

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
CONTEMPT PETITION (CIVIL) NO. _____ OF 2021

IN

WRIT PETITION (CIVIL) NO. 310 OF 1996

IN THE MATTER OF:

Rajesh Kumar

...Petitioner

Versus

Sukhdev Singh & Anr.

...Alleged Contemnors/Respondents

FOR INDEX

(KINDLY SEE INSIDE)

COUNSEL FOR THE PETITIONER: PRANAV SACHDEVA

**CONTEMPT PETITION ON BEHALF OF THE PETITIONER U/S 12 OF
CONTEMPT OF COURTS ACT 1971 READ WITH RULE 3(c) OF THE
RULES TO REGULATE PROCEEDINGS FOR CONTEMPT OF THE
SUPREME COURT, 1975 FOR INITIATING CONTEMPT
PROCEEDINGS AGAINST THE ALLEGED CONTEMNORS /
RESPONDENTS FOR NON-COMPLIANCE OF THE JUDGMENTS/
ORDERS DATED 22.09.2006, 03.07.2018 AND 13.03.2019 PASSED BY
THIS HON'BLE COURT IN W.P.(C) NO. 310 OF 1996**

**TO
THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUDGES OF THE
HON'BLE SUPREME COURT OF INDIA**

**The humble petition of the
Petitioner above named**

MOST RESPECTFULLY SHOWETH: -

1. That the Petitioner herein is filing the instant petition seeking initiation of contempt proceedings against the State of Jharkhand (alleged contemnor /Respondent No.1 herein) for wilfully and deliberately disobeying the judgments/orders, dated 22.09.2006, 03.07.2018 and 13.03.2019 passed by this Hon'ble Court in *W.P.(C) No. 310 of 1996* by appointing another interim / acting Director General of Police (Head of Police Force), Jharkhand viz. Mr Neeraj Sinha, vide notification dated 11.02.2021. Earlier to this too, the State of Jharkhand had appointed one Mr. M V Rao on an ad hoc basis as the acting Director General of Police (Head of Police Force), the vide notification dated 16.03.2020. The Petitioner is also seeking initiation of contempt proceedings against the UPSC (alleged contemnor /Respondent No.2 herein) for wilfully and deliberately disobeying the directions given by this Hon'ble Court in the judgments/orders, dated 22.09.2006, 03.07.2018 and 13.03.2019 passed in *W.P.(C) No. 310 of 1996*, as UPSC has not prepared the panel for appointment of DGP (HoPF, Jharkhand). The petitioner is a citizen of India, a resident of Jharkhand and a copy of his aadhar card is enclosed with the vakalatnama.

2. That this Hon'ble Court, vide judgment dated 22.09.2006 passed in W.P.(C) No. 310 of 1996, reported in (2006) 8 SCC 1, was pleased to pass *inter alia* the following direction:

“31. With the assistance of learned counsel for the parties, we have perused the various reports. In discharge of our constitutional duties and obligations having regard to the aforementioned position, we issue the following directions to the Central Government, State Governments and Union Territories for compliance till framing of the appropriate legislations:

*2) The Director General of Police of the State shall be selected by the State Government from amongst the three senior-most officers of the Department who have been **empanelled for promotion to that rank by the Union Public Service Commission** on the basis of their length of service, very good record and range of experience for heading the police force. **And, once he has been selected for the job, he should have a minimum tenure of at least two years irrespective of his date of superannuation.** The DGP may, however, be relieved of his responsibilities by the State Government acting in consultation with the State Security Commission consequent upon any action taken against him under the All India Services(Discipline and Appeal) Rules or following his conviction in a court of law in a criminal offence or in a case of corruption, or if he is otherwise incapacitated from discharging his duties.”* [emphasis supplied]

A copy of the judgment dated 22.09.2006 passed by this Hon'ble Court in W.P.(C) No. 310 of 1996, reported in (2006) 8 SCC 1 is annexed as **ANNEXURE P1 (Pg 18 - 34)**.

3. That vide order, dated 03.07.2018, reported in (2019) 4 SCC 13, this Hon'ble Court was pleased to pass the following directions in W.P. (C) No. 310 of 1996:

6. Having heard the learned counsel for the parties, we pass the following directions:

6.1. All the States shall send their proposals in anticipation of the vacancies to the Union Public Service Commission, well in time at least three months prior to the date of retirement of the incumbent on the post of Director General of Police;

6.2. The Union Public Service Commission shall prepare the panel as per the directions of this Court in the judgment in Prakash Singh case [Prakash Singh v. Union of India, (2006) 8 SCC 1 : (2006) 3 SCC (Cri) 417] and intimate to the States;

6.3. The State shall immediately appoint one of the persons from the panel prepared by the Union Public Service Commission;

6.4. None of the States shall ever conceive of the idea of appointing any person on the post of Director General of Police on acting basis for there is no concept of acting Director General of Police as per the decision in Prakash Singh case [Prakash Singh v. Union of India, (2006) 8 SCC 1 : (2006) 3 SCC (Cri) 417] ;

6.5. An endeavour has to be made by all concerned to see that the person who was selected and appointed as the Director General of Police continues despite his date of superannuation. However, the extended term beyond the date of superannuation should be a reasonable period. We say so as it has been brought to our notice that some of the States have adopted a practice to appoint the Director General of Police on the last date of retirement as a consequence of which the person continues for two years after his date of superannuation. Such a practice will not be in conformity with the spirit of the direction.

6.6. Our Direction 6.3 should be considered by the Union Public Service Commission to mean that the persons are to be empanelled, as far as practicable, from amongst the people within the zone of consideration who have got clear two years of service. Merit and seniority should be given due weightage.

6.7. Any legislation/rule framed by any of the States or the Central Government running counter to the direction shall remain in abeyance to the aforesaid extent.

7. The present directions shall be followed scrupulously by the Union of India and all the States/Union Territories. If any State Government/Union Territory has a grievance with regard

to these directions, liberty is granted to them to approach this Court for modification of the instant order. [emphasis supplied]

A copy of the order, dated 03.07.2018, passed by this Hon'ble Court in W.P. (C) No. 310 of 1996, reported in (2019) 4 SCC 13, is annexed hereto and marked as **ANNEXURE P2 (Pg. 35 - 38)**.

4. That vide order, dated 13.03.2019, passed in W.P. (C) No. 310 of 1996, reported in (2019) 4 SCC 1, this Hon'ble Court was pleased to observe as follows:

*"6. Having read and considered the decision of this Court in Prakash Singh [Prakash Singh v. Union of India, (2006) 8 SCC 1 : (2006) 3 SCC (Cri) 417] **we are of the view that what was emphasised in Prakash Singh [Prakash Singh v. Union of India, (2006) 8 SCC 1 : (2006) 3 SCC (Cri) 417] is a minimum tenure of two years for an incumbent once he is appointed as the Director General of Police.** The direction issued by this Court neither contemplated the appointment of a Director General of Police on the eve of his retirement nor the practice now adopted by the Union Public Service Commission in making the empanelment i.e. empanelling officers who have at least two years of tenure.*

*7. Neither of the aforesaid practices, in our considered view, can further the directions of this Court in Prakash Singh [Prakash Singh v. Union of India, (2006) 8 SCC 1 : (2006) 3 SCC (Cri) 417] or give impetus to **what this Court had in mind in issuing the directions in Prakash Singh [Prakash Singh v. Union of India, (2006) 8 SCC 1 : (2006) 3 SCC (Cri) 417] , namely, that the appointment of a Director General of Police in a State should be purely on the basis of merit and to insulate the said office from all kinds of influences and pressures, once appointed the incumbent should get a minimum tenure of two years of service irrespective of his date of superannuation.**"* [emphasis supplied]

A copy of the order, dated 13.03.2019, passed by this Hon'ble Court in *W.P. (C) No. 310 of 1996*, reported in (2019) 4 SCC 1, is annexed hereto and marked as **ANNEXURE P3 (Pg. 39 - 43)**.

5. That State of Jharkhand (alleged Contemnor / Respondent No.1) had appointed Mr. K.N. Chaubey as the DGP (Head of Police Force), Jharkhand on 31.05.2019. The new government in the State of Jharkhand took charge on 29.12.2019. Vide notification, dated 16.03.2020, issued by the alleged Contemnor / Respondent No.1, Mr. K.N. Chaubey was relieved from the responsibilities of DGP (HoPF) Jharkhand i.e. before completion of his two years tenure, in complete violation of the direction given by this Hon'ble Court in Para 31(2) of the judgment, dated 22.09.2006, passed in *W.P.(C) No. 310 of 1996*. Vide the same notification, dated 16.03.2020, Mr. M V Rao was appointed on an *ad hoc* basis as the acting Director General of Police (Head of Police Force), in clear violation of directions given by this Hon'ble Court in Paras 6.4 & 7 of the order, dated 03.07.2018, passed in *W.P. (C) No. 310 of 1996*. State of Jharkhand is also in violation of the judgment, dated 13.03.2019, passed by this Hon'ble Court. A true typed copy of the news article, dated 09.06.2019, titled "*New DGP KN Chaubey assumes office*", published by Daily Pioneer, is annexed hereto and marked as **ANNEXURE P4 (Pg. 44 - 45)**. A true typed copy of the news report, dated 17.03.2020, titled "*MV Rao appointed new DGP Jharkhand*", published by Business Standard is annexed hereto and marked as **ANNEXURE P5 (Pg. 46)**.
6. That vide letter dated, 21.07.2020, the State of Jharkhand requested (alleged Contemnor / Respondent No.1) the Union Public Service Commission (alleged Contemnor / Respondent No.2) to form a panel

for selection for appointment of a regular DGP (Head of Police Force), Jharkhand in compliance with the afore-mentioned judgment/orders of this Hon'ble Court.

7. That vide letter, dated 06.08.2020, UPSC declined to accept the request of the State of Jharkhand to prepare a Panel for selection for appointment to the post of DGP (Head of Police Force). Vide the said letter, dated 06.08.2020, UPSC requested the State of Jharkhand to comply with the directions of this Hon'ble Court and further requested the State Government to furnish its comments on the observations made in the said letter. A true typed copy of the letter, dated 06.08.2020, sent by the UPSC to the State of Jharkhand is annexed hereto and marked as **ANNEXURE P6 (Pg. 47 - 50)**.
8. That vide letter, dated 12.08.2020, the State of Jharkhand reiterated its request to the UPSC to urgently prepare a fresh panel for selection for appointment to the post of DGP (Head of Police Force). The State of Jharkhand sent another letter, dated 20.08.2020, to the UPSC and reiterated its request to UPSC to take necessary action for preparation of panel of IPS officers for appointment to the post of DGP, Jharkhand.
9. That vide letter, dated 24.08.2020, the UPSC again rejected the State of Jharkhand's request, conveyed vide letter dated 21.07.2020 and then reiterated vide letter dated 12.08.2020, to prepare a Panel for the selection for appointment to the post of DGP (Head of Police Force), Jharkhand. A true typed copy of the letter, dated 24.08.2020, sent by the UPSC to the State of Jharkhand is annexed hereto and marked as **ANNEXURE P7 (Pg. 51 - 54)**.

10. That vide UPSC's letter, dated 04.09.2020, addressed to the State of Jharkhand, the UPSC stated that without any specific direction from this Hon'ble Court, UPSC cannot accept the State of Jharkhand request for preparation of fresh panel for selection for appointment to the post of DGP (HoPF) Jharkhand. A true typed copy of the letter, dated 04.09.2020, sent by the UPSC to the State of Jharkhand is annexed hereto and marked as **ANNEXURE P8 (Pg. 55 - 56)**.
11. That vide letter, dated 28.09.2020, the State of Jharkhand reiterated its request to the UPSC to urgently prepare a panel for selection for the appointment to the post of DGP (Head of Police Force), Jharkhand.
12. That the UPSC (alleged contemnor / Respondent No.2) has also acted in willful and deliberate contempt of this Hon'ble Court's direction given in Para 6.2 of the order, dated 03.07.2018, passed by this Hon'ble Court in *W.P. (C) No. 310 of 1996*, according to which the sole mandate given to UPSC is to "*prepare the panel as per the directions of this Court in the judgment in Prakash Singh case [Prakash Singh v. Union of India, (2006) 8 SCC 1 : (2006) 3 SCC (Cri) 417] and intimate to the States*". However, UPSC has not complied with the said direction by refraining to prepare the panel for appointment of DGP (HoPF, Jharkhand) in compliance of this Hon'ble Court's directions given in the judgment dated 22.09.2006 passed in *W.P.(C) No. 310 of 1996*, reported in *(2006) 8 SCC 1*. UPSC is also in violation of the judgment, dated 13.03.2019, passed by this Hon'ble Court.
13. That recently, the State of Jharkhand (alleged contemnor / Respondent No.1) has further aggravated its willful, deliberate and gross contempt of this Hon'ble Court by again appointing another

person viz. Mr Neeraj Sinha as an interim / acting Director General of Police (Head of Police Force), Jharkhand vide notification dated 11.02.2021, in clear and complete violation of the directions given by this Hon'ble Court in Para 31(2) of the judgment, dated 22.09.2006 and Paras 6.4 & 7 of the order, dated 03.07.2018, pleased in *W.P. (C) No. 310 of 1996*. The notification, dated 11.02.2021, is provided herein-below:

"Till further orders, 13/P-8002/2013(Part)-795/C, Shri Neeraj Sinha, I.P.S. (1987) Director General, Jharkhand Armed Police, Ranchi (Additional charge of Director General, AntiCorruption Bureau) is transferred and deputed to the post of Director General and Inspector General of Police, Jharkhand, Ranchi (HoPF)."

A copy of the notification, dated 11.02.2021, issued by the State of Jharkhand (alleged contemnor / Respondent No.1) is annexed hereto and marked as **ANNEXURE P9 Pg. 57 - 58).**

- 14.** That the Petitioner has not filed any other or similar petition before this Hon'ble Court seeking same or similar relief as is being sought vide the instant contempt petition.

GROUND

- A.** Because vide the judgment dated 22.09.2006 passed in *W.P.(C) No. 310 of 1996*, reported in (2006) 8 SCC 1, this Hon'ble Court was pleased to direct, in Para 31(2), that the Director General of Police of a State shall be selected by the State Government from amongst the three senior-most officers of the Department who have been empanelled for promotion to that rank by the Union Public Service Commission on the basis of their length of service, very good record and range of experience for heading the police force and that "once

he has been selected for the job, he should have a minimum tenure of at least two years irrespective of his date of superannuation.”

- B.** Because vide order, dated 03.07.2018, passed in *W.P.(C) No. 310 of 1996*, reported in (2019) 4 SCC 13, this Hon’ble Court was pleased to direct, in Paras 6.4 & 7, respectively, that: *“None of the States shall ever conceive of the idea of appointing any person on the post of Director General of Police on acting basis for there is no concept of acting Director General of Police as per the decision in Prakash Singh case [Prakash Singh v. Union of India, (2006) 8 SCC 1 : (2006) 3 SCC (Cri) 417]”* and that: *“The present directions shall be followed scrupulously by the Union of India and all the States/Union Territories. If any State Government/Union Territory has a grievance with regard to these directions, liberty is granted to them to approach this Court for modification of the instant order.”*
- C.** Because the action of the State of Jharkhand (alleged Contemnor / Respondent No.1) of issuing the notification dated 16.03.2020, vide which Mr. K.N. Chaubey [who was appointed as DGP (HoPF), Jharkhand on 31.05.2019] was relieved from the responsibilities of DGP (HoPF) Jharkhand i.e. before completion of his two years tenure, is in complete violation of the direction given by this Hon’ble Court in Para 31(2) of the judgment, dated 22.09.2006, passed in *W.P.(C) No. 310 of 1996*. Vide the same notification, dated 16.03.2020, Mr. M V Rao was appointed on an *ad hoc* basis as the acting Director General of Police (HoPF), in clear violation of directions given by this Hon’ble Court in Paras 6.4 & 7 of the order, dated 03.07.2018, passed in *W.P. (C) No. 310 of 1996*. State of

Jharkhand is also in violation of the judgment, dated 13.03.2019, passed by this Hon'ble Court.

- D.** Because the State of Jharkhand (alleged contemnor / Respondent No.1) has further aggravated its willful, deliberate and gross contempt of this Hon'ble Court by again appointing another person viz. Mr Neeraj Sinha as an interim / acting Director General of Police (Head of Police Force), Jharkhand vide notification dated 11.02.2021, in clear and complete violation of the directions given by this Hon'ble Court in Para 31(2) of the judgment, dated 22.09.2006 and Paras 6.4 & 7 of the order, dated 03.07.2018, pleased in *W.P. (C) No. 310 of 1996*.
- E.** Because the State of Jharkhand (alleged contemnor / Respondent No.1) has been continuing to appoint persons as DGP (HoPF, Jharkhand) on an acting / ad hoc basis without even filing any application before this Hon'ble Court in exercise of the liberty granted to the states (vide order, dated 03.07.2018) to approach this Hon'ble Court seeking modification of the aforesaid directions. At the very first instance when the State of Jharkhand wanted to remove the then incumbent Mr. K.N. Chaubey as the DGP (HoPF), Jharkhand, it should have filed an appropriate application in this regard. However, it failed to do so and in fact, has been brazenly and continuously violation this Hon'ble Court's directions.
- F.** Because the UPSC (alleged contemnor / Respondent No.2) has also acted in willful and deliberate contempt of this Hon'ble Court's direction given in Para 6.2 of the order, dated 03.07.2018, passed by this Hon'ble Court in *W.P. (C) No. 310 of 1996*, according to which the sole mandate given to UPSC is to "*prepare the panel as*

per the directions of this Court in the judgment in Prakash Singh case [Prakash Singh v. Union of India, (2006) 8 SCC 1 : (2006) 3 SCC (Cri) 417] and intimate to the States". However, UPSC has not complied with the said direction by refraining to prepare the panel for appointment of DGP (HoPF, Jharkhand) in compliance of this Hon'ble Court's directions given in the judgment dated 22.09.2006 passed in *W.P.(C) No. 310 of 1996*, reported in *(2006) 8 SCC 1*. UPSC is also in violation of the judgment, dated 13.03.2019, passed by this Hon'ble Court.

P R A Y E R

In the above circumstances, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a)** Initiate contempt proceedings against the alleged contemnor / Respondent No.1 and the alleged contemnor / Respondent No.2 for willfully and deliberately disobeying the judgments/orders, dated 22.09.2006, 03.07.2018 and 13.03.2019, passed by this Hon'ble Court in *W.P.(C) No. 310 of 1996*;
- b)** Pass such other or further order (s) as this Hon'ble Court may deem and fit in the peculiar facts and circumstances of the case in favour of the Petitioner.

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

FILED BY:

PRANAV SACHDEVA
COUNSEL FOR THE PETITIONER

Dated: **08.03.2021**
New Delhi