

**THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY**

WRIT PETITION (PIL) No.97 OF 2020

ORDER: (Per the Hon'ble the Chief Justice Raghvendra Singh Chauhan)

Based on a news item, published in 'The Hindu', English daily news paper, on 10.05.2020 entitled as "Police, not Judges, award punishment", Mr. Baglekar Akash Kumar, wrote a letter, dated 10.05.2020, to the Hon'ble the Chief Justice with regard to the incident reported in the said news item. Based on the said letter, the present *suo motu* Writ Petition (PIL) No.97 of 2020 was registered.

According to the news item, five accused persons, alleged to have committed the offence under Section 319 of I.P.C., were allegedly made to move barricades under scorching summer sun by the police. According to the petitioner, to force the accused persons to move barricades in the hot summer tantamounts to torture inflicted by the police. Therefore, necessary action should be taken against the erring police personnel.

The learned Advocate General for the State of Telangana submitted that a large number of statements of villagers recorded by the police belonging to different villages, to this Court on 27.08.2020. According to all these witnesses, migrant workers were stopped at the barricade of Wadapally check-post. The villagers volunteered to shift the barricades in order to help migrant workers on the way to their homes. According to these witnesses, no one was forced to carry out any work, and their work was entirely voluntary in nature. Basing on these statements, the learned Advocate General submits that the news item appearing in "The Hindu" is incorrect one as the people had volunteered to help out the migrant workers, who were moving across the State at the relevant time.

On the other hand, Mr. Baglekar Akash Kumar, the learned counsel, submits that since the identity of the accused persons was changed by the reporter of “The Hindu”, the actual identity of the accused persons is unknown. Therefore, a Judicial Commission should be appointed in order to enquire into the veracity of the news item. It is only after the Judicial Commission enquires into the facts of the case that the truth would be revealed, and the erring police officers can be punished by this Court.

In order to buttress his plea for establishing Judicial Commission, Mr. Akash Kumar, relies on a decision reported in **Sheela Barse v. State of Maharashtra [(1983) 2 SCC 96]**.

Mr. B. Akash Kumar, the learned Counsel, informs this Court that although he has spoken to the concerned reporter of “The Hindu” with regard to the news item, the concerned reporter is not in a position to reveal the exact identity of the alleged accused persons, who were forced to move the barricades.

Although the present petition is based on a news item published in ‘The Hindu’, even the reporter, who has given the said news item, is not in a position to reveal the identity of the alleged accused persons. Therefore, it is very difficult to find out the actual identity of the alleged accused persons, who were allegedly forced to move barricades in hot summer days. In the absence of concrete evidence and facts, it would be a futile exercise to appoint a Judicial Commission. For, Judicial Commission cannot be asked to go on a wild goose chase. The appointment of Judicial Commission is a serious step. It cannot be taken lightly.

Moreover, the case of **Sheela Barse** (*supra*) is distinguishable on factual matrix. The said case dealt with custodial violence meted

out to women while they were in the police lock-up in Bombay. The women were imprisoned, and their identity was well known. Therefore, taking the issue of custodial violence with women under-trial prisoners as a serious issue, and where the identity was well known, the Hon'ble Supreme Court had directed that a report be prepared and submitted. However, in the present case, the very identity of the alleged accused persons is unknown. Moreover, since all the witnesses and the participants have clearly stated that they had helped the police voluntarily, there is no reason to disbelieve their statements. After all the persons whose statements have been recorded and submitted before this Court are all independent witnesses. Therefore, these statements cannot be brushed aside. Under these circumstances, this Court is not inclined to appoint a Judicial Commission to examine the alleged incident.

Moreover, since there is no cogent and convincing evidence to establish the fact that the accused persons were, indeed, forced to move barricades, that too in the hot summer days, this Court is not in a position to pass any further orders.

Hence, this Writ Petition stands disposed of.

Miscellaneous petitions if any, pending in this petition, shall stand closed.

(RAGHVENDRA SINGH CHAUHAN, CJ)

(B. VIJAYSEN REDDY, J)

Date: 04.09.2020

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