

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) No. 13 OF 2022

LAWYERS VOICE

.....PETITIONER(S)

VERSUS

THE STATE OF PUNJAB & OTHERS

.....RESPONDENT(S)

ORDER

1. The present Writ Petition arises out of the incident dated 5.01.2021 wherein on a visit to Hussainiwala, District Ferozpur, State of Punjab the convoy of the Prime Minister was stuck on a flyover for around 20 minutes.
2. Petitioner, an NGO which purports to work for advocates across the country and takes up causes that are in public interest, therefore, seeks that this Court take cognizance of the above incident and has prayed for the following directions:

“(a) Take cognizance of the serious and deliberate lapse on part of the Respondent Nos. 1,2 ad 3 concerning the security and the movement of the Prime Minister of the country; and

(b) Direct the learned District Judge, Bhatinda, to collect all official documents and materials from all possible sources pertaining to the movements and deployment of Punjab Police in connection with the visit at the earliest and produce the same before this Hon'ble Court; and

(c) Issue a writ of mandamus or any other writ, order or direction fixing responsibility of the Respondent No. 2 and Respondent No. 3 and place them under suspension and further direct the Respondent No. 4 to initiate departmental action against the same;

(d) Please to issue any other writ or directions(s) or orders(s) as the Hon'ble Court may deem fit and proper in view of the facts and circumstances of the case and in the interest of justice."

- 3.** Petitioner contends that the incident constitutes a very grave security breach that could have had significant repercussions as it impacts the safety of the Hon'ble Prime Minister.
- 4.** Given the seriousness of the subject matter, and the need to ensure a thorough investigation into the alleged lapses by the security apparatus, we took up the matter on the 07th January, 2022 when we heard Mr. Maninder Singh, Senior Advocate on behalf of the petitioner and Mr. Tushar Mehta, learned Solicitor

General on behalf of Union of India and Mr. D.S. Patwalia, learned Advocate General for the State of Punjab. This Court, thus, passed the following order:

“1. Heard learned senior counsel Mr. Maninder Singh on behalf of the Petitioner, the learned Solicitor General, Mr. Tushar Mehta, and the learned Advocate General for the State of Punjab, Mr. D.S. Patwalia.

2. Taking into consideration the arguments advanced by the parties with respect to the issues relating to the security of WP(C)No.13/2022 the Hon’ble Prime Minister and other related issues raised by them, we deem it appropriate for the time being to direct the Registrar General, Punjab and Haryana High Court to secure and preserve the records relating to the Hon’ble Prime Minister’s scheduled tour of Punjab on 05th January 2022.

3. We direct the Director General of Police, Union Territory of Chandigarh and an officer of the National Investigation Agency, not below the rank of Inspector General, to be nominated by the Director General, National Investigation Agency to assist the Registrar General, Punjab and Haryana High Court to forthwith

secure and seize the records from the State police as well as Central agencies.

4. We further direct the State Government of Punjab, including the police authorities, the Special Protection Group and any other Central/State agencies to cooperate and to provide necessary assistance in securing and seizing the records.

5. We direct the Registrar General, Punjab and Haryana High Court to keep the records in his safe custody for the time being.

6. The Registry is directed to forward a copy of this order electronically, forthwith, to the Registrar General, Punjab and Haryana High Court, the Director General of Police, Union Territory of Chandigarh, the Director General, National Investigation Agency and the Principal Secretary, Home, State of Punjab.

XXXXXX XXX”

- 5.** In deference to the above-stated order, a compliance report has been submitted wherein it has been stated that the relevant records have been received, seized, and secured. The same have been sealed and placed in the custody of the Punjab and Haryana High Court.

- 6.** On the previous date of hearing, it was also brought to our notice that the State of Punjab has constituted a Committee to carry out a thorough probe into the lapses that occurred during the Ferozpur visit of the Hon'ble Prime Minister. The Committee comprised of a Former Judge of the Punjab and Haryana High Court and Principal Secretary, Home Affairs and Justice, Government of Punjab. It was urged on behalf of learned Senior Counsel for the petitioner that since lapses in the breach of security of the Hon'ble Prime Minister are being seriously attributed to the authorities of the State of Punjab, the constitution of an Enquiry Committee by the State was nothing but an abortive attempt to become a Judge in its own cause.
- 7.** The State of Punjab, on the other hand, has placed on record copies of the show cause notices issued by the Government of India, Ministry of Home Affairs, Internal Security-I Division dated January 06, 2022 to various functionaries of the State of Punjab including its Chief Secretary and Director General of Police. The show cause notices required the officers to respond within 24 hours as to why disciplinary action under the All India Services (Discipline and Appeal) Rules, 1969 should not

be initiated against them for their “*omissions and commissions*”. The learned Advocate General for the State of Punjab urged that the Ministry of Home Affairs, Government of India has, in a way, already held the officers of Government of Punjab ‘guilty’ of the alleged negligence and/or breach of security of the Hon’ble Prime Minister. He maintained that none of the agencies of the State Government had committed a dereliction of their responsibility for the security and safety of the Hon’ble Prime Minister, yet there is a smear campaign to discredit the State Government. All the same, the learned Advocate General for the State fairly offered that the State is more than willing to have an independent enquiry of the matter.

- 8.** We have heard learned counsel for the parties at considerable length and studied the provisions of the Special Protection Group Act, 1988 (for short, “the Act”) along with the relevant contents of the Blue Book. The legislative scheme of the Act is quite comprehensive with respect to ensuring proximate security of the Prime Minister, or a former Prime Minister, or their family members, as the case may be. The Blue Book contains an unambiguous and detailed procedure to be

observed by the State Authorities and the Special Protection Group (for short, “SPG”) to ensure full safety and security of the Prime Minister while he is touring a State. The additional object is to avoid any human error, negligence or any willful omission or commission which may hamper and/or expose the safety and security of the Executive Head of the nation while he is traveling in a particular State. Any lapse in this regard can lead to devastating and serious consequences.

- 9.** It is not necessary for us to elucidate more on facts as the lapse regarding the breach of security of the Prime Minister during his visit to Firozpur on 5th January, 2022 is not seriously disputed by either party. There is, however, a blame game between the State and Central Government as to who is responsible for such lapses. War of words between them is no solution. It may rather impair the need of a robust mechanism to respond at such a critical juncture.
- 10.** We, therefore, find merit in the submission of Shri Maninder Singh, learned Senior Counsel for the petitioner that not only are the Officer(s)/Authority responsible for the above-stated lapse liable to be identified, but there is also a greater urgency to evolve new measures that may ensure there is no recurrence

of such lapses in the future.

11. The learned Solicitor General appearing for the Union of India, supported the submission of the Petitioner and prayed for a detailed independent enquiry. The learned Advocate General for the State of Punjab also fairly expressed his willingness for an independent enquiry ordered by this Court.

12. Keeping the above submissions made by the parties in view, we are of the considered opinion that these questions cannot be left to be resolved through one-sided enquiries. A judicially trained independent mind, duly assisted by officers who are well acquainted with the security considerations and the Registrar General of the High Court who has seized the record pursuant to our earlier order, would be best placed to effectively visit all issues and submit a comprehensive report for the consideration of this Court.

13. We therefore deem it appropriate to appoint an Enquiry Committee comprising the following:

- i. Justice Indu Malhotra, a former Judge of the Supreme Court of India- **Chairperson**;

- ii. Director General or his nominee not below the rank of Inspector General of Police of National Investigation Agency- **Member**;
- iii. Director General of Police, Union Territory of Chandigarh- **Member**;
- iv. Additional Director General of Police (Security), State of Punjab- **Member**;
- v. Registrar General, Punjab and Haryana High Court- **Member-cum-Coordinator**.

14. The following are the Terms of Reference for the Enquiry Committee:

- i. What were the causes for the security breach for the incident on 5th January 2022?
- ii. Who are responsible for such a breach, and to what extent?
- iii. What should be the remedial measures or safeguards necessary for the security of the Hon'ble Prime Minister or other Protectees?
- iv. Any suggestions or recommendations for improving the safety and security of other Constitutional functionaries.

v. Any other incidental issue that the Committee may deem fit and proper.

15. The Enquiry Committee is requested to submit its report at the earliest.

16. Let the entire record seized pursuant to our order dated 7th January, 2022, be handed over to the Chairperson of the Enquiry Committee within three days. The Union of India and State Government are directed to provide full assistance to the Enquiry Committee for completion of the assigned task.

17. The Chairperson of the Enquiry Committee shall be entitled to all the perks of a sitting Supreme Court Judge minus pension. They shall be provided full secretarial assistance, official car and other paraphernalia for effective completion of the enquiry, as directed above.

18. Till conclusion of the proceedings of the Enquiry Committee constituted above, the enquiries ordered by the Central Government and the State Government shall be kept in abeyance.

19. List the matter after receipt of the Report of the Enquiry Committee.

.....CJI
(N.V. RAMANA)

..... J
(SURYA KANT)

..... J
(HIMA KOHLI)

New Delhi;
Dated: January 12, 2022