2013 S C M R 918

[Supreme Court of Pakistan]

Present: Iftikhar Muhammad Chaudhry, C.J., Gulzar Ahmed and Sh. Azmat Saeed, JJ

AGAINST THE VIOLENCE IN CHRISTIAN COLONY IN BADAMI BAGH AREA OVER ALLEGED BLASPHEMY: In the matter of

Constitutional Petition No.10 of 2013, decided on 25th March, 2013.

(a) Constitution of Pakistan---

----Arts. 9, 14 & 184(3)---Suo motu action by the Supreme Court under Art.184(3) of the Constitution regarding violence committed by a mob in a colony of religious minority due to an alleged incident of blasphemy---Police officers retreated from the mob during the occurrence and took refuge in godowns while the mob set houses and household items/equipment in the colony on fire---Supreme Court observed that in such a situation where the police officers themselves had taken shelter in a godown, no one else could protect the life and property of the inhabitants of the colony and their failure to do so was sufficient to prima facie hold that the Fundamental Rights of the citizens of the colony were not protected as enshrined under Arts. 9 & 14 of the Constitution; that a competent person should be appointed on the vacant post of Provincial Inspector General of Police so that he might protect the life and property of the citizens---Supreme Court directed concerned authorities in the Federal Government to post a competent person on the vacant post of Provincial Inspector General of Police, otherwise it would not be possible for the Provincial administration to maintain the law and order situation in the Province.

(b) Constitution of Pakistan---

----Art. 148(3)---Obligation of the Federation---Scope---Under Art.148(3) of the Constitution, it was the duty of the Federation to protect every Province against external aggression and internal disturbances and to ensure that the Government of every Province was carried on in accordance with the provisions of the Constitution.

Ch. Naeem Shakir, Advocate Supreme Court for Applicant (in C.M.A. No.1380 of 2013).

Ashtar Ausaf Ali, A.-G. Punjab, Asjad Javed Ghurral, Additional P.-G., Jawwad Hassan, Additional A.-G., Khan Baig, Acting IGP, Punjab, Muhammad Amlish, CCPO, Lahore, Noor-ud-Din Mengal, DCO, Lahore, Babar Bakht Qureshi, SSP (Inv.), Multan Khan, Former SP (Inv.) and Syed Muhammad Amin Bukhari, SP., City (Inv.), Lahore for Government of Punjab.

Date of hearing: 25th March, 2013.

ORDER

C.M.A. No.1548 of 2013

This report has been submitted by the CCPO, Lahore, the following paras (j) and (k) mentioned under the caption of causes/reasons for putting quarters on fire are reproduced herein below:--

(j) On 9-3-2013 at 9-30 a.m. to 10-30 a.m., the aggressive crowd started pelting stones at the police. On which SP Multan Khan ordered DSP and SHO to collect all the police officers available in the area at one place which was resisted by SHO and DSP as they had deployed them at the gates of Joseph Colony. But on insistence of SP, the police force was collected and SP Multan Khan ordered them to carry out lathi charge and tear gas on the un-ruly mob. Then the crowd started stone pelting on the police on which the police started retreating. In the meantime/Javed and Yousaf Kandawala Godowns opened the gates for the police and police entered into their Godowns and closed the doors. SP Multan Khan took refuge on third floor of the Godown and SHO, DSP along with the force closed the main gate. On this, the crowd returned to Joseph Colony and set ablaze the quarters of Christians. They also brought their households/equipments on the main road and put them on fire."

(k) Police reinforcement started arriving around 11-30 a.m. along with officers which included SSP Operations Sohail Sukhera, SSP Investigation, Babar Bakht Qureshi, SP Cantt., Maroof Safdar Wahla, SP Iqbal Town Imtiaz Sarwar, SP Civil Lines, Dr. Farukh Raza along with DSPs and SHOs with reserves. On arrival of this force, SP Multan Khan and his force which had taken refuge in godowns came out. By that time, the damage had been done.

2. It has also been admitted that the incident is the result of the instigation by the instigators/leaders of two groups, namely, Aman Group and Ittehad Group. Their names have been mentioned in the caption of investigation which are reproduced herein below:--

Name of Group	Leaders
Aman Group	1. Tariq Mehmood 2. Usman Butt 3. Ch. Shabbir Ahmed 4. Malik Yasir Anwar 5. Mian M. Saleem 6. Bao Sajjad 7. Bao Fayyaz
Ittehad Group	1. Amir Siddique 2. Saddian Butt 3. Ch. M. Younis 4. Haji Shaukat

3. The conclusion of the report is also reproduced herein below:--

"It is submitted that the blasphemy case has been proved to be true against accused Sawan Masih. The investigation of case F.I.R. No.114 of 2013 (burning of Christian Colony) is in progress in which 48 accused have been arrested. The case in which

Bishop was man-handled is also being investigated. Main culprits have been identified and efforts for their arrest are being made. Vacation of quarters of Christians was outcome of fear and charged atmosphere as well as persuasion by the SHO. Right from SHO to SP took the event of 8-3-2013 lightly and failed to convey gravity of the situation to their seniors. The senior officers including DIG Operations, DIG Investigation and the then CCPO too could not assess the gravity of the situation. Incident of blasphemy, instigation by business community and presence of labour class (Pathans) a large scale and strike call were the main causes of putting the Joseph Colony on fire. Nothing solid has come on record so far, to show that the godown owners or any other group had planned these events to occupy the land of the Joseph Colony. The investigation of cases is being carried out on merits under my supervision which will be finalized within shortest possible time and real culprits will be brought to book."

4. Without prejudice to the case of either of the parties at this stage, we refrain from making any comments except making reference to paras (j) and (k) mentioned in the causes/reasons of the incident from which any one can draw inference thus we leave to the high-ups of the police to draw inference in this behalf. In a situation like this where the police officers themselves had taken shelter in a godown, no one else could protect the life and property of the inhabitants of the Joseph Colony and their failure to do so is sufficient to prima facie hold that the Fundamental Rights of the citizens of Joseph Colony were not protected as enshrined under Articles 9 and 14 of the Constitution.

5. Learned Advocate-General on our query stated that the Federal Government despite repeated requests by the Provincial Government so far has not posted an Inspector General of Police and the command is still with the Acting Inspector General of Police, Mr. Khan Baig with effect from 1-1-2013, after the retirement of the then Inspector General of Police.

6. We may observe that under Article 148(3), it is also the duty of the Federation to protect every Province against external aggression and internal disturbances and to ensure that the Government of every Province is carried on in accordance with the provisions of the Constitution. According to the rules and practice, the Inspector-General of Police is required to be appointed by the Federation after providing a panel enabling the Provincial Government to make a choice out of the same. A similar situation was also prevailing in the Province of Sindh, where the post of Inspector-General of Police was lying vacant from 6-3-2013, ultimately this Court has to pass an order directing to the Federal Government through Establishment Division to appoint the Inspector General of Police enabling him to ensure the maintenance of law and order situation and we believe that here in the Province of the Punjab in view of the facts and circumstances, noted in this case, it is necessary to issue direction to the Secretary, Establishment Division, Government of Pakistan to do the needful otherwise it would not be possible for the Provincial Administration to maintain the law and order situation in the Province and post a competent person, as Inspector-General of Police so he may protect the life and property of the citizens, instead of allowing the police force to be commanded by the Acting Inspector-General of Police.

7. The Registrar of this Court is directed to deliver the copy of this order to the Secretary, Establishment Division, Government of Pakistan as well as to the Chief Secretary of the Province of the Punjab so they may with the consultation of each other take steps for the appointment of Inspector-General of Police after due consultation with the competent authority.

C.M.A. No.1549 of 2013

8. The DCO, Lahore has submitted a report, which is to be examined on the next date of hearing as it is already 4-00 p.m.

9. The case is adjourned for a date in office after 7 days enabling Mr. Muhammad Amlish, CCPO to further probe into the matter as according to him the report, which he has placed before this Court, is a tentative one.

MWA/C-5/SC Order accordingly.

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