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CRA-D-364-DB-2009

IOIN-CRR-1352-2009 IN
CRR-1352-2009

IOIN-CRA-D-1179-DB-2013 IN
CRA-D-1179-DB-2013

IOIN-CRA-D-732-DB-2010 IN
CRA-D-732-DB-2010

IOIN-CRA-D-1257-DB-2015 IN
CRA-D-1257-DB-2015

IOIN-CRA-D-1502-DB-2013 IN
CRA-D-1502-DB-2013

IOIN-CRA-D-367-2022 IN
CRA-D-367-2022

KULDEEP SINGH VS. STATE OF HARYANA

Present: Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. Pawan Girdhar, Addl. A.G., Haryana.

1. In compliance of the order made by this Court on 30.8.2024, thus compliance affidavit of Additional Chief Secretary to Government of Haryana, Home Department, Haryana Civil Secretariat, Chandigarh, filed in IOIN-CRA-D-364-DB-2009 in CRA-D-364-DB-2009, as filed today in Court, is taken on record.

2. This Court on 30.8.2024 had passed the hereinafter extracted directions:-

“4. Though this Court appreciates the ready and well contemplated apposite compliance made by the Director General of Police, Haryana, qua the directions (supra) as became passed by this Court. However, unless complete effectiveness becomes given to the echoings made in the compliance affidavit (supra), thereupon the said made echoings may not ensure, that the Investigating Officers

concerned, thus collect the best forensic evidence from the crime site. The utmost effectivities to the said relevant speaking as occur in the compliance affidavit, would surge to the forefront, only after imperative collections being made of the forensic evidence existing at the crime site, through prompt thereto deployments of forensic vans, whereafter the same being forthwith mandatorily kept in a sealed condition in the Police Malkhana and thereafter, the said collected forensic evidence becoming forthwith despatched to the FSLs concerned. Furthermore, the FSLs concerned are required to be posted with sufficient manpower, so that on theirs receiving the incriminatory items as become sent, thus for their examinations there, they thus become promptly examined. It is but on inprompt examinations of the incriminating materials, by the Scientific Officers or by Assistant Scientific Officers, deployed in the FSLs concerned, that there is deterioration in the quality of the forensic evidence, which may ultimately result in a verdict of acquittal becoming passed.

5. Resultantly, therebys since there is negation of efforts by the Investigating Officer concerned, in theirs collecting the best forensic evidence from the crime site. Therefore, this Court makes direction upon the Home Secretary in the State of Haryana and in the State of Punjab, to forthwith place on record, their respective affidavits with declarations therein, that all the Forensic Science Laboratories, have sufficient manpower, so as to become fully abled to promptly deal with the dockets which are transmitted to them for prompt examinations thereons being made. In case, there is any deficiency in the manpower, and which ultimately lead to making of ill delays in the makings of examination of the incriminating items at the FSLs concerned, thereupon, this Court may be led to pass such directions as deemed fit and appropriate. Moreover, the said affidavits shall declare whether storage capacities in all Malkhanas become enhanced. Even the statistics in respect of the apposite

stocks therein besides, qua the prompt apposite despatches thereof to the FSL concerned, be also disclosed in the affidavits.”

3. The relevant paragraphs of the compliance affidavit filed by the Administrative Secretary, Department of Home Affairs to Government of Punjab are extracted hereinafter.

“5. That, as per report of Director, Forensic Science Laboratory, Punjab, it is submitted that in order to deal with the deterioration in quality of forensic evidence, in the Forensic Science Laboratory, cold storage facilities for storage of samples would be set up at FSL, Punjab, SAS Nagar. A copy of proposal is annexed as Annexure R-3. It is further submitted that to deal with the forensic evidence, establishment of new Cyber Forensic and /Polygraph divisions are already under process and recruitment process of the staff for the same has already been completed. It is further submitted that in order to deal with deficit in manpower, the requisite manpower (26 posts) required for the establishment of new DNA and Voice Analysis Units at Jalandhar will be recruited after getting the requisite approvals and the copy of said proposal is annexed as Annexure R-4.

To cope up with regard to the shortage of staff in FSL, Punjab, SAS Nagar, 19 posts of scientific officers /Scientific Assistants have been filled by way of direct recruitment. A copy of recruitment process is annexed as Annexure R-5. Furthermore, 03 posts of Scientific Assistants have also been filled by way of promotion and the true translated copy of order of promotion is annexed as Annexure R-6.

Moreover, the State of Punjab sanctioned 09 posts of Laboratory Assistants and 27 posts of Laboratory Attendants through Subordinate Staff Selection Board, the true translated copy of the advertisement is annexed herewith as Annexure R-7. The date for conducting written examination of posts of Laboratory Assistants and Laboratory Attendants

has been fixed for 15.12.2024 and 25.01.2025 respectively. After the completion of this recruitment process, the said staff would be posted at the relevant places and assigned to their respective duties.

The process has already been initiated to strengthen the existing Forensic Divisions for the examination of NDPS Act cases at FSL Punjab, Mohali and three Regional Testing Forensic Science Laboratories (RTFSL) at Bathinda, Amritsar and Ludhiana with the procurement of instruments (ATR-FTIR, HPLC, Trinocular Compound microscope, Rotary Evaporator, Micro-centrifugal Machine, LC-MS-MS). A copy of proposal is annexed herewith as Annexure R-8.

6. That there will be enhancement in the examination of samples/exhibits and with the establishment of new branches/divisions, recruitment and promotion of Technical Staff, procurement of Scientific Instruments/ Equipment which will cater the increasing number of cases and ultimately result in speeding up of reporting process.

7. It is submitted that in compliance of the aforesaid orders vide which Hon'ble Court raised the issue of Malkhanas with adequate space for storage of biological samples at Police Station, the requisite information sought by the office of answering deponent from office of DGP, Punjab vide letter dated 18.09.2024. A true translate copy of the same is annexed as Annexure R-9. In this regard, the reports/relevant information were received from the Office of Director, Bureau of Investigation of Punjab, Chandigarh vide Letter No. 14357/CR-LA-1 Dated 25.09.2024 according to which a committee comprising of the following officers has been constituted to finalize specifications of refrigeration/storage facilities for biological samples:-

- | | |
|---|----------|
| I) Inspector General of Police, Provisioning | - Head |
| II) Director, FSL, Punjab or Nominee | - Member |
| III) Senior Superintendent of Police from
a nearby district. | - Member |

and further vide Letter No. 14430/CR-LA-1 Dated

26.09.2024, the office of Director, Bureau of Investigation has submitted that out of 28 Mobile Forensic Vans, 22 Mobile Forensic Vans have availability of cold storage facility. Copies of the letter dated 25.09.2024 and letter dated 26.09.2024 are annexed as Annexure R-10 and Annexure R-11 respectively.”

4. The relevant paragraphs of the compliance affidavit filed by the Additional Chief Secretary to Government of Haryana, Home Department, Haryana Civil Secretariat, Chandigarh are extracted hereinafter.

“5. That the perusal of ibid table shows that various posts in FSL/RFSLS are vacant and to cop up with the deficient manpower, following efforts are being made:

(i) Total 155 new posts i.e. Deputy Director- 01, Assistant Director-06, Senior Scientific Officers-17, Senior Scientific Assistants-24, Scientific Assistant-48, Laboratory Assistant-23 and (Computer Operator-12, Lab. Attendant-24 filling up by outsourcing through HKRN) in Cyber Forensic Division have been sanctioned vide Govt. letter No. 03/06/2022-1 HG-II dated 20.09.2023. However, the financial approval of the aforesaid has not been received till date.

(ii) Total 25 new posts i.e. Assistant Director-1, Senior Scientific Officers-4, Senior Scientific Assistants-4, Scientific Assistants- 4, Laboratory Assistants-3 (Laboratory Attendant-4, Mason-1, Computer Operator-1, Moto Mechanic-1, Helper-1, Electrician-1 filling up by outsourcing through HKRN) have been sanctioned in Chemistry Division and Physics Division with Photo Section, vide Govt. letter No. 3/02/2019-Home- MC-II dated 01.01.2024.

(iii) Recruitment process for 23 Posts of Senior Scientific Officers pertaining to various divisions is under way, results of written examination have been declared by HPSC and the interview process is held up

and likely to be finalized after the Model Code of Conduct.

(iv) Recruitment process for 1 post of Assistant Director (DNA) is in process by HPSC, written examination has been got conducted, further process shall get finalized after Model Code of Conduct is over. Further, Requisition for advertisement of 1 more post of Assistant Director (DNA) has been sent to HPSC.

(v) Appointment of 25 assisting Staff has been made through HKRNL, recruitment process of more 110 assisting staff is under process: document verification and screening has been completed and recruitment process will be finalized after Model Code of Conduct is over.

(vi) Procurement for capacity building of Forensic Science Laboratory funds worth Rs. 3.81 Crores have been sanctioned by the Government to purchase 17 latest instrument and the purchase has already been started through Gem Portal which will help in upgrading the technical infrastructure of DNA in terms of latest technology, automation and accuracy.

(vii) A new DNA unit has been sanctioned for cow/animal meat DNA testing and human DNA identification in RFSL, Gurugram. Four reporting officers including assisting staff (total 32 posts) have been approved by government order no. 03/05/2022-1HG-11 dated 21.09.2022 along with instruments and creation of space by constructing a new building of RFSL. Gurugram.

(viii) A project under Nirbhaya Fund Scheme was sent to the Govt of India worth Rs. 14.0564 Crores for starting of new DNA facilities at Regional Forensic Science Laboratories at Gurugram and capacity building of FSL, Madhuban including 17 posts for DNA Division on contract basis-FACT Qualified. This project has been sanctioned by the Woman Safety Division of

MHA to the Government of India. The first installment of grant of Rs. 3,52,41000/- for FY 2023-24 has been received on 16.05.2023 and the laboratory is in process of procurement of sophisticated equipments augmenting the instrument and technical capacity of DNA Division of FSL, Madhuban which will improve efficiency and duration of the examination of DNA cases.

(ix) The Nirbhaya Scheme, seven FACT qualified Forensic Professionals have already been appointed and joined. Recruitment of more three candidates is under process.

(x) The FSL is also proactively looking for case examinations to external laboratories or institutions. In this context, Memorandum of Understanding (MOU) is under process with an autonomous institution. Centre of DNA fingerprinting and Diagnostics (CDFD). Hyderabad which operates under the purview of the central government and specializes in DNA- related cases. It is under process of consideration.

(xi) Approval has also been granted by the Director General of Police. Haryana, for the acquisition of a 1500 square meter plot of land within the Police Line in Bhondsi, Gurugram. This land is intended for the construction of a new building for the Regional Forensic Science Laboratory in Bhondsi, Gurugram for accommodating new facilities such as DNA. In the interim, an area of approximately 5000 square feet within the current building housing RFSL, Bhondsi, has been allocated for the purpose of starting DNA division.

6. That it is also submitted that in compliance of this Hon'ble Court's direction dated 15.03.2024 in IOIN CRM-M No. 41613 of 2013 and IOIN CRM-M No. 2775 of 2024 titled as Vinit Yadav Vs. State of Haryana, the committee of three IAS/IPS officers namely Sh. Vineet Garg, Sh. Vijayendra Kumar and Sh. Amitabh Singh Dhillon was constituted, vide order 19.04.2024, to look into the

functioning of the Forensic Science Laboratories across the State of Haryana especially focusing on the inordinate delay and lapses that have been repeatedly coming to the notice of this Hon'ble Court during the hearing of multiple cases. The mandate of the committee included identification of underlined administrative and technical causes leading to the delays in the preparation and submission of reports by the FSL. The committee was also directed to recommend remedial measures to fastrack and streamline the entire process for timely preparation and submission of reports by the FSL. The committee has submitted its interim report on 22.04.2024 before this Hon'ble Court which may also be considered.

7. *That it is submitted that earlier IOIN-CRA-S-702-SB-2010 in CRA-S- 702-SB-2010 titled as Ramesh Kumar vs. State of Haryana came up for hearing before this Hon'ble Court on 14.09.2022. This Hon'ble Court was pleased to pass inter alia the following directions:-*

"31. The Registry is directed to circulate a copy of this verdict to the Secretary Home, Government of Punjab, and, to the Secretary Home, Government of Haryana. The reason being that storage capacities in the police malkhanas concerned, in the above States being ensured to be increased within six months hereafter, and, with an intimation to this Court."

8. *That the above directions were complied with and following action was taken in the State of Haryana:-*

(i) Separate malakhanas in 22 districts of the State had been built with the following storage facilities for seized Narcotic Drugs and Psychotropic Substances:-

(a) Separate Malkhana with double lock system

(b) Vault concrete roof.

(c) Electricity back up.

*(d) 24*7 CCTV surveillance with one-month date storage back- up.*

A compliance affidavit dated 22.01.2024 was filed by

the Director General of Police, Haryana before this Hon'ble Court in respect of above mentioned directions dated 14.09.2022.

9. That it is further submitted that for proper and scientific collection of samples from crime scene, Mobile Forensic Science Units have already been made functional in all districts of Haryana. Further, deposition of samples from Police station/Malkhanas to FSL, and RFSLs of Haryana, an online bar-coding system TRAKEA has been implemented by Haryana. In general the cases pertaining to various divisions are getting timely deposited by concerned police units.”

5. Though in supra furnished compliance affidavit on behalf of the State of Punjab, there are speakings to the effect, that on completion of the recruitment process, the selected staff would be posted at the relevant places. Furthermore, though therein there are echoings that there are proposals for strengthening the existing Forensic Divisions, for the makings of effective and speedy examination(s) of NDPS Act cases, at FSL Mohali, and, also at the three Regional Testing Forensic Science Laboratories at Bathinda, Amritsar and Ludhiana, thus through procurements of instruments (ATR-FTIR, HPLC, Trinocular Compound microscope, Rotary Evaporator, Micro-centrifugal Machine, LC-MS-MS).

6. However, when the said proposals have remained idle, therebys on the subsequent date of hearing, after all requisite financial sanctions/financial becoming granted, the said proposals be made effectively functional at all the FSLs/RFSLs concerned.

7. Moreover, as it has also been stated in the affidavit (furnished in IOIN-CRM-A-2300-MA-2017), that the sophisticated instruments namely Gas-Chromatograph-Mass Spectrometry -MS for NDPS Act cases, Audio voice Identification system, Automated Ballistics Identification system, Mobile firing rest system and Photography set, with digital SLR with PC compatibility, for

documents examination, have already been purchased and installed at FSL, Punjab, SAS Nagar. It has also been stated that procurement of new sophisticated instruments (Hyper spectral comparator, Audio Voice Analysis system and upgradation of automated Ballistics Identification system) is already under process and would be procured at the earliest and same would be installed at Forensic Science Laboratory, Punjab, SAS Nagar.

8. The said relevant processes be ensured to be effectively completed, and, declarations be made on an affidavit to be sworn by the Chief Secretary to the Government of Punjab, that the said instruments become installed at all the FSLs concerned.

9. In addition, it is also stated in the affidavit (furnished in IOIN-CRM-A-2300-MA-2017), that an amount of Rs. 2.625 crores has been sanctioned in the current financial year by the DGP Punjab vide letter No. 2085/Budget-4 dated 10.4.2024, thus for strengthening the existing FSL, Punjab, and, apart from the above, funds comprised in a sum of Rs. 3.15 crores became sanctioned, under the Nirbhaya Fund scheme from the Ministry of Home Affairs, New Delhi, thus for the setting up of Cyber Forensic division at FSL Punjab, Mohali. Though, the technical specifications for the purchase of Cyber Forensic Tools (supra) have been finalized and approved by the Technical Specifications Committee, besides though the financial bid for the same has been initiated, yet the same remains incomplete. Therefore, the process for completing the financial bid be done on or before the subsequent date of hearing, and, the tools (supra) be declared in the affidavit to be sworn by the Chief Secretary to the Government of Punjab, to become installed at all the FSLs/RFSLs concerned in the State of Punjab.

10. This Court while passing directions in IOIN-CRM-A-2300-MA-2017, thus passed directions upon the concerned, that the expressed therein speakings be complied with. Therefore, the said directions passed in IOIN-CRM-A-2300-MA-2017, be ensured to be complied with through compliance affidavits being filed by the concerned in the present case, and, the said compliance affidavits be placed on record on or before the next date of hearing.

11. It has also been stated in the compliance affidavit (supra), that after the promptest execution of the said proposals, there would occur enhancements in the examination facilities of all the incriminatory material(s), thus at the FSLs/RFSLs concerned, in the State of Punjab. Moreover, therebys there would not occur any delay in the apposite testings being done, nor there would occur any disintegration(s) or deterioration(s) of the items/samples, as received at the FSLs concerned. The said appears to have been ensured, as stated in the affidavit, through creation of cold storage facilities for storage of samples at the FSLs concerned. It has also been stated in the affidavit (supra) that a committee comprising of responsible officers concerned has been constituted to finalize the specifications of refrigeration/storage facilities, thus for making the testing of biological samples. It is further stated therein, that out of 28 Mobile Forensic Vans, 22 Mobile Forensic Vans have the availability of cold storage facility. If the said cold storage facilities are under process of becoming installed at the testing centers concerned, thus they be ensured to be immediately installed there. A declaration to the said effect be made on an affidavit to be sworn by the Chief Secretary to the Government of Punjab.

12. Moreover, the effective deployments of the purchased Mobile

Forensic Vans be stated on an affidavit, to become so made, as they expeditiously augment the investigations concerned. Resultantly the standing operating procedures for the said purpose be drawn by the Directors Generals of Police in the State of Punjab and Haryana as well as in U.T., Chandigarh, besides a steering committee comprising of senior police officers, be constituted for ensuring, that the said drawn standing operating procedure becomes enforced, as such, by all the investigating officers concerned, who become entrusted with investigations respectively in the States of Punjab and Haryana and in the U.T. of Chandigarh.

13. Be that as it may, the insightful application of mind made by the Administrative Secretary, Department of Home Affairs, Government of Punjab to the directions (supra) and the effectiveness of steps to ensure the prompt implementation thereof, do require an appreciation becoming recorded by this Court. Consequently, this Court places on record the appreciable assistance rendered to this Court by the Administrative Secretary, Department of Home Affairs, Government of Punjab, namely Mr. Gurkirat Kirpal Singh. The said appreciation(s) be entered in his service records.

14. Likewise in the affidavit to be sworn by Additional Chief Secretary to the Government of Haryana, the compliance(s) to the directions (supra) be ensured to be spoken on an affidavit, thus revealing that not only the State of the Art facilities, become installed at the FSLs/RFSLs concerned, thus at par with the state of art facilities as become echoed in the affidavit sworn by the Administrative Secretary to the Government of Punjab. Moreover, the said affidavit shall also make expression therein, that the additional staff to manage the heavy docket to become posted at the FSLs/RFSLs concerned, becomes recruited and

also becomes posted at the relevant places. In addition, in the said affidavit to be sworn by the Additional Chief Secretary to the Government of Haryana, it be categorically stated therein, that given the increase in the load of dockets to be managed by the FSLs concerned, thereby the process for establishment of the regional FSLs at the districts concerned, thus has consummated to the stage of works becoming awarded to the contractors concerned, rather for creation of the requisite infrastructural apparatus. Moreover, the said affidavit shall also declare that on completion of buildings, thus for housing therein the FSLs/RFSLs concerned, the state of art testing facilities, shall also become promptly installed therein. An appreciation for the Additional Chief Secretary to the State of Haryana, namely Mr. Anurag Rastogi, be placed in his service record.

15. Therefore, reiteratedly a direction is passed, respectively upon the Chief Secretaries to the States of Punjab and Haryana, to ensure that the posts (supra) become promptly filled up, and, that all the requisite funds appertaining to all the above become forthwith released.

16. Moreover, a direction is also passed upon all the Directors General of Police in the States of Punjab and Haryana, to issue standing operating procedure relating to (a) the making of prompt despatch(es) of the incriminatory items/materials to the FSLs/RFSLs concerned, (b) relating to prompt testings thereof, and, (c) thereafter the same being returned to the Court(s) concerned.

17. Moreover, the Chief Secretaries to the State of Punjab and to the State of Haryana, are directed to draw a standard operating procedure appertaining to timely testings being made by the FSLs/RFSLs concerned, vis-a-vis the incriminatory material, thus as becomes sent there. The said

standing operating procedure shall also encompasses echoings qua after examinations being made over the incriminatory material, thus at the centers concerned, they are ensured to become returned to the police malkhanas concerned, rather for thereafters theirs becoming produced before the Courts concerned. The said standing operating procedures shall also detail the fact that no tamperings are made vis-a-vis the sealed cloth parcels, besides shall also detail that after the examinations of the incriminatory material at the testing center(s) concerned, the expert(s) working there shall enclose the tested incriminatory material into the sealed cloth parcels, and, thereafter re-seal them with the seal of the testing center(s) concerned. The Special Steering Committee to oversee the enforcement of the standing operating procedures be forthwith established.

18. Trainings with respect to the above be imparted to all the concerned, at the training centers concerned. All above may consider to ensure imparting of batchwise trainings to the police officials concerned, at Police Training College, Daroh, District Kangra, but prior thereto all requisite board and lodging expenses be ensured to become deposited at the establishment of the supra.

19. The compliance affidavits(s) with regard to all the above directions be placed on record by all concerned, but on or before the next date of hearing.

20. List on 20.12.2024.

21. The Registry of this Court is directed to forthwith send a copy of this order to the Chief Secretary and, to the Director General of Police, Himachal Pradesh, so that they become considered to become implemented even in the State of Himachal Pradesh.

22. A photocopy of this order be placed on the files of other connected cases.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

October 04, 2024
Gurpreet