

File Nos.993/11 & 1230/11

The complaint in this matter is about the conduct of S.I. Subodh Kumar Singh – the then SHO Chauri P.S. in Bhojpur district, since transferred to Saharsa District Police Force and Constable Ajay Kumar Yadav of Bhojpur District Police.

In course of hearing on earlier occasions it transpired that as many as nine departmental proceedings were initiated against S.I. Subodh Kumar Singh in seven out of which he was awarded punishment while the remaining two are still pending. Besides, he also figures as an accused in at least two criminal cases – one lodged by patrolling magistrate Jai Prakash Tripathi who was physically assaulted by him during the Panchayat elections for which S.I. Subodh Kumar Singh was even sent to jail.

In the circumstances, apart from the disciplinary action which may be taken against S.I. Subodh Kumar Singh for the misconduct which is subject matter of the present complaint in the usual course by the competent authority i.e. the District S.P, the Commission sought response of the DGP as to whether it would be in public interest to retain such an officer in police service in view of his service record. The DGP Bihar submitted his response vide letter no.2205/XC dated 19.6.2013. In his response he has raised doubt about the jurisdiction of the State Human Rights Commission observing that “the issue of retaining a Government servant in public interest on account of orders of punishment passed in different departmental proceedings may not fall within the purview and jurisdiction of the State Human Rights Commission in terms of the provisions of the Protection of Human Rights Act”. After a few general remarks on the point of passing orders of compulsory retirement, the response goes on to state “police officials work under several constraints and difficult situations, which many times are life threatening. In course of performing their duties they are at times faced with vindictive and mala fide action at the hands of those who are aggrieved by their action. At times even false cases and complaints are lodged against them”.

The objection to the jurisdiction of the State Human Rights Commission overlooks the provisions of section 18(a)(ii) of the Protection of Human Rights Act which empowers the Human Rights Commission to recommend to the concerned government or authority “to initiate proceedings for prosecution or such other suitable action as the Commission may deem fit against the concerned person or persons”. It was in the context of the said provision that the Commission had made query and sought response of the DGP.

What is disturbing is the condonation in rem of the arbitrary, whimsical and highhanded acts of the police officials especially at lower levels resulting in violation of the human rights of the person concerned – which is a usual phenomenon and a reality that cannot be denied. It is true that the police functions under several constraints and difficult situations and, also, the possibility of vindictive and mala fide action cannot be ruled out; but that more or less is true of every public service. It hardly needs to be emphasized, action can be taken on a case-to-case basis and in appropriate cases only.

The query was made in the facts of the case and considering that the officer (S.I. Subodh Kumar Singh) was punished in all seven (out of nine) departmental proceedings, it cannot be said that the complaints were false. After all, punishments were awarded by the police officers themselves. The Commission expected that the DGP would get the matter examined at his level and make suitable intervention but what is conveyed to the Commission is a

general denial as if all is well with the police organization and no action is required to be taken against erring police officials because they work in difficult situations and there is likelihood of false and vindictive complaints being filed against them. If this is what the state head of the police organization believes, the Commission would observe with concern and dismay, the people of the state are not very safe with the police.

Coming to the complaint of the applicant it appears that he had filed a court complaint vide case no.571C/11 in which cognizance was taken by Judicial Magistrate First Class of Ara and the case is now in the stage of trial. As the court is in seisin of the case, the Commission would decline to pursue the matter. This however does not mean that S.P. Bhojpur cannot take suitable action on his own after review of the service record of the official S.I. Subodh Kumar Singh.

The Commission would clarify that in view of the transfer of S.I. Subodh Kumar Singh to Saharsa District Police Force during the intervening period, the observation shall apply to S.P. Saharsa.

Files stand closed.

Copy of this order may be sent to (i) DGP Bihar, (ii) S.P. Bhojpur at Ara (iii) S.P. Saharsa, (iv) S.I. Subodh Kumar Singh, (v) Constable Ajay Kumar Yadav and (vi) the applicant.

Date: 28.06.2013

Justice S.N. Jha
Chairperson