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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) No.11652/2019

COURT ON ITS OWN MOTION

..... Petitioner

Through: Court on its own motion.

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Manan Kumar Misra, Sr. Advocate, Chairman, Bar Council of India (BCI) along with Mr. S. Prabhakaran, Sr. Advocate, Co-Chairman, BCI, Mr. Ved Prakash Sharma, Co-Chairman, BCI, Mr. Shreenath Tripathi, Member, BCI and Mr. Ram Shankar, Standing Counsel for BCI.

Ms. Maninder Acharya, ASG with Mr. Anil Soni, CGSC for UOI.

Mr. Rakesh K. Khanna, Sr. Adv. and President, Supreme Court Bar Association (SCBA), Mr. J.M. Sharma, Advocate and Vice President, SCBA, Ms. Preeti Singh, Advocate and Acting Secretary, SCBA.

Mr. A.S. Chandhiok, Sr. Adv., Mr. Mohit Mathur, Sr. Advocate and President, Delhi High Court Bar Association (DHCBA); Mr. Jatan Singh, Advocate and Vice President, DHCBA; Mr. Abhijat, Advocate and Secretary, DHCBA with Mr. Mohit Gupta, Mr. Amit Saxena, Mr. Naginder Benipal, Mr. Nikhil Mehta, Ms. Rupali Kapoor, Ms. Kajal Chandra, Advocates

Mr. Rahul Mehra, Standing Counsel, Mr. Chaitanya Gosain, Mr. Amarpreet Singh, Mr. Anand, Adv. for R-2 & R3.

Mr. Mahavir Sharma, Advocate, President, Rohini Court Bar Association (RCBA) and Chairman, Coordination Committee of All Delhi District Bar

Associations with Mr.Rajbir Malik, Advocate and Vice President, RCBA Mr.Rakesh Chahar, Advocate and Secretary, RCBA.

Mr.Mahesh Sharma, Advocate, Shahdara Bar Association Mr.Karnail Singh, Advocate and President, Saket Bar Association (SKB); Mr. Dhir Singh Kasana, Advocate & Hony. Secretary, SKB and Secretary General, Coordination Committee, Mr. C.M. Patel, Advocate for SKB.

Mr.K.C. Mittal, Advocate, Chairman, Bar Council of Delhi (BCD) with Mr.Piyush Sharma, Advocate and Co-Chairman, BCD; Mr.D.K. Sharma, Advocate and Co-Chairman, BCD; Mr.R.K. Kochar, Advocate and Co-Chairman, BCD; Mr.Sanjay Rathi, Advocate and Co-Chairman, BCD; Mr.D.K. Singh, Advocate and Vice Chairman, BCD; Mr.Manoj Kumar Singh, Advocate and Member, BCD; Mr.Surya Prakash Khatri, Advocate and Member, BCD; Mr.Himal Akhtar, Advocate and Member, BCD; Mr. Rajiv Khosla, Advocate and Member, BCD; Mr. Ajayinder Sangwan, Advocate and Member, BCD; Mr. Kumar Mukesh, Advocate and Member, Mr.Yugansh Mittal, Advocate, BCD.

Mr.N.C. Gupta, Advocate and President, Delhi Bar Association, Tis Hazari (DBA); Mr.Jaivir Chauhan, Adv. and Hony. Secretary, DBA; Mr. Ansul Pratap Singh, Advocate, Mr.Shitez Sharma, Mr.Mohit Rana, Mr.Sahil Aeron, Mr.Vaibhav Jain, Mr. Robin, Mr.Prateek Mehta, Mr.Vivek Kumar, Advocates for DBA.

Mr.Y.P. Singh, Advocate and President, Dwarka Court Bar Association (DCBA); Mr.Rajesh Kaushik, Advocate and Vice President, DCBA; Mr.Jai Singh Yadav, Advocate and Hony. Secretary, DCBA and Mr.Pravesh Sharma,

Advocate and Member, DCBA; Mr.B.S. Jakhar, Advocate and Ex-President, DCBA.

Mr.Siddharth, Advocate and Hony. Secretary, Rouse Avenue Bar Association.

Mr.Snehasis Mukherjee, Advocate and Secretary, Supreme Court AOR Association; Mr.Vivek Narayan Sharma, Advocate and Joint Secretary, Supreme Court AOR Association; Ms. Savita Singh, Advocate and Member, Supreme Court AOR Association.

Mr.Ravi Kumar Dwivedi, Mr. Vaibhav Jain, Advocates for Delhi Advocates Welfare Association (Regd.).

Mr. Murari Tiwari, Mr. Anil Kumar Adlaniya, Mr. Ravinder Aggarwal, Mr.Pradeep Mahajan, Mr. Prateek Som, Mr.Ajit Kumar Bhardwaj, Mr.Amit Gupta, Mr.Neeraj Gupta, Mr.Naveen K. Sharma, Mr.Davinder Kumar, Mr.Lakhmi Chand, Mr.Jalaj Agarwal, Mr. Ravi Pal, Ms. Seema Joshi, Mr.Anil K. Adlania, Ms.Shweta Rani, Mr. Ajay Atri, Mr.Vipin K. Sharma, Ms.Meghna Adlania, Mr.Sandeep Tyagi, Mr.Amit Kumar Singh, Mr.Raj Kumar, Advocates.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER
03.11.2019

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At 3:00 p.m.

1. This Court has taken *suo motu* cognizance of incident of police firing as well as lathicharge by the police upon Advocates at Tis Hazari Courts Complex, New Delhi. Several news items have been pointed out in our

order at 1:00 p.m. today. Those news items have been taken on record by our earlier order which we have passed at 1:00 p.m. today. We have also issued notices to the Union of India, Ministry of Home Affairs, Commissioner of Delhi Police, Government of National Capital Territory of Delhi, Bar Council of India, etc. as enumerated in paragraph 5 of our order dated 03 November 2019 at 1:00 p.m. today.

2. Notice was ordered to be served by electronic mode and telephonically.

3. Counsels representing the respondents are present. We have heard Ms. Maninder Acharya, learned Additional Solicitor General and Mr. K.C. Mittal, learned counsel, Chairman, Bar Council of Delhi (BCD). Likewise, we have also heard Mr. Manan Kumar Misra, learned Senior Advocate, Chairman, Bar Council of India (BCI) and Mr. Mahavir Sharma, learned counsel, President, Rohini Court Bar Association (RCBA) and Chairman, Coordination Committee of All Delhi District Bar Associations. We have also heard Mr. Mohit Mathur, learned Senior Advocate and President, Delhi High Court Bar Association (DHCBA), Mr. A.S. Chandhiok, learned Senior Advocate and other Advocates.

4. We have also heard Mr. Rakesh K. Khanna, learned Senior Advocate and President, Supreme Court Bar Association (SCBA).

5. Several grievances have been ventilated by the counsels mainly about the injuries sustained by the Advocates, especially, bullet injuries. Some of them are in hospital. They have also urged for need of **Judicial Inquiry** by this Court. They have further submitted about lodging of the First Information Reports (FIRs) at the behest of Advocates who have sustained injuries. It is further submitted by the aforesaid counsels about the best

available medical treatment to the injured Advocates and if possible, by All India Institute of Medical Sciences (AIIMS) and they have further submitted about the compensation to be paid as an interim measure which may be subject to further orders.

6. It is further submitted by the counsels that the investigation may be handed over to the Crime Branch or to Central Bureau of Investigation. It is also submitted that in the Court complex Central Industrial Security Force (CISF) personnel may be deputed instead of Police personnel for security purposes.

7. The counsels have also narrated about the damages caused to the chambers and the injuries sustained by the lawyers including the lady Advocates.

8. It is further submitted by the counsels that those police officers who have engaged in firing and lathicharge may be suspended immediately as well as those who have ordered for firing and lathicharge may also be suspended immediately.

9. It is further submitted by the counsels that in the FIR which is filed against Advocates, no coercive actions may be initiated by the police officers or the investigating agency. The Advocates are ready and willing to cooperate in the investigation/enquiry.

10. Counsels have also given the names of the police officers. They are Mr.Harendra Kumar Singh, Additional Deputy Commissioner of Police/ North District; Mr.Sanjay Singh, Special Commissioner of Police; Mr.Pawan Kumar, Assistant Sub-Inspector as well as Mr.Kanta Prasad, Assistant Sub-Inspector.

11. It is further submitted by the counsels in detail about the whole

incident and that adequate compensation may also be awarded because the chambers of the lawyers have been damaged and the vehicles of the lawyers have also been damaged. They have also narrated the excessive force used by the police which was not required. They have also narrated that the firing was also not required and have pointed out that even when the shot was fired, it was not fired in air or at the legs of the advocate, but point blank at his chest just below the shoulder blade. Thus, at length the graphic narration has been given by the counsels about the incident which has taken place yesterday. They have also submitted that photography and videography has been done by the counsels who were present in the Tis Hazari Courts Complex, New Delhi. Likewise, there is CCTV footage available also.

12. Mr.Rahul Mehra, learned Standing Counsel (Criminal) appearing on behalf of the Commissioner of Delhi Police and the Government of NCT of Delhi submitted that there were as many as 21 police officers who have sustained injuries which includes Additional Deputy Commissioner of Police, 2 Station House Officers, etc. Fourteen (14) motorcycles and one police vehicle - Gypsy has been burnt. Eight (8) jail vans which are being used for bringing the jail inmates to the Court have also been damaged. It is further submitted by the learned Standing Counsel that they will hold the investigation independently. FIRs have already been registered– FIR No.268/ 2019 dated 02 November 2019 u/s 186/353/147/148/149/436 IPC & 3/4 of the Prevention of Damage to Public Property Act, P.S. Subzi Mandi, FIR No. 269/2019 dated 02 November 2019 u/s 186/353/147/148/149/307/392 IPC & 3/4 of the Prevention of Damage to Public Property Act, P.S. Subzi Mandi, FIR No.270/2019 dated 03.11.2019 u/s 307/323/342/506/379/356/34 IPC, P.S. Subzi Mandi and FIR

No.271/2019 dated 03.11.2019 u/s 354/427/34 IPC P.S. Subzi Mandi. It is further submitted that ASI Pawan Kumar of 3rd Battalion DAP has already been transferred and ASI Kanta Prasad has already been suspended. It is further submitted that Special Investigation Team has already been constituted for the investigation on the criminal side and for taking action, on civil side a Committee has already been constituted of high-ranking police personnel.

13. It is further submitted by the learned Standing Counsel appearing for the Commissioner of Delhi Police that actions shall be taken on both civil and criminal side against the erring police officers. Learned Standing Counsel has also narrated the whole incident in detail and has also given a report of the incident in Tis Hazari Courts Complex, New Dehli dated 02.11.2019, photocopy whereof is taken on record. It is submitted on the basis of the aforesaid report in writing that looking to the exigency of the situation and also looking to the safety of the under-trial prisoners in the lock-up situated at Tis Hazari Court Complex, the firing has taken place and additional reinforcement was also asked for. Nonetheless, it is submitted that the inquiry on civil and criminal side shall be conducted impartially and action shall be initiated in accordance with law.

Appreciation of Arguments

14. We have heard the counsels for the Bar Associations, Advocates as well as others counsels from the Government side. Counsels for the Bar Associations and Counsels for Advocates have narrated several details as to how an advocate was dragged by the police officials and confined him in a lockup which was otherwise meant for prisoners. Police opened the firing. Firearm injuries were sustained by the advocates. For causing assaults upon

advocates, additional reinforcements was asked for, who caused lathicharge upon advocates, broke the window glasses of cars of advocates and caused extensive damage to the Chambers of Advocates at Tis Hazari Courts Complex. Advocates have also submitted that they have documented and detailed videos and photographs to substantiate their claim. As both civil and criminal inquiry are pending we are not going into the fine niceties of these facts at this stage. We will pass further orders after looking at the reports.

15. Having heard counsels for both the sides and looking to the facts and circumstances of the case and also looking at the gravity of the subject matter and looking at the fact that there was firing by the police upon advocates and advocates have sustained firearm injuries and in view of the lathicharge which was directed upon advocates result in several advocates sustaining injuries in the process and also looking at the fact that police officers have also sustained injuries and several police vehicles were burnt, at this stage, we hereby direct –

(i) The Commissioner of Police to record the statement of the following Advocates –

- (a) Mr. Vijay Verma, Advocate;
- (b) Mr. Pankaj Kumar Dubey, Advocate;
- (c) Mr. Ranjit Malik, Advocate, and
- (d) Mr. Sagar Sharma, Advocate.

and of such other Advocates and other persons who have sustained injuries due to yesterday's incident at Tis Hazari Courts Complex, New Delhi.

(ii) Upon recording the statements of the Advocates, immediately the FIR shall be lodged and a copy whereof shall be presented before this Court on the next date of hearing.

(iii) We direct the Government of NCT of Delhi to provide the best medical treatment to the injured Advocates and if possible, at All India Institute of Medical Sciences (AIIMS), at the cost of NCT Delhi, especially, to Mr. Vijay Kumar, Advocate, Mr. Pankaj Dubey, Advocate and Mr. Ranjit Malik, Advocate. Ms. Maninder Acharya, learned ASG has also submitted that the Union of India shall extend all possible assistance to provide the best medical treatment at AIIMS and as per medical advice.

(iv) We further direct Government of NCT of Delhi to make a payment of a lumpsum ex gratia amount of Rs. 50,000/- to Mr. Vijay Verma, Rs.25,000/- to Mr. Ranjit Malik and Rs.10,000/- to Mr.Pankaj Dubey immediately and in no case later than a week's time. The aforesaid ex gratia amount is a minimum amount to be paid. If more amount is found needed to be paid, the amount already paid will be given as a set off.

(v) We hereby appoint Hon'ble Mr.Justice (Retd.) S.P.Garg of this Court to hold an inquiry for the aforesaid incident that took place at Tis Hazari Courts Complex on 02 November 2019. He will be assisted by the following agencies –

- a. Director (CBI),
- b. Director (Vigilance) and
- c. Director (IB)

or by any high ranking officers of their respective aforesaid

offices nominated by them. The inquiry shall be completed as early as possible and practicable, preferably within a period of six weeks from the date of the receipt of a copy of the order of this Court.

(vi) We also direct the Commissioner of Police, Delhi as well as the Government of NCT of Delhi and the Union of India, Ministry of Home Affairs to provide necessary infrastructure to Hon'ble Mr. Justice (Retd.) S.P.Garg like – Secretary, stenographer, minimum two peons, two clerks, conveyance/vehicle, computer with printer so that videography etc. can be looked into and such other assistance needed by Justice (Retd.) S.P.Garg. Moreover, the office place for holding judicial inquiry will be allotted by Government of NCT of Delhi. As far as possible, this place shall be nearer to Tis Hazari Courts Complex, New Delhi. Needful in this regard be done within one week from today.

(vii) It is assured by learned counsels appearing on behalf of the advocates as well as on behalf of Bar Council of India, Bar Council of Delhi and Delhi Bar Association and other Bar Associations and also by Mr. Mahavir Sharma, President, Rohini Court Bar Association, who is also Chairman of the Coordination Committee that all Advocates shall cooperate the hearing before Justice (Retd.) S.P.Garg so that the inquiry can be completed even before the time schedule given by this Court. Similarly, Government side Police officials and other Government Officials shall also cooperate the hearing before Justice (Retd.) S.P.Garg.

(viii) We further direct the Commissioner of Police to suspend ASI

Kanta Prasad as well as ASI Pawan Kumar, during pendency of the inquiry. This is required for impartial inquiry to be completed within time bound schedule. One had opened the firing upon Advocates and another had dragged a lawyer into the lockup room and confined him therein. Normally the lockup room is meant for prisoners.

(ix) Meanwhile, no coercive action shall be taken against the Advocates in pursuance of F.I.Rs. with regard to the aforesaid incident filed against Advocates.

(x) We further direct the Commissioner of Police to transfer Mr.Harendra Kumar Singh, Additional Deputy Commissioner of Police/ North District and Mr. Sanjay Singh, Special Commissioner of Police **during pendency of the inquiry** so that inquiry may be conducted impartially and without there being further confrontation with lawyers. Mr.Harender Kumar Singh had ordered for firing. Firearm injuries sustained by Advocates. Mr.Sanjay Singh ordered for lathicharge upon Advocates. Because of this order injuries were sustained by Advocates and also the police had broken window glasses of Cars parked at the Tis Hazari Courts Complex and have ransacked the Chambers of Advocates at Tis Hazari Courts Complex, New Delhi. Further order will be passed by this Court after receipt of the inquiry report.

16. Parties are at liberty to move an application before this Court in case of any practical difficulty faced by them. If such an application is being preferred, immediately the same will be taken up for hearing. The inquiry will be completed in accordance with law and on the basis of the evidences

on record, on its own merits and without being influenced by the order of this Court in this matter.

17. The writ petition is adjourned on 16th December, 2019.

CHIEF JUSTICE

C.HARI SHANKAR, J

NOVEMBER 03, 2019

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