

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 385/2021

PARAM BIR SINGH

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

(FOR ADMISSION and IA No.43960/2021-GRANT OF INTERIM RELIEF and IA No.43961/2021-EXEMPTION FROM FILING O.T.)

Date : 24-03-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE R. SUBHASH REDDY

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.
Mr. Utsav Trivedi, Adv.
Mr. Abinay, AOR
Ms. Srishti Kumar, Adv.
Mr. Himanshu Sachdeva, Adv.
Ms. Shivani Bhushan, Adv.
Ms. Aishwarya Samal, Adv.

For Respondent(s)

For Intervening
party

Dr. Gunratan Sadavarte, Adv.
Mr. Kamal Kumar Pandey, Adv.
Mr. Pawan Kumar Shukla, Adv.
Mr. Raj Singh Rana, AOR

UPON hearing the counsel the Court made the following
O R D E R

We have heard learned senior counsel for the petitioner. We pointed out at the inception that the concerned person Mr. Anil Deshmukh, Minister concerned has not been impleaded as a respondent. Learned senior counsel submits that the same appears to be a mistake and that he is willing to forthwith implead Mr. Anil Deshmukh as respondent No.4. At his oral request, Mr. Anil Deshmukh is impleaded as respondent No.4 and National Investigation

Agency (NIA) as respondent No.5, as it is stated that the investigation has been handed over to the NIA by the Central Government.

Ordered accordingly.

Amended memo of parties be filed during the course of the day.

On further hearing, we put to learned senior counsel as to why the petition should not have been preferred under Article 226 of the Constitution of India before the Bombay High Court as the powers thereunder, if any, are wider. If investigation by an independent agency is being sought for, that is a relief which can also be granted by the High Court. There have also been subsequent developments in the matter as has been noticed in terms of the report of Ms. Rashmi Shukla, Commissioner, State Intelligence Department. The High Court has the requisite authority to address the same.

We have no doubt that the matter is quite serious and affects the administration at large. It also appears that a lot of material which has come in public domain is a consequence of the personas falling out.

Learned senior counsel also seeks to rely upon the judgment in *Prakash Singh & Ors. v. Union of India & Ors.* - (2006) 8 SCC 1. In our view, this is only a *mantra* recited periodically, wherever the occasion so suits, and there has been no seriousness by all concerned to ever implement the directions enshrined in the judgment. These directions

were based on the principle of insulating police machinery from political/executive interference to make it more efficient and to strengthen the rule of law. It appears that none want to give up, *inter alia*, the control of police transfers or implement measures that would insulate the police machinery from performing its role without any uncalled for interference.

In view of the aforesaid position, learned senior counsel for the petitioner seeks to withdraw the writ petition with liberty to approach the High Court.

Liberty granted.

Learned senior counsel submits that they will file the petition during the course of the day and would like the matter to be taken up tomorrow itself. That, in our view, would be an appropriate prayer made to the High Court and not by a direction from this Court.

Pending applications stand disposed of.

(ASHA SUNDRIYAL)
ASTT. REGISTRAR-cum-PS

(POONAM VAID)
COURT MASTER (NSH)