



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

ON THE 14th OF OCTOBER 2024

WRIT PETITION No. 10626 of 2022

PARAS SAKLECHA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Pratyush Mishra - Advocate for the petitioner.

*Shri Anand Soni - Additional Advocate General for the respondent /
State.*

ORDER

Per: Justice Vivek Rusia

I. The antecedents of the petition:

The Petitioner has filed the present petition seeking direction to the respondent to submit the report of "Justice Jain Commission" before the Principal Secretary of Madhya Pradesh Vidhan Sabha and desired form before the next session of the Assembly. The petitioner is a former member of the Legislative Assembly 2009-2013 and has claimed himself to be a Social Activist working for the betterment of the society for last 45 years. He is providing training for the competitive examination to students in various colleges in the name of "Yuwan". He held the post of Mayor of Ratlam City from 2000 to 2004. The petitioner has been filing a Public Interest Litigation espousing the cause of the public.



II. The facts in brief and grounds constituting for filing the present PIL are as under:

02. In the year 2017, the farmers of the Mandsaur District started protesting against the price hike and the policies of the Government unfavourable to them. On 06.06.2017, during the agitation, the police used force to control the farmers which resulted in the death of 5 farmers and injuries in the firing of several others. According to the petitioner, at 12:45 pm, 12 km away from the Mandsaur City at Parasnath Choupaty, police officials opened fire on the protesting farmers in which two of them died. In another place, the firing took place in which 3 farmers died. The name of the deceased is mentioned in para 3.4 of the petition. According to Collector Mandsaur and the Superintendent of Police, Mandsaur, the police had to fire in self-defence. Since the issue was very sensitive and widely highlighted in the media, therefore, the State of M.P. vide notification dated 12.06.2017 constituted "Jain Commission" under the Chairmanship of Hon'ble Shri Justice J.K. Jain, Retired High Court Judge to enquire into the commonly known incident "Mandsaur Goli Kand".

03. As per notification published in the M.P. Gazette dated 12.06.2017 under Section 3 of the Commission of Enquiry Act, 1952 (hereinafter referred to as "Act, 1952"), the Commissioner was appointed for the purpose of enquiry into the circumstances under which such incident took place and whether the force used by the police was reasonable under the prevailing circumstances or not?

04. The Commission was also given a task to enquire as to whether the District Administration and Police Administration have taken timely and appropriate steps during the prevailing circumstances and the incident. A specific task was given to the Commission to enquire as to who was responsible for using the police force under the prevailing



circumstances. Clause 2 which is a term of reference is reproduced below:

"(2) AND WHEREAS, the State Government is of the opinion that it is necessary to appoint a Commission of Inquiry for the purpose of Inquiry into the following matter of public interest, namely:-

1. Circumstances under which that incident took place.
2. Whether the force used by police was reasonable under prevailing circumstances or not? If not who was responsible for this?
3. Whether district administration and police administration have taken timely and appropriate steps during the prevailing circumstances and incidents.
4. Suggestion to stop such incident in future.
5. Such other matters which are incidental to inquiry. "

05. According to the petitioner, the Justice Jain Commission submitted the final report to the State Government on 13.06.2018. However, the State Government has not taken any action on the said report. According to the petitioner, under Section 3(4) of the Commission Act, the State Government needed to table the report before the Legislature of the State together with a memorandum of action taken thereon within the period of 6 months of the submission of the report by the Commission. After passing of 4 years, when the report was not submitted then the petitioner approached this Court by way of a writ petition under Article 226 of the Constitution of India seeking a writ of mandamus against the respondent to submit the report before the Principal Secretary, M.P. Vidhan Sabha Secretariat.

06. After notice in the writ petition, the respondent initially filed the preliminary reply thereafter, a detailed reply was filed by the Home Department raising a preliminary objection about the maintainability of the writ petition. According to the respondent, the recommendations of the Commission appointed under the Commission of Enquiry Act are not enforceable by way of writ under Article 226 of the Constitution of India. There is no vesting of right prescribed, whereby the enforcement of Section 3 can be asked as a right enforceable under the law. The State



Government placed reliance on various judgments passed by the Hon'ble Apex Court as well as the High Court and sought dismissal of the writ petition.

07. The petitioner filed the rejoinder by submitting that Section 3(4) of Act, 1952 was introduced in the year 1971 by the Commission of Enquiry (Amendment) Bill, 1971 because many times reports of the Commission of Enquiry on the important issue of the national interest could not see the light of the day even though, the considerable amount of money from the public had been spent thereon. Therefore, the intention of the Legislature while incorporating Section 3(4) of Act, 1952 is that the report of the Commission of Enquiry must see the light of the day.

08. Learned counsel appearing for the petitioner submits that the Commission is constituted under the Commission of Enquiry Act pertaining to the matter relatable to any public importance. Therefore, the public has a right to know the final outcome of the finding recorded by the Commission and the action taken by the State Government therein. The language of Section 3(4) of Act, 1952 is mandatory in nature which casts an obligation on the State Government to place the report before each of the houses of the parliament or the legislature of the State as the case may be. Since the language is plain and simple, therefore, no other interpretation can be drawn.

09. In support of his contention, learned counsel for the petitioner has placed reliance on a judgment passed by the Hon'ble Apex Court in the case of ***B. Premanand and others v/s Mohan Koilal and others (2011) 4 SCC 266***, which says that "*the literal rule of interpretation which really means that there should be no means of interpretation because the statute should be read as it is, without distorting or twisting its language*". He has also placed reliance on a judgment passed by the



Hon'ble Apex Court in the case of ***Gujarat Urja Vikash Nigam Ltd V/s Essar Power Ltd., AIR 2008 SC 1921***. The Apex Court in the case of ***Fazalur Rehman and others V/s The State of U.P. and others, AIR 1999 SC 3460***, has held that “when in a matter of 'definite public importance', a Commission of Inquiry is appointed under the Commission of Inquiries Act, 1952, the State Government should examine the Report expeditiously and decide what action, if any, is required to be taken on that Report promptly. To keep a report pending for years together and, as, in this case, for a decade, does no credit to anybody.” A direction was issued to the Home Secretary, Union of India with a request to bring the above observation to the notice of all the State Government / Union Territories.

10. *Per contra*, Shri Anand Soni, learned Additional Advocate General appearing for the respondent / State appearing for the respondent has placed reliance on a judgment passed by the Apex Court in the case of ***T.T. Antony V/s State of Kerala, (2001) 6 Supreme Court Cases 181***, in which it is held that “the report and findings of the Commission of Inquiry are meant for information of the Government. Acceptance of the report of the Commission by the Government would only suggest that being bound by the Rule of law and having a duty to act fairly, it has endorsed to act upon it”. The recommendation of the Commission of the enquiry is of great importance to the Government to enable it to make up its mind as to what legislative or administrative measures should be adopted or eradicate the able found or to implement the beneficial object.” He has also placed reliance on a judgment passed by the Full Bench of Andhra Pradesh High Court in the case of ***V. Narayana Rao and another V/s State of A.P. and another, AIR 1987 AP 53***, whereby the Full Bench has examined the effect of non-submission of the report within 6 months under sub-section (4) of



Section 3 of Commission of Inquiry Act, 1952. The Court is inclined to hold that the provision is not mandatory because there is no provision in the act which provides for the consequence that follows from the non-observance of the requirement of sub-section (4). In case of non-observance of the said sub-section, it is always open to any member of the Parliament / Legislature or any opposition party/group to question the Government before the house.

11. Learned Additional A.G. has also placed reliance on a judgment passed by the Division Bench of the High Court of Orissa in the case of *Shivshankar Mohanty V/s State of Orissa, AIR 2022 Orissa 52*, in which the Division Bench has dismissed the writ petition after discussing the various judgments passed by the Apex Court that no direction by way of writ of mandamus can be issued under Section 3(4) of Act, 1952. He has also placed reliance on another Division Bench judgment passed by the High Court of Gujarat in the case of *Suresh Rupshanker Mehta and others V/s State of Gujarat and others, (2015) SCC OnLine Gujarat 6437*, in which the Division Bench did not find that the Chief Minister or the Governor must place the report of Enquiry Commission before the house Legislative Assemble. In view of the above, Shri Soni, Additional A.G. prayed for the dismissal of PIL.

We have heard learned counsel for the parties and perused the entire record.

12. Facts as stated above are not in dispute that the unfortunate incident took place between the farmer and the police, the police opened the fire due to which 5 farmers died. Looking at the importance of the matter at the relevant point in time, the Justice Jain Commission was appointed by the State Government under the provisions of the Commission of Enquiry Act, of 1952. The purpose of the enquiry was to know as to the circumstances under which the incident took place,



and whether the force used by the police was reasonable under the prevailing circumstances. and whether the District Administration and the Police Administration have taken timely and appropriate steps during the prevailing circumstances or not. The situation to stop such incident in future was also invited. Therefore, the main purpose of the Commission was to know the circumstances under which such incidents took place so that in future such incidents can be avoided.

13. Shri Soni, during the argument informed that more than 100 FIRs have been registered after the said incident, but the issue in the writ petition is whether now, after the lapse of 6 years from the date of submission of the report, a writ of mandamus can be issued to the respondent No.1 to place the report before the respondent No.4 or not? It is correct that in Section 3(4) of Act, 1952 the word “shall” is there which is mandatory in nature. It is also correct that there is a provision of laying the report submitted by the Commission before the Parliament or the Legislature as the case may be, by an appropriate Government within a period of 6 months with a memorandum of action taken therein as far as possible. In the case of *Sudesh Dogra V/s Union of India and others, (2014) 6 SCC 486*, the Apex Court has held that “the report of such Commission, in our considered view, should be objectively viewed by the State Government and necessary corrective steps and the action should be initiated to further good governance because as per the terms of reference of the commission of enquiry, in the said case to know the administrative lapses if any, the circumstances which led to the violence and arson and the consequent loss of life and the property in District Kishtwar. The relevant paragraphs No.12 and 13 of the judgment are reproduced below:

12. The terms of reference of the Commission of Inquiry constituted by the State Government under the Jammu & Kashmir Commission of Inquiry Act, 1962, are as hereunder:-



- a) enquire into the circumstances which led to the violence and arson and the consequent loss of life and property in District Kishtwar;
- b) enquire into the administrative lapses, if any, while handling the situation; and
- c) fix the responsibility of the persons, involved in acts of violence, arson and the loss of life and property.

13. In a situation where the State Government, at the very outset, had committed itself to setting up a Commission of Inquiry and in fact had issued the necessary Notification on 23.08.2013 containing very wide terms of reference, as seen, we do not consider it necessary to go into any of the issues that are presently before the Commission. Two apprehensions have been expressed on behalf of the petitioner in this regard. The first is that the mechanism set up is highly time consuming and, secondly that the report of the Commission is merely recommendatory. In so far as the first apprehension is concerned, the same can be resolved by a direction requesting the Commission to complete its task within a particular time frame. In so far as the legal effect of the findings of the Commission are concerned, it will be wrong to assume anything in this regard at this stage, including, the possible stand of the State Government. The reports of such commissions, in our considered view, should be objectively viewed by the State Governments and necessary corrective steps and action should be initiated to further good governance. In a democracy governed by the Rule of Law, every institution is open to self-correction and must acknowledge its shortcomings, if any. In view of the above and taking into account that parties aggrieved by the report that may be submitted and such action as may be taken by the State on the basis of such report are not without their remedies in law we are of the view that the Commission should be allowed to complete its task at the earliest. We, accordingly, request the Commission to complete its enquiry as early as possible, preferably, within a period of three months from today, if the final report has not already been submitted in the meantime. The Government will naturally be duty bound to take all necessary and consequential steps on the basis of the said report as would be mandated in law.

14. If the enquiry report was not laid before the Legislature, any of the members of the Legislature could have demanded by raising a question before the floor of the Legislature of the State as observed by the Apex Court. It is also correct that no consequence has been given in the Act if the report is not placed within a period of 6 months from the date of submission of the report. In the Act, the outer limit of 6 months has been fixed for placing the report before each house of the Parliament or the Legislature of the State (as the case may be) and in the present



case, that 6 months had expired long back and as observed above, the purpose of constitution of enquiry was only to know the circumstances under which the incident took place and to invite the suggestions to stop such incident in future. So far as the action taken by the police or the counter-action taken by the farmers are concerned, those are the subject matter of the FIR in which the criminal cases which have been registered by the police.

15. In view of the above, now after the lapse of 6 – 7 years, we do not find any ground to issue a writ for placing the aforesaid report before respondent No.4.

16. Accordingly, this Writ petition stands **dismissed**.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE

Divyansh