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WP-11833-2019

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 14th OF OCTOBER, 2024WRIT PETITION No. 11833 of 2019*AJAY TIWARI**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri S.P. Mishra - Advocate for the petitioner.

Shri Abhishek Singh - Government Advocate for the respondents/State.

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ORDER

Considered I.A. No.5587/2024, an application for recalling of order dated 11.08.2023.

2. It is submitted by counsel for petitioner that this petition was finally decided by order dated 11.08.2023 but at the time of hearing the counsel for petitioner could not bring a fact to the notice of the Court that the concerning SHO, Police Station Gurh, District Rewa had prepared the closure report.

3. A copy of closure report, which was prepared by SHO, Police Station Gurh, District Rewa has also been filed as Annexure A/1 alongwith the application.

4. From the closure report, it appears that it was prepared on 11.08.2019 but it was not clear as to whether the said closure report was ever filed before concerning Magistrate or not? Accordingly, counsel for the State was directed to seek instructions and the case was passed over.

5. When the case was taken up in the post lunch session, it was submitted



by counsel for the State that in fact the said closure report was not accepted and the investigation was reopened. Two accused persons have already been arrested and the petitioner and one more accused are still absconding. Therefore, it is submitted that the closure report on which petitioner has placed reliance was never acted upon.

6. However, counsel for the State could not point out that under what provision of law copy of closure report, which bears signature of SHO, Police Station Gurh, District Rewa was provided to petitioner.

7. In the first half of the day, the counsel for petitioner was also directed to inform the source of this document.

8. It was submitted by counsel for petitioner that petitioner was provided a copy of this document by Basant Narayan, who is also a co-accused. However, it was fairly conceded that no application under Right To Information Act was ever filed.

9. Heard the learned counsel for parties.

10. The basis for filing I.A. No.5587/2024 is that the factum of preparation of closure report was not brought to the notice of this Court at the time of final arguments. However, it appears that applicant/petitioner has filed this application on incorrect facts. The closure report was never presented before the Court and it was never acted upon and ultimately, the case was reopened and two accused persons have already been arrested and petitioner and one more accused are still absconding. Whether petitioner was aware of this fact or not is not known but one thing is clear that closure report on which petitioner has placed reliance was never acted upon.



11. There is another alarming situation, which is required to be dealt with. The closure report, which has been filed alongwith I.A. No.5587/2024 was not granted to petitioner or any Pairokar of petitioner or co-accused Basant Narayan under any provision of law. Section 8 of Right To Information Act carves out an exception and the document, which may impede the investigation, can be denied under this Act. It is really surprising that on one hand the Right To Information Act prohibits the supply of document and even Section 172 of Cr.P.C. provides that the diary proceedings cannot be utilized by the defence still the Police Authorities are providing documents to the accused in a clandestine manner. This act of SHO, Police Station Gurh, District Rewa amounts to serious misconduct as well as dishonesty towards his duty.

12. Accordingly, the Director General of Police, State of Madhya Pradesh is directed to conduct an enquiry and to find out that under what circumstances and by whom the so called closure report, which was prepared by SHO, Police Station Gurh, District Rewa, was supplied to petitioner or his Pairokar or to co-accused Basant Narayan as claimed by petitioner. The Director General of Police shall get an enquiry conducted by an officer not below the rank of Superintendent of Police but the enquiry shall be conducted under his supervision. The Director General of Police is directed to specifically fix the responsibility of Police Officers, who had supplied this document to petitioner in an illegal manner.

13. Let the enquiry be completed within a period of two months from today and the Director General of Police is directed to submit his report



before Registrar General of this Court with regard to the steps taken by him against the erring Police Officers.

14. It is made clear that the misconduct shown by the Officers is a serious misconduct and should not be dealt with in a light manner.

15. At this stage, the counsel for petitioner seeks permission of this Court to withdraw this application.

16. It is, accordingly, **dismissed as withdrawn.**

(G. S. AHLUWALIA)
JUDGE

SR*