

Ravina vs. State of H.P.

Cr.WP No. 12/2024

21.4.2025

Present: Mr. Manik Sethi, proxy counsel, for the petitioner.

Mr. Anup Rattan, A.G. with Mr. Ramakant Sharma, Mr. Navlesh Verma, Mr. Sushant Kaprate, Addl. A.Gs. and Mr. Raj Negi, Dy.A.G. for the respondent-State.

In compliance to the order dated 7.4.2025, the respondents have placed on record instructions, dated 17.4.2025, which go to indicate that pursuant to the enquiry conducted under the orders of this Court by Mr. Santosh Kumar Patial, IPS, Inspector General of Police, Intelligence, the competent authority has decided to first issue show cause notice to Mr. Firoj Khan, HPPS, the then Deputy Superintendent of Police and further action would be taken on the basis of reply of the said officer to the notice.

2 This case raised certain serious questions relating to administration of criminal justice system in the State with reference to criminals and the role and efficiency of police force in combating this problem. This led to passing of a detailed order by this Court on 23.10.2024, relevant portion whereof reads as under:-

3 *It would be evident from the inquiry report that majority of the officer(s)/official(s) have been found to be wanton and rather complacent in this matter. Let appropriate action be taken against these officer(s)/official(s) irrespective of whether they are serving or retired in accordance with law and compliance thereof be reported on 10.01.2025.*

4 As observed above, many of the police official(s)/officer(s) have been found to be complacent or wanton in ensuring that the accused are not brought to justice.

5 Late Mr. Justice V.R.Krishna lyer in 'Random Reflections' had said:-

"Policing, like justicing, has therefore to be at the service of the people commanding the credibility of the community at large without fear or favour, affection or ill-will. Independence and accountability with commitment to the Rule of law, are as much the non-negotiable qualities of the invigilating, investigating police force of the 'robed brethern' on the bench. If the investigative process fails, if the police presence to guard Law and Order is not functionally successful, the adjudicatory apparatus collapses and our adversarial system of justice becomes dysfunctional. The safety of society, sans police integrity, accountability, transparency and efficiency, suffers illusion and unreality."

6 What is disconcerting today is the steady deterioration of standards of police, the increasing lawlessness amongst the policemen themselves and the attitude of complacency and complicity amongst the leadership in police organization. With the prevailing attitude and approach in the police force, there is not much hope that the people will get better services from the police in the immediate future. Since the purity and efficiency of the criminal justice system is largely dependent on police who feed the system, the future seems bleak for criminal justice in general.

7 Certain causes for popular dissatisfaction with the police, as enumerated by N.R.Madhava Menon, former Vice Chancellor, National University of Judicial Sciences and former Director, National Judicial Academy, Bhopal can be narrated as under:-

- 1. Police are the principal violators of the law and they get away with impunity.*
- 2. Some sections of the police are in league with anti social elements. Consequently they indulge in selective enforcement of the law.*
- 3. Police exhibit rude behaviour, abusive language and contempt towards courts and human rights; they indulge in all forms of corruption.*
- 4. Depending on the socio-cultural status, economic power and political influence of people who approach them, police adopt different attitudes violating equality and human dignity.*
- 5. Police are either ignorant of the precepts of human rights or they deliberately disregard them in the matters or arrest, interrogation, searching, detention and preventive policing..*
- 6. Given the dismal record of prevention and successful investigation of crime, the police lack accountability in protection of life and property.*
- 7. While crimes are getting sophisticated, the police are becoming less professional. There is no evidence of a collective desire within the police organization to redeem its public image.*
- 8. The police are insensitive towards victims of violent crimes. They sometimes behave rudely with victims, as if they are responsible for their fate.*
- 9. At least a section of policemen think of human rights as antithetical to effective law enforcement. They blame the law, lawyer and courts for their own inefficiency.*
- 10. Of late, some policemen have publicly shown leniency towards fundamentalists and terrorists.*

8 *It is not the intention of the Court to prosper evidence or argument to prove or disprove any of above perception. However, no honest person within or outside the police could totally deny the aforementioned causes.*

Of course, they can give alibi and explanation that may or may not be acceptable to the public. Well thinking person should acknowledge the existence of such perception in a wide spectrum of the citizenry and must work out strategies to remove them progressively in the interest of public services and professionalism. Those who do not want the situation to change will continue to provide excuses and explanation accusing others in society or in the criminal justice system for the malady. The tragedy is that unlike other departments of the government, if police tends to become lawless, the very foundation of democracy is in jeopardy, development subverted and the country's integrity compromised. Hence, there is urgency to reform the police and their style of functioning.

9 *A lot can be achieved by exchanging public perception and improving strength of police, if the leadership within the police organization is fully committed to reform. After all, every profession has the primary responsibility to discipline its members and maintain a code of ethical behavior by internal mechanisms and by peer group. The police are intrinsically disciplined and superior command and have lot of power and control over their subordinates. If this situation is to be put to good use, the superior should be above board and transparent in their dealing.*

10 *It is essential that reform in the organization starts from above and clear signal of good behavior are sent down to all the rank. Organizational behavior is largely the outcome of training and continuing education. Police training is archaic in content and method. The emphasis is still more on muscle than on the mind. Human rights, if at all, form an insignificant module in the training programme and there is hardly any emphasis on human right in the training of Constables, who form 85 percent of the posts.*

11 *A subculture, inimical to democratic policing, pervades the organization and is perpetrated due to*

indifference or connivance of senior. Respect for human right is not rewarded. If the leadership itself is doubtful about the imperatives of human right in policing, and if they disregard its importance in the training of subordinate officer, it is pointless to expect change in the behavior of ordinary Sub-Inspector and Constable.

12 *Another reform that can be brought about by the police themselves is with respect to the adoption of fair, quick and responsible methods of redress for complaint against the police. The system has to be institutionalized and integrated with police role and responsibility.*

13 *According to an old adage, every society gets the police it deserves. After all policemen come from the same society and reflect the attitude and behavior that is found in society. How respectful is the average citizen with regard to human right of fellow citizens?*

14 *The void resulting from the lack of a clear cut grade for police conduct was filled in 1960 when a Code of Conduct for the police was adopted on the recommendations of the Conference of I.G.Ps through the I.B (MHA). Said code has been adopted to raise the ethical standards in police services and raises its professional standing. The Code with its explanation is the corner stone for Police Officer in India. Certain silent feature of the same read as under:*

1. The police must bear faithful allegiance to the Constitution of India and respect and uphold the rights of the citizens as guaranteed by it. The first part does not require explanation and the police, like all other government servants, must be faithful to the Constitution of India. The second part is important in the sense that police must realize that when they prevent crime and disorder they do it in order to uphold the fundamental rights of the community in general. That is the foremost objective and if by any action they deprive a person of his legitimate rights they have

failed in their work. Therefore, they must not only respect the rights but they must also uphold them.

2. The police are essentially a law enforcing agency. They should not question the propriety or necessity of any duly enacted law. They should enforce the law firmly and impartially, without fear or favour, malice or vindictiveness.

3. The police should recognize and respect the limitations of their powers and functions. They should not usurp or even seem to usurp the functions of the judiciary and sit in judgment on cases. Nor should they avenge individuals and punish guilty.

4. In securing the observance of law or in maintaining order, the police should use the methods of persuasion, advice and warning. Should these fail, the application of force becomes inevitable, only the absolute minimum in the circumstances should be used.

5. The primary duty of the police is to prevent crime and disorder and the police must recognize that the test of their efficiency is the absence of both and not the visible evidence of police action in dealing with them.

The first needs no reiteration. The efficiency of the police does not lie in the ostentatiousness with which any work is done, or the show of police power. but in being able to strike at the root and prevent the occasions which necessitate the use of police power. It is erroneously held that good detection alone constitute good work. But far better than detection is prevention.

6. The police must recognize that they are members of the public, with the only difference that in the interest of the community and on its behalf they are employed to give full time attention to duties which are normally incumbent on every citizen to perform.

7. *The police should realize that the efficient performance of their duties will be dependent on the extent of ready co-operation they receive from the public. This in turn, will depend on their ability to secure public approval of their conduct and actions and to earn and retain public respect and confidence. The extent to which they succeed in obtaining public co- operation will diminish proportionately the necessity of the use of physical force or compulsion in the discharge of their functions.*

8. *The police should be sympathetic and considerate to all people and should be constantly mindful of their welfare. They should always be ready to offer individual service and friendship and render necessary assistance to all without regard to their wealth or social standing.*

Apart from doing their duty as law enforcement officers the police must be helpful to the public on all occasions and consider this to be as much their duty as it to enforce a particular law. This assistance should be given to all without making any discrimination between poor and rich.

9. *The police shall always place duty before self, should remain calm and good humoured whatever be the danger or provocation and should be ready to sacrifice their lives in protecting those of others.*

10. *The police should always be courteous and well-mannered; they should be dependable and unattached; they should possess dignity and courage; and should cultivate character and the trust of people.*

These are qualities which people want to see in the police. Each of them is necessary and without them the police can never make any good impression on the people.

11. *Integrity of the highest order is the fundamental basis of the prestige of the police.*

Recognizing this, the police must keep their private lives scrupulously clean, develop self-restraint and be truthful and honest in thought and deed, in both personal and official life, so that the public may regard them as exemplary citizens. Honest is the highest qualification and must be practiced in all circumstances and in any eventuality every other quality flow from this. People will co-operate readily, if they know the police to be honest

12. The police should recognize that they can enhance their utility to the administration and the country only by maintaining a high standard of discipline, unstinted obedience to the superiors and loyalty to the force and by keeping themselves in a state of constant training and preparedness.

Discipline, obedience, loyalty these are essential in any large force entrusted with the duty of enforcing law and order. Efficient performance of this duty also requires the police to improve their knowledge and training and to remain mentally and physically alert and prepared at all times.

The duty of the police not to be swayed by extraneous considerations in the discharge of their onerous and responsible duties. In particular, the provisions of the Police Manual dealing with the principles of police conduct had been referred to therein. A duty to enforce the law firmly and impartially. without fear or favour, malice or vindictiveness is cast on them under the aforesaid provisions. Paragraph 87(c) of the Police Manual emphasises that "the police should not usurp or even seem to usurp the functions of the Judiciary and sit in judgment' on cases."

15 It is not that there is no code of conduct for the police after 1960, rather code of conduct for the police in

India has been enacted by Union of India and communicated to all the Chief Secretaries of all States/ Union Territories and Heads of C.P.Os., vide letters No. VI-24021/97/84-C.P.A.- 1, dated 4-7-1985 and 10-7-1985, which read as under:

“Code of Conduct for the Police in India (1) The Police must bear faithful allegiance to the Constitution of India and respect and uphold the rights of the citizens as guaranteed by it.

(2) The Police should not question the propriety or necessity of any law duly enacted. They should enforce the law firmly and impartially, without fear or favour, malice or vindictiveness.

(3) The Police should recognize and respect the limitations of their powers and functions. They should not usurp or even seem, to usurp the functions of the judiciary and sit in judgment on cases to avenge individuals and punish the guilty.

(4) In securing the observance of law or in maintaining order, the Police should as far as practicable, use the methods of persuasion, advice and warning. When the application of force becomes inevitable, only the irreducible minimum of force required in the circumstances should be used.

(5) The prime duty of the Police is to prevent crime and disorder and the Police must recognize that the test of their efficiency is the absence of both and not the visible evidence of Police action in dealing with them.

(6) The Police must recognize that they are members of the public, with the only difference that in the interest of the society and on its behalf they are employed to give full time attention to duties which are normally incumbent on every citizen to perform.

(7) The Police should realize that the efficient performance of their duties will be dependent on

the extent of ready co-operation that they receive from the public. This, in turn, will depend on their ability to secure public approval of their conduct and actions and to earn and retain public respect and confidence.

(8) The Police should always keep the welfare of the people in mind and be sympathetic and considerate towards them. They should always be ready to offer individual service and friendship and render necessary assistance to all without regard to their wealth or social standing.

(9) The Police should always place duty before self, should remain calm in the face of danger, scorn or ridicule and should be ready to sacrifice their lives in protecting those of others.

(10) The Police should always be courteous and well-mannered; they should be dependable and impartial; they should possess dignity and courage; and should cultivate character and the trust of the people.

(11) Integrity of the highest order is the fundamental basis of the prestige of the Police. Recognizing this, the Police must keep their private lives scrupulously clean, develop self-restraint and be truthful and honest in thought and deed, in both personal and official life, so that the public may regard them as exemplary citizen.

(12) The Police should recognize that their full utility to the State is the best ensured only by maintaining a high standard of discipline, faithful performance of duties in accordance with law and implicit obedience to the lawful directions of commanding ranks and absolute loyalty to the force and by keeping themselves in a state of constant training and preparedness.

(13) As members of a secular, democratic State, the Police should strive continually to rise above personal prejudices and promote harmony and

the spirit of common brotherhood amongst all the people in India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women and disadvantage segments of the society”

16 The law commission of India in its report No. 239 submitted to the Hon’ble Supreme Court in **W.P.(C) No. 341/2004, titled as Virender Kumar Ohri vs. Union of India & ors.**, had enumerated causes for delay, which read as under:-

Causes For Delay - An Overview

2.1 The causes for delay in investigation and slipshod investigation need to be taken stock of first in order to appreciate the problem in the proper perspective and to devise ways and means of checking the malady. Though the judiciary is not responsible for many delays that occur, in the public perception, it is the judiciary that is mainly responsible. Judiciary is mostly blamed without appreciating the real reasons. The judiciary, on its part, remains silent and refrains from conveying to the public that certain delays are beyond its control. This being the ground reality, what the judiciary is expected to do, is to introspect on the delays attributable to it and to vigorously undertake such measures, as are essential, to put its house in order. It is in this background that some essential remedial measures to be adopted by the judiciary are highlighted and they have direct or indirect bearing on the prosecution and trial of influential public men.

2.2 The causes for delay before the case reaches the Court for trial

1. Apathy and inaction on the part of the police in registering the FIRs and taking up the investigation in right earnest for various reasons.

(This is so inspite of Police Manuals emphasizing the need for speedy and prompt investigation.) 11 Snapshots 2009, Prison Statistics India 2009, National Crime Records Bureau, Ministry of Home Affairs, Government of India.

2. Police are either hesitant to proceed with the investigation against important/influential persons or they are under pressure not to act swiftly especially if the person accused is in power or an active member of the ruling party. They adopt a pusillanimous attitude when the accused are such persons.

3. Corruption at Police Station level is affecting the timely and qualitative investigation. Further, the Police Stations are understaffed and the police personnel lack motivation to act without fear or favour.

4. When the FIR is not registered within a reasonable time or the pace of investigation is tardy, there is no internal mechanism to check this effectively. Even in States where Addl. SPs are posted in every District to be mainly in charge of crimes (as distinct from general law and order duties) the situation has not improved, except marginally.

5. There is no periodical exercise to upgrade the skills of investigation.

There is no intelligence network worth the name to get the inputs of crime and corruption and to take up preventive measures.

6. Sufficient priority is not given for investigation of crimes. The diversion of personnel from the Police Stations for various relatively unimportant duties such as 'Bandobust' is a common phenomenon. In most of the States, the existing police force attached to police stations is utterly inadequate and even the sanctioned strength always remains in deficit.

7. Sanctions for prosecution are unduly delayed by the Governments.

These reasons are not peculiar to cases of public men-they are all problems surrounding the Criminal Justice system as a whole.

17 It was more than two and half decades back, on 3.8.1997 that a letter was sent by the Union Home Minister to the State Governments revealing a distressing situation and expressing the view that if the rule of law has to prevail, it must be cured.

18 In the above letter, the Home Minister while echoing the overall popular perception that there has been a general fall in the performance of the police as also a deterioration in the policing system as a whole in the country, expressed that time had come to rise above limited perceptions to bring about some drastic changes in the shape of reforms and restructuring of the police before the country is overtaken by unhealthy developments. It was expressed that the popular perception all over the country appears to be that many of the deficiencies in the functioning of the police had arisen largely due to an overdose of unhealthy and petty political interference at various levels starting from transfer and posting of policemen of different ranks, misuse of police for partisan purposes and political patronage quite often extended to corrupt police personnel.

19 The Union Home Minister further expressed the view that rising above narrow and partisan considerations, it is of great national importance to insulate the police from the growing tendency of partisan or political interference in the discharge of its lawful functions of prevention and control of crime including investigation of cases and maintenance of public order.

20 Despite strong expression of opinions by various Commissions, Committees and even Home Minister of

the country, the position has not improved as these opinions have remained only on paper, without any action.

21 This court can take judicial notice of the fact that despite Police Establishment Committee under Section 56 of the H.P. Police Act, 2007, transfers are still being effected on the basis of recommendations of the politicians.

22 It goes without saying that interference with the police system by extraneous sources, especially the politic encourages, the police personnel to believe that career advancement does not at all depend on the merits of their professional performance, but can be secured by currying favour with politicians, who count politicking and hobnobbing with functionaries outside the police system appear very worthwhile in the estimate of an average police officer. Deliberate and sustained cultivation of a few individuals on the political plane takes up all the time of a number of police personnel to the detriment of the performance of their normal professional jobs to the satisfaction of the general public at large.

23 This process sets the system on the downward slope to decay and total ineffectiveness and the increasing scope for mala fide interaction between the politician and the police has encouraged unscrupulous policemen at different levels to forge a working relationship with the politician for gaining undue career advantage, besides pecuniary advantage resulting from collusive corruption. The phenomenon of political interference has thus grown to enormous proportion, assiduously fed by vested interests among the police as well as the politicians.

24 The Court is conscious that any remedial measures, which the Court might think of in this context will have to contend with resistance from such vested interests on both sides.

25 Such kind of nexus only carves out a poor image on the system itself and manifests itself in the misuse and abuse of the power resulting in disregard of rule of law. Politicising services would be unproductive and detrimental against the interest of the country and the State.

26 It would be appropriate to observe here that in a democratic set up like ours, bureaucrats are expected to act and discharge their executive functions impartially and strictly in accordance with the rules and regulations. Therefore, unless such unholy nexus between the district administrative officials and the politicians at different levels is curbed, it is difficult to uphold the rule of law.

27 One of the Commissions set for police reform had in fact observed as under:-

“Pressure on the police takes a variety of forms, ranging from a promise of career advancement and preferential treatment in service matters if the demand is yielded to, and a threat of drastic penal action and disfavored treatment in service matters if the pressure is resisted.”

28 It was further observed that apart from deterioration in the quality of police performance viewed from the public point of view, the exercise of such pressure on the police system from political and other extraneous sources immediately damages the control system and weakens the normal chain of command that has to operate efficiently if the discipline and health of the system are to be maintained. Interference at the operational level in police stations, police circles, etc. results in the total by-passing of the supervisory officers in the hierarchy. Subordinate officers see it in every day of their official life that their superior officers count little in the ultimate disposal of a matter which lies in the normal course within their official cognizance only. Decisions taken at a far higher level-political levels to government are implemented without question at the

operational level. The frequent by-passing of the normal chain of command results in the atrophy of the supervisory structure. It, therefore, fails to operate effectively even in matters which do not attract any such extraneous interference.

29 *It would be noticed from the facts of the present case that majority of the police official(s)/ officer(s) have failed to bear faithful allegiance to the constitution of India by not respecting and upholding the rights of the citizens as guaranteed by it. They have not ensured that the law should be enforced firmly and impartially that too without fear or favour, malice or vindictiveness. Rather, law has been violated blatantly with impunity.*

30 *Some of the police official(s)/ officer(s) have failed to maintain integrity of highest order, which is fundamental basis of the prestige of the police. All this is probably because police officials (NGO Grade-II) hold a district cadre post and thus would definitely be enjoying political patronage and protection. Probably, it was on this count that an application being Cr.MP No. 4097/2024 was filed on behalf of the D.G.P. seeking indulgence of this Court on the following issues:-*

“a. Transfer from Baddi District may affect on other Police Districts where as NGO Grade-II, is a District Cadre.

b.The applicant humbly prays to clarify order dated 11.09.2024, so that uniform action may be taken in all Police Districts with directions of the Hon’ble Court.

c.The applicant humbly prays to clarify that the order dated 11.09.2024, about considering transfer and posting of the Gazetted Officers who have completed their tenure of service continuously or intermittently in the District.”

31 *The issues were answered by this Court vide its order dated 1.10.2024 in the following manner:-*

The Police District has been defined under Section 2(u) of the Himachal Pradesh Police Act, 2007 (for short the 'Act') and means such an area has to be declared a police district by the State Government by notification under Section 9 of the Act. Ordinarily, the Police Districts are also the Revenue Districts and in majority of the Police Acts in India, in one police district area, not more than one revenue district is included and it is for this precise reason that each of the district in Himachal Pradesh has a Police District.

It is further not in dispute that it was only on account of high crime rate, at a particular region, and where it was found that the police district was not in a position to tackle the crime effectively and properly that the State, in its wisdom, chose to declare further police districts in the State like police district Baddi which otherwise falls in the revenue district Solan and Police Districts Nurpur and Dehra which otherwise fall in the revenue districts Kangra.

It was never the intention of the Legislature that NGO Grade-II posted in these Police Districts Baddi, Nurpur and Dehra could not be transferred and would remain in these police districts which are spread over an area comprising barely of 5-10 kms. in circumference. Such a preposterous interpretation will only violate the statutory mandate.

Therefore, we clarify that even the State may have taken a decision to declare police Districts Baddi, Nurpur and Dehra to be independent Police Districts for law and order purpose, but for the purpose of posting and transfers they would, for all intents and purposes, be treated to be belonging to the revenue police districts i.e. revenue District Solan or revenue District Kangra, as the case may be.

In coming to such a conclusion, we find support from the fact that there are hardly six police stations falling within the jurisdiction of Police District Baddi, we can conveniently conclude that it was never intended that the NGO Grade-II serving in these six police stations would be rotated only in these police stations and would not be posted in the Police District, Solan, which fall in the revenue district Solan, for all intents and purposes.

With this clarification, the application is disposed of and in view of the aforesaid observations, the NGOs Grade-II will now be transferred by the PEC as constituted under Section 56 of the Police Act.

32 *It is, therefore, high time that the State to mulls a proposal for making the police department, irrespective of its officer(s)/official(s) rank and profile, to be a state cadre and till and so long the decision is not taken, we permit the police department to transfer NGOs grade-II, who are brought on the district rolls, to be posted to the vigilance, CID, TTR, Ranger office, CTS, police headquarters etc. anywhere in the State.*

33 *In addition thereto, NGOs Grade-II can also be posted in battalions after completion of basic training, however that battalion essentially need not be in their home district(s).*

34 *Apart from above, the police department shall also be at liberty to transfer every constable to specialized constabulary for cyber crime, vigilance, intelligence narcotic, SDRF etc., as there is a dire need for modern policing.*

35 *This necessity of issuing aforesaid directions otherwise arises given the fact that the post of NGOs grade-II was made a district cadre under the archaic Punjab Police Rules enacted in the year 1934 which was originally applied to the combined Punjab which includes current H.P., Punjab and Haryana and such*

provisions were simply incorporated in the H.P. Police Act despite the fact that as against meager perks and salaries to the NGOs at the time of enactment of Punjab Police Rules, 1934, the same have drastically improved and, therefore, like many of the counter parts with the same or even lesser salary and perks in other government sector, who hold state cadre post, the police also needs to be made state cadre post or else faith in the police system would be completely eroded for we have invariably found that many of the police official(s)/officer(s) have been posted for years together at one station and we are not at all ready to accept the plea that services of all such persons are absolutely “indispensable”.

36 *We may also add that in recent times we come across a number of cases where many of the police official(s)/officer(s) have been found indulging in serious and heinous offences like carrying and transporting narcotic drugs and psychotropic substance or illicit drugs falling within purview of the Drugs and Cosmetics Act and even blatantly violating law.*

37 *One such incident took place in this very police station of Nalagarh where 7 of its officials/officer have been found to be guilty of custodial torture and their services were placed under suspension and what is still worse is that these officials did not choose to surrender even after their bail petitions were dismissed by this Court.*

38 *We have added this addendum to this order only with a hope that the State would consider this order in its right perspective and thereafter take appropriate decision.*

39 *The case now to come up on 30.11.2024, when the respondents shall place on record affidavit of D.G.P. in terms of order dated 1.10.2024 and shall also file compliance report with regard to the observations made in paras 32 to 34 supra.*

3 The police force is one of the most important forces with great potential, easily approachable to the people facing criminal wrong, law and order problem and the most visible component of the criminal justice system. Like other departments, there has been a general fall and deterioration in the standard of functioning of the police force also.

4 With time, it has been seen that the police force, not as a whole, but in small groups, has gone through a phase of moral and professional deterioration.

5 There are black sheep also in the police force and they reflect upon the whole department, which has led to growing concern and a number of attempts have been made to mend this situation. In this direction, the past few years have been particularly eventful with a number of positive developments having taken place towards a solution of the problem and the State appears to have taken certain radical steps to eradicate the crime.

6 The police force faces some real difficulty in combating with criminal activities and, therefore, the police force cannot be blamed entirely for what has been happening in the society.

7 The problems of police force have been time and again highlighted by several Law Commissions appointed for making recommendations for police reforms and several

recommendations have been suggested and implemented from time to time.

8 It is pertinent to mention here that the Hon'ble Supreme Court has also issued directions in view of the recommendations in some of the judgments such as ***Vineet Narain vs. Union of India, AIR 1998 SC 889, Prakash Singh vs. Union of India, (2006) 8 SCC 1, Prakash Singh vs. Union of India (2019) 4 SCC 1*** and ***Prakash Singh vs. Union of India (2019) 4 SCC 13***.

9 Professor M.P. Singh, in his book ***“Police Problems and Dilemmas in India”*** has discussed the fundamental complexities of Indian police system and has remarked that the police in the country faces tremendous challenges and works under extreme pressure due to a number of reasons such as growing unemployment, deterioration in educational environments, conflicting claims of socio-economic developments, fluctuations in political order, rampant corruption etc. Frequent transfers to unfavourable positions or locations have demoralizing effects on the police force and it becomes a survival technique for police to have close relationship with one or other political person(s).

10 The purpose of this discussion is to clarify what the Court had discussed in its order dated 23.10.2024 (*supra*). Therein, the Court was dealing with a case, wherein certain police officials/officers have been found to

be complacent, but that does not mean that the Court is not alive to prevalent conditions, in which the police too has to perform complicated job of ensuring law and order, maintaining security and peace, preventing crime and taking action against and causing arrest of offenders, which requires home work and team work and at times, sophisticated weapons. Therefore, we would like to suggest certain police reforms, which the State may consider:-

Police Reforms & Modernization.

1. Revision of Sanctioned Strength (2006 Posts Revision)

- i. The last revision of sanctioned police strength was conducted in 2006, increasing the personnel count to 503 with an addition of 154 posts. However, due to population growth, urbanization, and evolving crime patterns such as cybercrime and organized crime, the current workforce is insufficient. With growing demands of the public, increasing tourism, growing menace of drugs and substance abuse, etc there is a need for reassessment of the sanctioned strength. There is thus a need to strength the police station level policing, with beat system (Sec 67 and 68 HP Police Act 2007) and also to enhance the capabilities of the district police to deal with specialised crime such as NDPS, white collar crime, drugs related gang war, Cybercrime etc.
- ii. Other than this, the state police is tasked with VVIP security, traffic management, collection of Intelligence and disaster management. With

the state police being understaffed and inadequately resourced, the issues are not being handled effectively.

- iii. Special sanctioned units are needed in the office of the Superintendent of Police, such as Cyber cell, District Crime records bureau, CCTNS staff(which is also not a sanctioned post but the need of the hour), etc. Presently, in almost all district these posts are not sanctioned and the officials are posted against the posts which are not sanctioned. The practice of creating unsanctioned posts to meet immediate needs results in administrative and financial discrepancies. Regularization will ensure clarity in job responsibilities, improve accountability, and align personnel deployment with strategic objectives.
- iv. The Hon'ble Supreme court in the Prakash Singh vs Union of India and Ors had clearly mentioned the following :-

Key Directives:

- a) The directives aimed to ensure that the police could function without political interference:
- b) A fixed tenure for the Director General of Police (DGP).
- c) Setting up of Police Establishment Boards to handle postings and transfers to prevent political interferences in postings.
- d) Ensuring accountability of police officers for their actions.
- e) Separation of investigation work from law and order functions.

- f) The need for police to be accountable to the law and the people.

Separation of investigation work and law and order functions has not been done in HP. The police station staff is engaged with investigation, petition redressal, law & order and also VVIP duties. The spirit of the judgment was to improve investigation of the cases and ensure effective law and order.

- v. Further, as repeatedly noticed by this Court, political interferences in postings is a major issue being faced by all field police functionaries. Notwithstanding the judgement of the Hon'ble Supreme Court in the above case, there has been no change in the functioning of the system, in terms of political interferences. In fact, because of frequent interference, the lower staff, viz., Inspectors and below are chosen and posted based on whims and fancies of politicians, which not only include Ministers or MLAs but also Ex MLAs, Chairman, local aspirational politicians, etc.
- vi. The sanctioned strength of HP Police is 18766 and there are 15593 in position with a vacancy of 3173.

2. Posting of Gazetted officers in the office of district SP

Presently, majority district SP offices are staffed with only two GOs, viz., Additional SP and DSP HQ. In view of the growing requirement of the police, more DSP ranked officers(GOs) are to be posted in the SP office, handling issues such as

Narcotics (DSP Narcotics), Crime (DSP Crimes to supervise serious crimes), Traffic (DSP Traffic and control room) and security (DSP Security to handle VVIP Security visits).

With better supervision over subordinates, it will lead to effective policing and addressing issues of public importance.

3. Guidelines for Posting Officers outside their District

Inter-district postings require clear policies to prevent operational disruptions. Defined eligibility criteria, tenure duration, and approval processes should be implemented to ensure transparency and accountability.

At times officers should be posted outside the districts so as to ensure accountability and fairness and prevent interferences.

4. Posting of cadre officers in cadre posts

Presently, some HPS officers are posted on cadre (IPS) posts, most specifically SP Sirmour and SP Baddi. The posts of SP Sirmour and SP Baddi are IPS Cadre posts as per the IPS Civil list issued by Govt of HP for the year 2024.

The Indian Police Service (Cadre) Rules 8 and 9 specifically mention that the cadre posts are to be filled up by cadre officers. In this regard, the IPS (Cadre) rules and also the judgment of the Division Bench of the High Court of Kerala in O.P. No. 16978/2001, Lagesh Dewan vs. State of Kerala, decided on 23.8.2001, is very clear that IPS cadre posts are to be filled up by IPS officers only.

In this regard, the state Govt is in violation of the IPS cadre rules.

The IPS (cadre) rules are reproduced below.

8. Cadre and ex-cadre posts to be filled by cadre officers.-

8(1) Save as otherwise provided in these rules every cadre post shall be filled by a cadre officer.

8(2) A Cadre officer shall not hold an ex-cadre post in excess of the number specified for the concerned State under item 5 of the Schedule to the Indian Police Service (Fixation of Cadre Strength) Regulations, 1955.

8(3) The State Government may, with the prior approval of the Central Government, appoint a cadre officer to hold an ex-cadre post in excess of the number specified for the concerned State in item 5 of the Schedule to the Indian Police Service (Fixation of Cadre Strength) Regulations, 1955 and, for so long as the approval of the Central Government remains in force, the said ex-cadre post shall be deemed to be an addition to the number specified in item 5 of the said Schedule."

9. Temporary appointment of non-cadre officer to cadre posts-9(1) A cadre post in a State shall not be filled by a person who is not a cadre officer except in the following case; namely:-

(a) if there is no suitable cadre officer available for filling the vacancy: Provided that when a suitable cadre officer becomes available, the person who is not a cadre officer, shall be replaced by the cadre officer; Provided further that if it is proposed to continue the person who is not a cadre officer beyond a period of three months, the State Government shall obtain the prior approval of the Central Government for such continuance;

(b) if the vacancy is not likely to last for more than three months: Provided that if the vacancy is likely to exceed a period of three months, the State Government shall obtain the prior approval of the Central Government for continuing the person who is not a cadre officer beyond the period of three months.

9(2) A cadre post shall not be filled by a person who is not a cadre officer except in accordance with the following principles, namely:

(a) if there is a Select List in force, the appointment or appointments shall be made in the order of the names of the officers in the Select List:

(b) if it is proposed to depart from the order of names appearing in the Select List, the State Government shall forthwith make a proposal to that effect to Central Government together with reasons therefor and the

appointment shall be made only with the prior approval of the Central Government:

(c) if a Select List is not in force and it is proposed to appoint a non-Select List Officer, the State Government shall forthwith make a proposal to that effect to the Central Government together with reasons therefor and the appointment shall be made only with the prior approval of the Central Government.

5. Creation of Highway Patrols and highway beats - Sec 60(1)xi of HP Police Act

The highways need to be regulated, manned and in accident cases, emergency response measures are to be carried out. Further investigation of Road traffic accidents, which are the leading cause of accidental deaths in the country are to be ensured, in view of justice delivery.

A separate wing of highway police is required which shall be under the District Superintendent of Police, for the effective regulation of Highways.

6. Strengthening the ERSS mechanism - Emergency Response Support System 112

This scheme was launched by the Government of India so as to have a single call number for Police related emergencies. Each district was provided with one vehicle for emergency response. The central control room (ERSS) is located at Shimla.

The ERSS system is similar to the 911 system of the USA. Several state governments have augmented the capabilities of the ERSS by providing additional vehicles for emergency response. In HP, presently no additional vehicles have been provided for Emergency response other than the one which was provided at the time of the inception of the ERSS scheme. Police mobility is important to ensure timely response for victims of

crime and also to restore faith in the government and the system.

Recently, the Chief Minister of Haryana augmented the ERSS project by allotting budget and also providing 630 new vehicles for emergency response. A new ERSS control room was built as well.

7. Notification under Section 15 BNSS

Some states have made notified certain police officials as special executive magistrates under section 15 BNSS. This is in the spirit of the new BNSS and also in line with the growing requirements of a modern and progressive society.

The section 15 of BNSS reads as below.

15. The State Government may appoint, for such term as it may think fit, Executive Magistrates or any police officer not below the rank of Superintendent of Police or equivalent, to be known as Special Executive Magistrates, for particular areas or for the performance of particular functions and confer on such Special Executive Magistrates such of the powers as are conferrable under this Sanhita on Executive Magistrates, as it may deem fit.

The notifications of Maharashtra and Odisha are attached below.

8. Revision of Police Rules (PPR)

The existing Police Rules are outdated and do not reflect the complexities of modern law enforcement. Updates should incorporate advancements in technology, legal frameworks and best policing practices. Revised rules will ensure better guidance for officers, enhance accountability, improve transparency, and align with judicial directives.

As per the PPR, police station records are to be maintained as mentioned, however with the advent of the CCTNS system, these can be stored in a digitized form allowing for easy retrieval and transparency. This needs a brainstorming and a legal framework.

9. Special courts to deal with special crimes.

With the growing menace of NDPS, it is imperative that special court are created to deal with the drug menace. With better courts, the investigations would become transparent and the cases should ideally be decided within the time frame (3 years) as mentioned in Sec 23 of the BNSS.

Presently, the courts are overburdened with the growing number of cases and hence there are significant delay the judicial process. Additionally, with more courts, more judges also to be appointed.

10. Improvement of the FSL labs.

The entire judicial system of justice has heavily relied upon forensic science, which forms an integral part of the justice delivery system. However, it is unfortunate that most of our forensic laboratories lack basic infrastructure including both man and machinery. Despite the extreme use of forensic science, the backlog resulting in delay in submitting the test report due to the lack of aforesaid infrastructure poses a significant challenge to the administration of justice. It is a humongous challenge, but definitely not un-surmountable. The BNSS requires as per Section 176, that a forensic expert shall visit each scene of crime in which offences are punishable

for more than 7 years. In such a scenario, mobile FSL labs are required to be established in each district, so as to enable the Forensic expert to reach the Scene of crime in time (Keeping in view public demands and also demands of investigation). Presently, FSL labs are situated in range headquarters viz., Shimla, Dharamshala and Mandi. These are inadequately staffed with long delays before which results are provided, thereby delaying investigations. There is a need to augment these capacities.

11. Requirement of Pilots in Each District improvement of the fleet strength in the districts.

In view of the growing requirements of each districts in terms of VVIP security, mobility of the police force is essential to react to contingent situations. Each district should have a dedicated pilot vehicle unit for VVIP and VIP movements to reduce additional workload on existing personnel. These units should be well-equipped and staffed with trained drivers familiar with local geography and emergency protocols.

Further, there is also a requirement of LMV and HMTV for the mobilization of the police personnel on short notice.

12. Police Housing and Infrastructure Maintenance

Many police quarters and office buildings require urgent maintenance. Dedicated budgets must be allocated for renovations to ensure dignified living conditions for personnel, enhancing their well-being and efficiency.

Improvement of quarters and housing allows for each transfers and inter district movement of police personnel. Presently, in view of the poor financial situation of the state these issues are neglected.

13. Strengthening Intelligence Gathering

To streamline intelligence operations, responsibilities should be divided between the Crime Investigation Department (CID) and Security Branch.

The CID should be better trained and equipped to generate SOCINT(social media intelligence), HUMINT(human intelligence), TECHINT (Technical Int - wireless and phone interceptions), Open Source Intelligence (OSINT), Signals Intelligence (SIGINT).

The district Security branch should have sanctioned posts in each PS jurisdiction, so as to gather intelligence about work at the local PS level of the PS staff and also to keep a watch on anti-social elements. They shall be the eyes and ears of the SP and shall generate information about drug trafficking.

14. The police officials/officers not to be posted at their sub division(s).

It should be ensured that no police official/officer is ever posted in his sub division except under exceptional circumstances that too for the reasons to be recorded in the order.

15. Maximum tenure of posting should be fixed.

The State should ensure that no police official/officer is retained beyond three years at a particular place of posting and those of the officials/officers posted in border areas should be transferred. Tenure of those officials/officers should be fixed as 2 years and thereafter such officers/officials should not be posted in another border area.

16. Consider the directions (as far as may be practical to be implemented in Himachal Pradesh) passed by the Uttarakhand High Court in Writ Petition (PIL) No. 48 of 2017 Arun Kumar Bhadoria vs State Of Uttarakhand & Others, decided on 15.5.2018, which read as under:-

A. The respondent-State is directed to ensure that the police personnel do not work for more than eight hours at a stretch.

B. The State Government is also directed to pay at least forty-five days' extra salary to improve the conditions of service of the police personnel for undertaking the arduous duties.

C. The State Government is also directed to create corpus as per the recommendation of One-member State Police Reforms Commission, constituted on 13.04.2012 within a period of three

months from today for the welfare of the police force.

D. The State Government is advised to undertake Housing Scheme for the police personnel for improving the living conditions of the police force.

E. The respondent-State is directed to make suitable amendments in the Rules by providing at least three promotions to police personnel throughout his career to remove stagnation and for improving efficiency.

F. The Police Department is directed to be liberal in granting leaves to the police personnel. The family members of the police force should be duly compensated in the eventuality of police personnel receiving bodily injuries, disability or death in the line of duty.

G. The State Government should recruit qualified doctors specifically for the police force.

H. The State Government is directed to constitute Special Selection Board for recruitment of police personnel for timely filling up the vacancies.

I. The State Government is directed to provide sufficient recreational facilities at police stations as well as police housing colonies including Gym and swimming pool etc. J. The State Government is directed to appoint in each district the

psychiatrist to counsel the police personnel who are under tremendous pressure and strain.

K. The State Government is directed to ensure that the traffic police is given sufficient breaks while discharging their duties in summers by rotating them.

L. The Traffic Police should be provided masks to protect them from injurious gases and fumes while discharging traffic duties.

M. All the police personnel should be medically examined after every three months to assess their medical fitness.

N. The State Government is directed to ensure that the police stations work in shifts for efficient and people friendly policing.

For compliance, list on 3.6.2025.

(Tarlok Singh Chauhan)
Judge

(Sushil Kukreja)
Judge

21.4.2025
(pankaj)