

W.A.No.165/2015
(Ramswaroop Pandre Vs. State of M.P. and others)

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25.06.2015

Shri Devendra Kumar Triapthi, Advocate for the appellant.

Shri Samdarshi Tiwari, Deputy Advocate General for the respondents-State.

Heard counsel for the parties for admission.

The only ground raised before the learned Single Judge, which has been considered and rejected in terms of order impugned in this appeal dated 09.03.2015 passed in W.P.No.930/2015 was that the Inspector General of Police was not competent to appoint the Enquiry Officer. That could be done only by the Superintendent of Police. As a matter of fact, the Superintendent of Police, Dindori was himself obliged to conduct the departmental enquiry against the petitioner.

2. This argument, however, did not find favour with the learned Single Judge, as can be discerned from the impugned decision. The same argument is reiterated before us but on this occasion reliance is placed on the provisions of M.P. Police Regulations in particular Regulation 232 in support of this contention.

3. The argument though attractive at the first blush will have to be stated to be rejected because this provision cannot be interpreted to mean that it prohibits any other Superior Authority to exercise power of appointing Enquiry Officer to continue with departmental enquiry against the Inspector of

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Police as is the case of the petitioner.

4. In the present case, it is seen that the Inspector General Zone Shahdol who is, admittedly, a Superior Officer than the Superintendent of Police Dindori, has exercised the power of appointing the Superintendent of Police Shahdol as Enquiry Officer for administrative reasons.

5. The moot question is: whether the Inspector General of Police, Zone Shahdol was competent to appoint the Enquiry Officer. For that, we may usefully refer to Regulation 10 read with Regulation 12 of the M.P. Police Regulations. No doubt, the petitioner had initially placed reliance on the provisions of M.P. Civil Services (Classification, Control & Appeal) Rules, 1966, but keeping in mind the provisions of the said Rules and in particular the express provision in the Rules of 1966 that the Control & Appeal Rules will not apply to the Class-III (Non-ministerial) post in the Police Department, which, however, will be governed only by the M.P. Police Regulations, the argument about application of Rules 1966 was not pressed further.

6. Therefore, the consideration of the issue rests on the sweep of Regulation 10 read with Regulation 12 conjointly read with Regulation 232. Regulation 232, in our opinion, is a directory provision and cannot be interpreted to mean that the Superintendent of Police of the district in which the concerned Inspector of Police facing departmental enquiry is working alone, is competent to appoint Enquiry Officer to conduct the

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departmental enquiry. This interpretation is reinforced from the expression “ordinarily” found in Regulation 232. It is not as if the Superintendent of Police of the same district himself should appoint the Enquiry Officer or hold the departmental enquiry as is contended.

7. On the other hand, Regulation 10 read with Regulation 12, leaves no matter of doubt that the Inspector General of Police, Range Shahdol, is the Head for the administrative purposes of the concerned Range and being a Superior Officer than the Superintendent of Police, would be competent to exercise power of appointing Enquiry Officer to conduct the departmental enquiry against the Inspector of Police working in his Range. Notably, no express provision has been brought to our notice that the Enquiry Officer can be appointed only by the Superintendent of Police and none-else.

8. Be that as it may, we find that Regulation 223 empowers the Zonal Inspector General of Police or any Police Officer equivalent to the rank of Inspector General of Police to not only suspend the officer of the rank of Inspector pending enquiry but also to inflict punishment specified in Regulation 214 and 215. Understood thus, it is unfathomable to countenance the argument of the appellant that the Zonal Inspector General of Police is not competent to appoint an Enquiry Officer to conduct the departmental enquiry against the Inspector of Police working under him, even though for all administrative purposes, he is treated as Head of the Police of

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the concerned Zone.

9. For the aforesaid reasons, we find no infirmity in the conclusion reached by the learned Single Judge for having dismissed the challenge to the order issued by the Inspector General of Police to appoint an Enquiry Officer.

10. Counsel for the appellant would then contend that the Inspector General of Police, Zone Shahdol is biased against the appellant. However, from the order under appeal we find that this plea was not taken before the learned Single Judge. Indeed, counsel for the appellant submits that the plea has been specifically taken in the writ petition. Assuming that such plea is taken, it does not follow that the appellant had pressed that plea while arguing the writ petition. Moreover, from the cause title of the appeal as well as writ petition, it is noticed that the concerned Inspector General of Police against whom allegation of *mala fide* are now levelled across the Bar is not named as respondent by name in the proceedings. For that reason also, it is not open to the Court to inquire into the facts constituting bias qua him. Moreover, the grievance of the appellant, essentially, is a question of fact which ought to have been agitated before the learned Single Judge in the first instance and cannot be allowed to be urged across the Bar for the first time during the arguments of an intra-Court appeal that too at such belated stage when the Court is about to pass the order of dismissing the appeal. Further, from the grounds of appeal also, this argument now pressed into service has not been

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specifically incorporated. Indeed, the learned counsel for the appellant has invited our attention to ground (F) in the appeal memo. However, that ground does not disclose any material facts to constitute malafide exercise of power by the Inspector General of Police as such. It is a vague ground to question the authority of the respondent No.3 to appoint the Enquiry Officer. Thus, it is not necessary for us to examine this argument any further.

11. Nevertheless, to assuage the apprehension of the appellant, he is free to make representation to the Director General of Police who is the highest Authority in police establishment, within one week from today and on receipt thereof, as is assured across the Bar by the counsel for the State, the said representation be decided on its own merits by the Director General of Police within one week therefrom. Dependent on the decision of Director General of Police, the departmental enquiry against the appellant can proceed further in accordance with law thereafter. We make it clear that the representation will have to be decided uninfluenced by any observations made in this order.

12. Appeal **disposed** of accordingly.

(A.M. Khanwilkar)
Chief Justice

(K.K.Trivedi)
Judge