
(2010) 10 AHC CK 0074
In the Allahabad High Court
Case No : Misc. Bench No. - 9925 of 2010

Prashant Singh Gaur

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 25-10-2010

Acts Referred:

Citation : (2010) 10 AHC CK 0074

Hon'ble Judges : Virendra Kumar Dixit, J;Uma Nath Singh, J

Bench : Division Bench

Judgement

1. Copies of written submissions on behalf of learned Attorney General for India and Union Law Secretary, and also on behalf of I.B. (Subsidiary Intelligence Bureau) U.P., filed and referred to during the course of Court proceedings, are taken on record.

2. On request of learned Additional Solicitor General of India, personal appearance of learned Attorney General for India is dispensed with until further orders.

3. In Para 7 of the written submissions on behalf of I.B., it is averred as follows:

7. That the concern of the Hon"ble Court regarding criminal activities in the Court was discussed in the Government of India, Ministry of Home Affairs and the Government of India views the issue raised by the Hon"ble Court as matter of concern and is fully prepared to extend all help in its investigation. However, it is humbly submitted for consideration of the Hon"ble Court that the appropriate agency for doing this investigation is the Central Bureau of Investigation (CBI).

4. We thus record a note of appreciation for the response shown by the Ministry of Home Affairs, Government of India, in extending and pledging all help in the investigation of cases in question. However, considering the nature of job, an organization like I.B. is required to perform, it would be appropriate to grant the prayer for exemption of the organization from participation in the proceedings of

this case as directed vide our earlier order dated 05.10.2010.

5. Learned Counsel for the Bar Council of India and the Bar Council of U.P. pray for and are granted time till the next date of hearing to file affidavits.

6. Moreover, Sri Sanjeev Sachdeva, learned Counsel who appeared for the Bar Council of India also placed on record a judgment and order of the Supreme Court passed in W.P. (Civil) No. 494 of 2008 incorporating therein certain proposals as mooted by the B.C.I. in order to provide the mechanism for guidance and governance of disciplinary proceedings initiated and undertaken on the complaints of misconducts alleged against the members of Bar.

7. Sri I. B. Singh, learned Senior Counsel, appearing for the Bar Council of Uttar Pradesh also makes statement on instructions pledging the full support of State Bar Council in the efforts to rid the legal profession of undesirable and criminal elements operating from the District Court premises. During the course of hearing, this Court wanted to know: (1) as to whether it is possible to set up an organization like "Legal Profession Authority of India" to be headed by a retired Supreme Court Judge while keeping its democratic character intact by including in a body like Council, the elected members from Bar with regional establishments all over the country at places having seats of State Bar Councils to be head by the retired Judges of High Courts with State Bar Councils consisting of the elected members of Bar at that level and (ii) as to whether the learned Attorney General for India can take up this issue and advise the Government of India to bring a suitable legislation by way of amendment in the Advocates Act. In response thereto, learned Additional Solicitor General, assured the Court to bring these points to the notice of learned Attorney General for his views.

8. Learned Additional Solicitor General shall also submit requisite data in detail about the disciplinary proceedings and their outcome since 1963, when a leading judgment on lawyers' misconduct was pronounced as reported in In The Matter of P. An Advocate, .

9. At this stage, learned Additional Solicitor General of India, Dr. Ashok Nigam, prayed for constituting a Special Investigation Team (SIT) to investigate the criminal cases pending against the criminal elements of Bar as referred to in the report of Learned District and Sessions Judge, Lucknow, and the complaints addressed to this Court. Thus, we direct the constitution of a SIT to be headed by Joint Director of Central Bureau of Investigation, Shri O.P. Galhotra, who is present in Court, which shall comprise the members of Special Task Force of U.P. and the paramilitary forces of the Central Government in order to conduct the investigation and prosecution of the cases in question independently, and to take the proceedings to their logical conclusion.

10. As the Law Commission of India has not entered appearance today, we issue a fresh notice to know its views by way of written submissions on the next date of hearing.

11. On request of learned Chief Standing Counsel, U.P., appearance of Inspector General of Police, Lucknow, Dy. Inspector General of Police, and District Collector, Lucknow, is exempted only for the next date of hearing. However, they shall continue to appear and participate in all the Court proceedings thereafter.
12. A copy of complaint connected with incident in Madiyaon police station referred to this Court be handed over to learned Chief Standing Counsel for submitting the reply and report of DIG, Lucknow.
13. List on 28.10.2010 at 2.00 PM.