
(1993) 03 GUJ CK 0040
In the Gujarat High Court

R.G. Jadeja

APPELLANT

Vs

P.K. Bansal, Commisioner of Police and Another

RESPONDENT

Date of Decision : 17-03-1993

Acts Referred:

Citation : (1993) 2 GLR 1077

Hon'ble Judges : S. Nainar Sundaram, C.J;Sharad D. Dave, J

Bench : Division Bench

Judgement

S. Nainar Sundaram, C.J.—The petitioners are Police personnel. The petitioner in Special Civil Application No. 9613 of 1992 and so also the petitioner in Special Civil Application No. 9614 of 1992 are in the cadre of Police Sub-Inspectors. The petitioner in Special Civil Application No. 9615 of 1992 and the petitioner in Special Civil Application No. 9616 of 1992 are in the cadre of Police Inspectors. The petitioners want us to examine the propriety or otherwise of the orders of suspension passed against them. The impugned orders of suspension recite that, there were large scale riots, resulting in loss of life and property in particular areas and petitioners, who were Police personnel in control of the areas, failed to prevent such incidents, and it is decided to hold a detailed inquiry against the petitioners; and until a decision is rendered in the Departmental Inquiry, the petitioners shall be placed under suspension. There was a strenuous endeavour on the part of Mr. Arun H. Mehta, Learned Counsel for the petitioners, to demonstrate that, on facts, the petitioners could not be stated to be culpable. We may straightaway point out that, the stage is not yet set for making a pronouncement on this question one way or the other. That will fall within the domain of the Inquiry Authority or Disciplinary Authority, as the case may be.

2. Here, we are asked to examine the legal propriety of orders of suspension. Hence, we are bound to recapitulate the principles, which should guide Courts while examining the question of the present nature. Courts are not concerned with the sufficiency of the satisfaction arrived at by the authority making the order. This is left to the subjective satisfaction of the authority. Such matters are

not automatically and as a matter of course justiciable by Courts. While there could be an examination by Courts as to whether an opinion was formed at all, but sufficiency of the grounds cannot be inquired into. The Court cannot substitute its own satisfaction for that of the authority. There may be interference if extraneous or irrelevant matters are taken note of or there has been a total non-application of mind, or the action is patently perverse, unfair or unjust or tainted with mala fides. Though the materials placed may not satisfy the Court, the task of the Court is only limited to an investigation as to whether there was any foundation of fact at all or whether irrelevant and extraneous circumstances have weighed with the authority while passing the impugned order. The fact that different formation of opinion or satisfaction is possible for the Court is no ground to quash the order.

3. Mr. Arun H. Mehta, Learned Counsel for the petitioners, would submit that, on facts, it is legitimate to hold that it is a case of non-application of mind and action prompted by improper motive and mala fides. But, when we look into what exactly weighed with the respondents for making the impugned orders of suspension, we are not able to say that there was no material relevant before the respondents, while passing the impugned orders of suspension. As to the situation that was taken note of, there is a summary in the affidavit-ill-reply filed in Special Civil Application No. 9613 of 1992, and the said summary runs as follows:

xxx I respectfully submit that the following table will clear the gravity and seriousness of the misconduct of the petitioner.

Total deaths	: 158.	-----	Police Commu-	Uniden-	Total	Station	nity	A	nity	B	tided
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1. Chok Bazar 34 3 - 37 2. Udhna 9 7 6 22
 3. Varachha 36 8 - 44 Total 79 18 6 103 I respectfully say that it is clear from the above mentioned table that 103 persons out of 158 persons have died in 3 Police Stations, wherein the petitioner or a like suspended Police Officers, have been on duty at the relevant time. I further respectfully say that it is also evident from the above mentioned table that 79 people have died belonging to one community in these 3 Police Stations only. I further respectfully say that it is also found that the petitioner has done nothing to protect that community and always reached at the place of incident after the incident has taken place. I further respectfully say that such a higher number of casualty from only one community is a very serious matter and the Department as well as the Government have found it proper to investigate the reasons behind the same. I respectfully further say that it is a matter of prime concern and Department as well as the Government are serious in dealing and curbing the same. xxx

4. It is not possible to say that there was a non-application of mind. Equally so, it is not possible for us to say that, extraneous or irrelevant circumstances have been taken note of. If, in exercise of its highly prerogative writ jurisdiction, This Court is called upon to review an order of suspension, and it finds, as in the

present case, the authority purported to act on the basis of materials available to it and such materials cannot be eschewed as irrelevant to the issue, there will be no scope for This Court to form a different opinion on the necessity for making the order of suspension. The State, desiring to keep its administration well-pruned and free from personnel of doubtful integrity, cannot be told by This Court as to what type of officers it should entertain and what type of conduct it should tolerate and ignore. After all, the administration of the State has to set its own house in order and should not allow it to sag down.

5. Taking up the allegations of improper motive and mala fides, we find that they have not travelled beyond the stage of allegations. It is well settled that allegations of bad faith or indirect motive purpose cannot be held to have been established except on clear proof thereof. The test is not satisfied at all here.

6. This being our assessment of the question, taking note of the principles governing it, we are not able to persuade ourselves to interfere with the impugned orders of suspension.

7. Accordingly, these Special Civil Applications are dismissed. We make no order as to costs. It is desirable that the respondents should not lose sight of the fact that expeditious prosecution of the disciplinary action, in matters like this, will serve the cause of the petitioners and also keep up the image of the State in public view, and we hope that the disciplinary action will be prosecuted with expedition, without giving room for grievance of prejudice by the petitioners on account of delay.