

MR. FAZALUR REHMAN AND ORS.

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v

THE STATE OF U.P. AND ORS.

OCTOBER 14, 1998

[DR. A.S. ANAND, C.J., K.T. THOMAS AND M. SRINIVASAN, JJ.]

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*Constitution of India, 1950: Article 32:*

*Writ—Directions given by Supreme Court—Communal riots—Enquiry Commission appointed by State Government—Report of Enquiry Commission—Directions given by Supreme Court to file details of action taken—Casual approach shown by State Government—Direction by Supreme Court to file summary of Enquiry Commission's Report and the action taken report alongwith an affidavit by home Secretary of State Government—Further lapse or failure to do the needful would require not only adverse comments but may also require personal presence of Home Secretary to explain the lapses.*

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CIVIL ORIGINAL JURISDICTION : Writ Petition (C) Nos. 11742-44 of 1984.

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(Under Article 32 of the Constitution of India.)

Krishan Mahajan, Ms. Mushraf Choudhary, P.H. Parekh, for the Petitioner.

A.B. Rohtagi, Kamendra Misra and R.B. Misra for the Respondents.

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The following Order of the Court was delivered by :

Through these writ petitions filed in 1984, attention of this Court was drawn to various aspects arising out of the communal riots which took place in Meerut between 6.9.1982 and 20.10.1982. There was loss of life and property. It appears that the Govt. of Uttar Pradesh appointed an Enquiry Commission, headed by Justice C.D. Parekh of the Allahabad High Court on 21.1.1983. We are informed that the Report was submitted by Justice Parekh Commission on 15.11.1988. Rule Nisi was issued by this court on 17.4.1984. 14 years have gone by and the case remains still at the preliminary stages. After the issuance of rule-nisi, an affidavit was filed by Shri Vijay Sharma, District Magistrate.

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A On 24.1.1996, the following order came to be made by this court:

B “Learned counsel for the respondent-State of U.P. submits that the report of the Enquiry Commission headed by Justice C.D. Parekh of the Allahabad High Court has been submitted and according to the additional counter-affidavit to the additional counter-affidavit (at pages 90A-92 of the paper-book) of Shri Vijay Sharma, District Magistrate, that report has been acted upon. It does appear to us that at this stage the scope of the writ petition may have to be confined to this extent only.

C We consider it appropriate to peruse the report of Justice C.D. Parekh in the light of the additional affidavit of the District Magistrate. The report and the other material documents be produced before us on the next date and in the meantime an affidavit containing the details of the entire action taken by the Government pursuant to that report be also filed.

D List the matter on 12.3.1996.”

E In spite of the clear directions given to the State of U.P. to file an affidavit of a responsible officer containing the details of the entire action taken by the Government pursuant to that Report, the needful was not done. On 11.7.1996, an additional affidavit was filed by Shri Deepak Singhal, District Magistrate, Meerut. Para 3(b) of the affidavit reads thus :

F “It is respectfully stated that the details containing the entire actions taken by the State Government in relation to the respect of the Justice C.D. Parekh, Commission of Enquiry shall be presented before this Hon’ble Court by a separate affidavit by Government of U.P.”

G The affidavit containing the details of the action taken by the State Government in relation to the action to be taken on Justice C.D. Parekh Commission of the Enquiry were, however, not filed. The case was adjourned from time to time when on 12.2.1998, the State was once again directed by this court to file an affidavit. The order dated 12.2.1998 reads thus:

H “Let a responsible officer or the State of the Uttar Pradesh file an affidavit as to the follow up action initiated on the basis of the Justice Parekh’s report and that what is the latest position in respect thereto.

List in the first half of April, 1998.”

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No affidavit was filed even after this order and on 21.7.1998, the court made the following order:

“As already conceded by the State of Uttar Pradesh Vide order dated 24th January, 1996, let an affidavit containing the details of the entire action taken by the Government pursuant to the report of Justice C.D. Parekh be filed so that it can be read alongwith additional affidavit of the District Magistrate, already filed.

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Two affidavits have been field, one by Shri V.K. Kharbanda, Joint Secretary, State of U.P. dated 19.9.1998 and the other by Shri Pushyapati Saxena, Additional District Magistrate dated 23rd September, 1998. In para-3 of the affidavit filed by Shri Kharbanda on 19.9.1998, it is deposed as follows:

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“That in the light of the above order, it is respectfully stated the report of justice C.D. Parekh Committee, was placed before the cabinet of State of Uttar Pradesh on 12.8.1998. After deliberations, the cabinet has required that some additional information be furnished alongwith the proposal before the cabinet. The necessary information as expected by the cabinet are in the process of collection and the same after consulation with the Department of Law shall be placed again before the cabinet very shortly.”

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Thus, what appears is that though the court was informed before 24.1.1996, that Justice Parekh’s report had been “acted upon” in 1998, we were informed that the report of Justice Parekh is still under consideration of the Cabinet.

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Mr. Rohtagi, learned senior counsel appearing for the State of U.P. submits that Justice C.D. Parekh Commission’s Report *has not so far been acted upon* and that the earlier statements made in this court were on account of some communication gap between the counsel and the State functionaries. It is submitted by him that the Report is under consideration of the Cabinet before which it was placed on 12.8.1998.

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We are at a loss to understand why the State has been taking this matter so casually and why we were not informed over all these years the correct position. The Report of the Parekh Commission appears to have gathered dust for almost ten years. We would refrain from making any comment

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- A** at this stage regarding the inaction of the State Government, since we were assured by Mr. Rohtagi, learned senior counsel appearing for the State of U.P. that within two months from the date of this order, a summary of the Parekh Commission's Report, including the recommendations of the Commission for remedial measures and the action taken on that Report, if any, would be communicated to this Court through an affidavit. Let the summary of the Parekh Commission Report and the Action Taken Report be filed along with an affidavit by the *Home Secretary, State of U.P.*, within two months. We wish to emphasise that any further lapse of failure to do the needful on the part of the State would invite not only adverse comments from this court but may require the personal presence of the Home Secretary in this court to explain the lapse with a view also to consider the question of taking proceedings for contempt of the order of this court by the delinquents.

Post the matter after two months.

T.N.A.

Petition dismissed.