

IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P. (C) NO. OF 2019
(IN THE MATTER OF PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:

RAKESH KUMAR LAKRAPETITIONER

VERSUS

UNION OF INDIA AND ORS. ...RESPONDENTS

MEMO OF PARTIES

RAKESH KUMAR LAKRA
SON OF SHIR BHOOP SINGH
CHAMBER NO. 269,
LAWYER CHAMBER BLOCK,
DELHI HIGH COURT PETITIONER

VERSUS

1. UNION OF INDIA
THROUGH
MINISTRY OF HOME AFFAIRS
NORTH BLOCK,
NEW DELHI-110001
2. DELHI POLICE
THROUGH
COMMISSIONER OF POLICE,
MSO BUILDING, INDRAPRASTHA MARG,
I.P. EATATE,
NEW DELHI-110095
3. AMULYA PATNAIK,
COMMISSIONER OF POLICE,
MSO BUILDING, INDRAPRASTHA MARG,
I.P. EATATE,
NEW DELHI-110095,

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4. MADHUR VERMA,
DEPUTY INSPECTOR GENERAL OF POLICE,
ARUNACHAL PRADESH
5. MS. ASLAM KHAN,
DEPUTY COMMISSIONER OF POLICE,
NORTH WEST DISTRICT,
DELHI
6. MS. MEGHNA YADAV, IPS
FACULTY MEMBER AT SARDAR VALLABHAI PATEL
NATIONAL POLICE ACADEMY,
HYDERABAD.
7. MS. SANJUKTA PRASHAR, IPS
SUPERINTENDENT OF POLICE,
NATIONAL INVESTIGATION AGENCY,
NEW DELHI.

.....RESPONDENTS

THROUGH

RAJEEV KUMAR YADAV
COUNSEL FOR THE PETITIONER
CHAMBER NO. 269, LAWYERS BLOCK,
DELHI HIGH COURT
D-2562/2005
MOBILE: 7042450631

NEW DELHI
DATE: 07.11.2019

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LIST OF DATES AND EVENTS

The petitioner is a lawyer by profession, practicing in this Hon'ble Court, Hon'ble Supreme Court and District Courts of Delhi and is aimed to work for the welfare and development of social, educational and cultural values in the interest of general public at large.

The present petition before this Hon'ble High Court is filed for directions against the respondent authorities failing to fulfill their constitutional obligations and duties firstly, in allowing the police personnel to protest and sit on dharna and circulate inciting and provoking statements on electronic and social media, thereby putting the law and order situation in NCT of Delhi.

02.11.2019 Quarrel broke out between officials of Delhi Police and Lawyers at Tis Hazari Court Complex, New Delhi for parking issue, when the officials of Delhi Police in complete misuse of their official powers fired from point blank at innocent masses/lawyers thereby injuring some lawyers.

03.11.2019 This Hon'ble Court took suo moto cognizance of the incident in the matter titled "Court on its Motion versus Union of India & Others" (W.P. No. 11652/2019) and

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issued various directions to the Union of India, Ministry of Home Affairs, Commissioner of Delhi Police, Government of GNCTD, Bar Council of India etc., in order to bring out truth.

04.11.2019 In order to get justice, the Delhi High Court Bar Association, Bar Council of Delhi, Bar Council of India and various Associations of Delhi District Courts reportedly abstained from work.

05.11.2019 Police officials and personnel of Delhi Police started protest and sat on dharna at Police Headquarters, Delhi and various public places at Delhi in complete dereliction of their official duties thereby putting the entire law and order situation of Delhi at risk. The Police officials also started circulating provoking and inciting statements/slogans through electronic media, thereby provoking police personnel of various other States of India and putting the security and national integrity at high risk.

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06.11.2019

Till date no action has been taken against the erring police personnel. Hence, the present PIL.

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P. (C) No. of 2019

(IN THE MATTER OF PUBLIC INTEREST LITIGATION)

IN THE MATTER OF: Public Interest Litigation

AND

IN THE MATTER OF: Writ Petition under Article 226 of
the Constitution of India.

AND

IN THE MATTER OF: Failure on the part of Respondent
No. 1 to take action against the
Respondent No. 2 for not taking
disciplinary action against police
personnel of Delhi Police who
have been agitating in public and
sitting on dharna in complete
contravention of their official
duties and also circulating
provoking statements/slogans
through social media thereby
putting on stake the integrity and
security of the nation.

AND

IN THE MATTER OF:

Failure on the part of Commissioner of Police i.e. Respondent no.3 for not taking appropriate action against Respondent No. 5 who has been giving statement on social media through twitter, when the matter is already sub-judice before this Hon'ble Court.

AND

IN THE MATTER OF:

Failure on the part of Respondent no. 4 to 7 in making provoking statement in public through social media.

AND

IN THE MATTER OF:

Failure on the part of Respondents in allowing the police personnel of Delhi Police to sitting on dharna at the cost of the law and order situation prevailing in the city of Delhi in

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complete contravention of their
official duties.

AND

IN THE MATTER OF: Failure on the part of
Respondents in allowing the
police personnel of Delhi Police to
act in violation of the Delhi Police
Act, 1978, Central Civil Service
Conduct Rules and the Police
Forces (Restriction of Right) Act,
1966.

BETWEEN

RAKESH KUMAR LAKRA PETITIONER

VERSUS

UNION OF INDIA & ORS.RESPONDENTS

To,

THE HON'BLE CHIEF JUSTICE OF HIGH COURT OF
DELHI AT NEW DELHI AND ITS COMPANION JUSTICES
OF THIS HON'BLE COURT

THE HUMBLE PETITION ON BEHALF OF THE PETITIONER
ABOVE NAMED:

MOST RESPECTFULLY SHOWETH:-

1. That the Petitioner is a citizen of India and resident in the city of New Delhi. As such the Petitioner is entitled to invoke the jurisdiction of this Hon'ble Court.
2. That the present Petition is being filed for the interest of public at large and thereby the Petitioner has no personal interest in the present litigation. The Petitioner is not guided by anyone to buy self-gain or for gain of any other person/institution/body and that there is no motive other than of public interest in filing the present Public Interest Litigation petition.
3. That the Petitioner is a lawyer practicing primarily in the Hon'ble Delhi High Court, the Hon'ble Supreme Court of India and District Courts in Delhi.
4. That the class of persons for whose benefit the present Petition has been filed is the common public at large.
5. That the Petitioner is a well informed responsible citizen and is a law abiding person. The Petitioner has all means to pay the cost, if any, imposed by this Hon'ble Court and the Petitioner undertakes to pay such cost if any, imposed by this Hon'ble Court on him.

6. That the brief facts which necessitated the filing of the present PIL are summarized as follows:-

- a. On 02.11.2019, an unprecedented took place in the complex of Tis Hazari District Court, New Delhi wherein a tussle took place between the lawyers and police personnel on alleged issue of parking of vehicle within the court complex.
- b. The said issue aggravated with police opening fire and carrying out lathi charge on the masses especially the lawyers. It was further reported that the chambers as well as the vehicles of the lawyers have been damaged in view of excessive unwarranted force of the police. Resultantly, due to point blank firing by the police, some lawyers were reported to be injured and admitted in the hospital. As a mark of protest and in order to secure justice, the lawyers reportedly abstained from work in Delhi courts.
- c. This Hon'ble Court took suo moto cognizance of the incident of police firing as well as lathi charge by police upon the advocates at Tis Hazari Court Complex, New Delhi. In the matter titled "Court on

its Motion versus Union of India & Others" (W.P. No. 11652/2019). This Hon'ble Court issued notices to the Union of India, Ministry of Home Affairs, Commissioner of Delhi Police, Government of GNCTD, Bar Council of India etc., and the matter was listed on 03.11.2019 at 3:00PM. After hearing the parties at length this Hon'ble Court vide order dated 03.11.2019 issued extensive directions in the matter. True copy of order dated 03.11.2019 is annexed and marked as **Annexure P-1**.

- d. That in view of the aforesaid order, this Hon'ble Court has taken cognizance of the said incident and matter since then is sub-judice before this Hon'ble Court.
- e. Despite of the aforementioned directions and the matter being sub-judice before this Hon'ble Court, the Delhi Police Personnel unwarrantedly sat on protest by way of Dharna at the police headquarters and other parts of Delhi, raising provoking unwarranted slogans and carrying placards in public places. True copy of the news

article dated 05.11.2019 is annexed hereto and marked as **Annexure P-2**.

- f. It is pertinent to mention that in addition to the aforesaid unwarranted Dharna by the Delhi Police, the respectable and high rank police officers of Delhi police issued and published inciting and provoking statements/slogans on the electronic and social media, in complete contravention of discharge of their official duties. True copies of tweets and reported article in this regard available on internet are annexed and marked as **Annexure P-3**. (Colly).
- g. It would further not be out of context to mention that the unprecedented mass demonstration by the Delhi police and circulation thereof by using electronic and social media as a tool has not been limited to NCT of Delhi but is also spreading all across the country. It has been reported in the media that the police from the States of Harayna, Bihar, Kerala, Tamil Nadu etc., have assured to extend support to their colleagues in Delhi police. This clearly shows that aforementioned mass demonstration by the Delhi police may eventually

spread all across the nation leading to serious law and order and security concerns. True copies of the statements issued by IPS Officers associations of other states are annexed as **Annexure P-4**. (Colly).

- h. It is also significant to note that the Respondent No. 4 who has recently been recently transferred from Delhi police to State of Arunachal Pradesh for slapping a traffic inspector, has joined hands with his other below mentioned colleagues in circulating and spreading such statements which are clearly instigating the police officials thereby contributing to derailment of the law and order situation in Delhi.
- i. It is also significant to note that the Respondent No. 5 has been circulating provoking statements via the social media, which majorly responsible for aggravating the whole issue and provoking the other police personnel for not discharging their official duties.
- j. It is further important to be mentioned that the Respondent No. 6 has written a letter to the

Respondent No. 3, which is being circulated in the media, wherein she has made certain statements which may provoke the police personnel of the Delhi Police in discharging their official duties in the present volatile law and order situation prevailing in Delhi.

- k. It is also pertinent to note that similarly, Respondent Nos. 7 has been circulating provoking statements via the social media, which majorly responsible for aggravating the whole issue and provoking the other police personnel for not discharging their official duties. True copies of the statements issued by Respondent Nos. 7 are annexed as **Annexure P-5** (Colly).
7. It is to be noted that a duty is casted upon every police officer to discharge their official duties with utmost sincerity and preserve the law and order situation within the state of NCT of Delhi. Section 24 of the Delhi Police Act mandates that every police officer, who is not on leave or under suspension, shall always be deemed to be on duty. Therefore, it is pertinent to point out that the statement of the police personnel that their duties would not be hampered while they are sitting on dharna

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is completely misconceived and in contravention to Section 24 of the Delhi Police Act. The said fact can also be corroborated by the statement of the Respondent No. 3 reported in the media whereby he has been urging the police personnel to resume their duties.

8. In view of the aforementioned facts it is further apparent that the Respondent No. 4 to 7 along with police officials who have been sitting on Dharna are clearly in violation of the Central Civil Services Conduct Rules as well as the Code of Conduct applicable to the police personnel.
9. In view of aforementioned facts and circumstances is filing the present petition on the following grounds amongst others:

GROUND

- A. Because the Respondent No. 1 have failed to take appropriate action against the Respondent No. 3 for failing to control the law and order situation in Delhi.
- B. Because the Respondent No. 1 has failed to take strict action against the Respondent No. 4 to 7 and other police personnel of Delhi Police in allowing them to do protest and dharna in public

places in complete dereliction of their official duties.

- C. Because the Respondent No. 2 and 3 has failed to take strict action against the police personnel including Respondent No. 4 to 7 for circulating provoking statements inciting the police official not to discharge their official duties thereby contributing to a law and order situation within NCT of Delhi.
- D. Because the Respondent No. 1 has failed to take appropriate action against the Respondent Nos. 3 to 6 and other police officials of Delhi Police by allowing them to provoke the police personnel of other states thereby creating havoc in society at large and security concerns all across the nation.
- E. Because the personnel of the Delhi police, despite being on duty, have sat on an unwarranted Dharna in contravention of Rule 7 of the Central Civil Services Conduct Rules 1964, which clearly bars any government servant to engage and participate in any demonstration which is

prejudicial to the interests of sovereignty, integrity and security of the state.

- F. Because the personnel of the Delhi police especially Respondent Nos. 4 to 7, despite being on duty and without any previous sanction have been participating in circulation of statements/slogans in the electronic as well as social media in complete contravention of Rule 8 of the Central Civil Services Conduct Rules 1964.
- G. Because the personnel of Delhi police by sitting on a demonstration/dharna outside the police headquarters at Delhi as well as several other public places have violated Section 24 and various other provisions of the Delhi Police Act, since every police officer is deemed to be on duty unless on leave or suspended.
- H. Because the officials and personnel of Delhi Police have chosen to sit on demonstration and dharna despite of the fact that this Hon'ble Court has already suo moto cognizance of the subject incident and the matter is sub-judice before this Hon'ble Court.

- I. Because the act of the Delhi police of opening fire and carrying out lathi charge on the innocent masses/lawyers in complex of Tis Hazari District Court on 02.11.2019 was barbaric and purely exceeding the powers of the Delhi police as the said unwarranted firing/lathi charge led to fatal injuries to some lawyers.
- J. Because the conduct of the officials of the Delhi police sitting on dharna in delhi and circulation of statements/tweets on the social media by the Respondent Nos. 4 to 7 and other police personnel is in complete violation of section 3 of the Police Forces (Restriction of Right) Act, 1966.
- K. Because the officials of Delhi police sitting on dharna have failed to obey the orders issued by Respondent No. 2 to resume their duty back, which is in complete violation of directions issued by the Hon'ble Supreme time and again holding that members of uniformed forces cannot disobey orders of their seniors.
- L. Because the respected officials of the Delhi police are discharging essential services to preserve

peace and tranquility in Delhi and thus cannot demonstrate mob mentality by sitting on dharna, demonstrations and circulating inciting statements and slogans on the media provoking the other officials to discharge their official duties with sincerity.

- M. Because the unwarranted and unlawful acts of police personnel of Delhi Police have created a fear in the minds of public at large, thereby putting the public in constant fear and threat to their life, liberty and property in view of prevailing law and order situation in NCT of Delhi.
 - N. Because the families of the lawyers are also living under constant threat of being attacked and dragged by Delhi police in false cases.
10. That the Petitioner craves leave to raise any other ground at the time of hearing with due permission of this Hon'ble Court.
 11. That the Petitioner is not filing the present PIL to hurt the religious sentiments of any specific community or

against any specific community but for general public at large.

12. That the petitioner has not filed any other Public Interest Litigation or preferred Letters Petitions previously before any High Court or before the Hon'ble Supreme Court of India or any other Court of Law.

PRAYER

In the light of the facts and circumstances mentioned herein above, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a) Issue a Writ or any similar order/directions directing the Respondent No. 1 to initiate departmental enquiry against the officials and personnel of Delhi police who had been sitting on dharna at the Police Headquarters, Delhi and at various other public places in Delhi in contravention of the prevalent laws and take appropriate action against the said police personnel;
- b) Issue a Writ or any similar order/directions directing the Respondent No. 1 to initiate disciplinary proceedings against the Respondent Nos. 4 to 7 and other police officials, for circulating provoking and inciting statements on electronic as well as social

media in complete violation of prevalent laws and taking appropriate disciplinary action including dismissal of the said officials in accordance with law for violation of the provisions of Delhi Police Act and Central Civil Services Conduct Rules, 1964;

- c) Issue a Writ or any similar order/directions directing the Respondent No. 1 to initiate disciplinary action against the Respondent No. 3 for not taking appropriate action against officials of Delhi Police for sitting on dharna, making provoking slogans in the dharna pradarshan and issuing inciting statements on the electronic and social media; and
- d) Pass any order/orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.


PETITIONER

THROUGH

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DELHI HIGH COURT
D-2562/2005
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NEW DELHI
DATE: 06.11.2019