

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

(through virtual mode)

**Reserved on : 20.07.2022
Pronounced on : 05.08.2022**

OWP No. 934/2013
IA No. 1294/2013

Sadat Hussain

...Petitioner

Through :- Mr. Rahul Raina, Advocate

V/s

State of J&K and others

....Respondents

Mr. Raman Sharma, AAG

Through :-

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGEMENT

In this writ petition, the petitioner has called in question a course of action in which the respondent no. 2 Superintendent of Police Doda entertained an anonymous complaint addressed against the petitioner and which complaint found its way to reach

the respondent no. 4 SHO Police Station, Doda, who in turn addressed the impugned letter no. 1363/S-1 dated 01.07.2013 to the respondent no. 3 i.e., the Executive Engineer PHE Division, Doda asking for the information concerning the petitioner who is working under him.

It will not take much deliberation upon facts to make disposal of the writ petition.

The petitioner is a public servant serving as Junior Engineer in PHE Division Doda. An anonymous complaint that too an undated stood addressed to the respondent no. 2 i.e. the Superintendent of Police Doda which contained allegations of every description against the petitioner in the context of his service as Junior Engineer to the extent of even questioning his posting in the PHE Department.

Though the petitioner in this writ petition has sought to attribute filing of this anonymous complaint against him to vested interests operating against him who are having political score to settle with his father-in-law and also that a complaint was nothing but a sponsored one which was meant to be provided to the then official serving as Superintendent of Police Doda, so as to be used against the petitioner in order to settle score with the petitioner's father-in-law. All this stated aspect of the case has no

bearing in the context of the legal aspect, which is the competence of the respondent nos. 2 & 4 to seize the said anonymous complaint and use it at their own level without even registering it as an FIR.

A perusal of the objections filed on behalf of respondent nos. 1, 2 & 4 would show that it is nowhere disclosed as to how respondent no. 2 i.e. the Superintendent of Police Doda entertained the said complaint instead of referring it to the petitioner's Head of the Department that being the Chief Engineer. So much so, it is not even forthcoming as to how come the respondent no.4, i.e. the Station House Officer, Police Station Doda came to have the said anonymous complaint to his end for the purposes of immediately acting upon it by addressing a letter to the respondent no. 2 i.e. the Executive Engineer, PHE Division Doda thereby asking for information about the petitioner.

Examining the position from the legal standpoint in the face of the nature of the allegations leveled in the said anonymous complaint, this Court is unable to figure out as to under which enabling provision of law the respondent no. 4 i.e. the Station House Officer, Police Station Doda came to address this impugned communication no. 1363/S-1 dated 01.07.2013 on the pretext of a complaint against the petitioner to the respondent no. 3 i.e. the Executive Engineer, PHE Division Doda. The respondent no. 4

had not registered any FIR or even a preliminary inquiry into the matter so as to make formal and official the alleged exercise so undertaken on his part in addressing the impugned communication to the respondent no. 3 i.e. the Executive Engineer, PHE Division Doda.

The petitioner is a public servant. In case any public servant is to be subjected to a surveillance mode by a rank holder police official on the pretext of a complaint received without first entertaining the said complaint into a formal process, then surely the very confidence of the public servant in acting and doing his duty will be subjected to a paralysis. A Police is not supposed to act as if super boss of the public administration system. The impugned communication no. 1363/S-1 dated 01.07.2013 by the respondent no. 4 i.e. the Station House Officer, Police Station Doda to respondent no. 3 i.e. the Executive Engineer, PHE Division Doda fails to answer the question of law as to under which provision of law, the respondent no. 4, i.e. the Station House Officer, Police Station Doda ventured to act upon the said anonymous complaint and make the petitioner suffer an apprehension as if he is under a surveillance. Thus, the said impugned communication no. 1363/S-1 dated 01.07.2013 of the respondent no. 4 to respondent no. 3 is held misconceived and liable to be quashed. It is strange that the author of the

anonymous complaint in the complaint has no where mentioned the fact as to why he/she has chosen to address the complaint directly to the Superintendent of Police, Doda and not to the Chief Engineer concerned and there is also no reference in the complaint that the complainant had in fact first apprised the Chief Engineer concerned or the superior officers of the petitioner about the alleged acts of omission and commission on the part of the petitioner related to his official status and position. This aspect does show that the said anonymous complaint was nothing but a set up aimed to harass a public servant.

In the light of this the writ petition is allowed. The impugned communication no. 1363/S-1 dated 01.07.2013 issued by the respondent no. 4 i.e. the Station House officer, Police Station Doda to the respondent no. 3 i.e. the Executive Engineer, PHE Division Doda is quashed.

(Rahul Bharti)
Judge

Jammu:
05.08.2022
Muneesh

Whether the order is reportable : Yes/ No
Whether the order is speaking : Yes/ No