



IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

ON THE 19th OF SEPTEMBER, 2025

WRIT PETITION No. 37028 of 2025

*M/S AARATRIKA TRADER SHAHID BHAGAT SINGH MARG HAT
MAIDAN SHAJAPUR M.P. THROUGH ITS PROPRIETOR DEVNAR*

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Yamak Sharma - Advocate for the petitioner (through VC).

Dr. Amit Bhatia - Govt. Advocate for the respondents/State.
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ORDER

The petitioner has filed this petition under Article 226 of the Constitution of India praying for issuance of directions to the respondents/authorities to take action on his complaint.

02. Learned counsel for the petitioner has submitted that cognizable offence has been committed by respondents No.6 and 7. It is submitted that after filing of the complaint by the petitioner, no action has been taken by respondents/authorities. It is incumbent upon the respondents/authorities to register an FIR, if cognizable offence is disclosed and if there is non-cognizable offence then also petitioner is to be informed of the same so that the petitioner can resort to the other remedies available in accordance with law. It is further submitted that Section 173 of Bhartiya Nagrik Surksha Sanhita, 2023 lays down that every information given relating to commission of a cognizable offence, irrespective of the area where the offence is



committed is to be registered by officer incharge of a Police Station, if offence is cognizable in nature and punishable between 3-7 years. Preliminary enquiry is to be conducted within a period of 14 days and if there is a prima facie case, then action is to be taken. It is also submitted that complaint was lodged by the petitioner on 06.09.2025 (Annexure P/6). The competent authority is sitting tight over the matter and is not taking any decision to lodge information or to take any other action. It is hence submitted that necessary directions may be issued.

03. Learned Govt. Advocate appearing for the State has submitted that petition is not maintainable. The petitioner is having alternate remedy, hence he may approach appropriate authorities raising his grievance in view of which the petition deserves to be dismissed.

04. I have heard learned counsel for the parties and have perused the record.

05. Existence of alternate remedy is not a bar for filing a petition under Article 226 of the Constitution of India. It is the discretion of the Court to entertain or not to entertain such a petition despite availability of alternate remedy. If alternate remedy is not efficacious and there is violation of fundamental rights of petitioner or opportunity of hearing is not provided, then Court can always interfere in the matter despite availability of alternate remedy. In this case, the petitioner has lodged a complaint on 06.09.2025 (Annexure P/6). As per Bhartiya Nagrik Suraksha Sanhita, 2023 and the judgment passed by the Apex Court in the case of *Lalita Kumari Vs. Govt. of U.P. and others, (2014) 2 SCC 1*, if a cognizable offence is made out then



FIR is to be registered. A party will have alternate remedy only when Police informs that no cognizable offence is made out. In the present case, the Police is sitting tight over the matter and no decision is taken to register the case or not. The Police authorities are free to take decision to lodge or not to lodge the FIR in accordance with Section 173 of the Bhartiya Nagrik Surksha Sanhita, 2023. No decision has been taken by respondents in view of which the petitioner is unable to proceed further.

06. In view of the same, respondents/authorities are directed to conduct preliminary enquiry which would mean to go through the complaint and find out whether any cognizable offence is made out or not. If cognizable offence is made out, then the FIR shall be registered. If no cognizable offence is made out, then the petitioner should be informed of the same. Let either of the same be done within a period of 90 days from the date of receipt of certified copy of this order.

07. With the aforesaid directions, the petition stands disposed off.

(PRANAY VERMA)
JUDGE

Shilpa