft an appropriate Bill. They are still examining which of the three models to adopt for constituting the State

Security Commission. The State level Complaints Authority set up by them is headed by the Lok Pal.

- **Tamil Nadu** is accepting the Supreme Court directions “in principle” only. The State wants to have “absolute freedom” in selecting Director General of Police. It has also said that the direction regarding minimum tenure of the Inspector General and other officers cannot be rigidly enforced. Regarding Complaints Authority, the State has reservations on the ground that such a body would act as a parallel authority to the existing constitutional remedies.

- **Sikkim, Tripura and Uttarakhand** have already complied with most of the directions given by the Hon'ble Court.

Fully Compliant/Almost Fully Compliant States

8. The following states come in this category:
- i) Arunachal Pradesh
 - ii) Assam
 - iii) Manipur
 - iv) Meghalaya
 - v) Mizoram
 - vi) Nagaland
 - vii) Sikkim
 - viii) Tripura
 - ix) Uttarakhand
 - x) Goa

Partially Compliant States

9. The following states come in this category:
- i) Andhra Pradesh
 - ii) Jammu & Kashmir
 - iii) Jharkhand
 - iv) Madhya Pradesh
 - v) Maharashtra
 - vi) Orissa

- vii) West Bengal

States which have passed Acts/Bills

10. The following states come in this category (excluding those which have passed Laws which are by and large in conformity with the Hon'ble Court's directions):

- i) Bihar
- ii) Chhattisgarh
- iii) Gujarat
- iv) Haryana
- v) Himachal Pradesh
- vi) Karnataka
- vii) Kerala
- viii) Punjab
- ix) Rajasthan

Unfortunately, however, the states have passed Bills/Acts essentially to circumvent the implementation of the Supreme Court's directions and in fact legitimize the status quo. In some cases, like Bihar for example, the Bill would strengthen and reinforce the bureaucratic hold over the police. Significantly, the Bihar Police Association which represents the non-gazetted officers of the State has moved a contempt petition against the State Government for having passed a Bill whose provisions are not in consonance with the directions of the Hon'ble Court.

Defiant States

11. The following states have adopted a posture which could be called defiant:

- i) Tamil Nadu
- ii) Uttar Pradesh

Actions suggested

12. Strictly speaking, it would be appropriate that all the states which are in the category of partially compliant states/defiant states/states which have passed laws contrary to the letter and spirit of the Hon'ble Court's directions, should be issued with contempt notices. However,

the Court may, for the present, issue contempt notices only to the states of Bihar, Tamil Nadu and Uttar Pradesh, and give one last chance to the remaining states.

13. It would be appropriate to get the constitutionality of the Bills/Acts passed by the state governments examined.
14. The Hon'ble Court may appoint a monitoring committee headed by a former Judge of the Supreme Court to oversee the implementation of the Supreme Court's directions.

or

Direct the High Courts of the respective states to oversee the implementation of the Hon'ble Court's directions.

15. The Government of India may be directed to comply with the direction regarding setting up of the National Security Commission and giving a fixed tenure of two years to the heads of the Central Police Organizations. It may also be directed to expedite the passage of a Model Police Act for the Union Territories.

Federal Crime

16. The Supreme Court had wanted the views of the NHRC, the Sorabjee Committee and the BPR&D on the subject. Views of all the bodies (except GOI) have been obtained and they are all in favour of supporting the concept of federal crime and the need to have a specialized investigating agency to deal with the cases coming under this category. The Government of India may be directed to expedite their views on the subject.