



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-23870-2024

Date of Decision: 02.07.2025

Inspector Sudhir Kumar and anotherPetitioner(s)

Versus

State of Haryana and othersRespondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. S.P. Chahar, Advocate,
for the petitioners.

Mr. Raman Sharma, Addl. A.G., Haryana.

Mr. Rajesh Gupta, Advocate,
for respondent No.8.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioners through instant petition under Article 226 of the Constitution of India are seeking setting aside of order dated 16.07.2024 (Annexure P-8) whereby State Police Complaint Authority has recommended suspension and imposition of major penalty upon petitioners.

2. The petitioner No.1 is holding rank of Inspector and petitioner No.2 Assistant Sub Inspector. They are part of Haryana Police Force. On the basis of an incident which occurred in the intervening night of 3/4th June, 2023, a complaint was filed with State Police Complaint Authority against petitioners. The said authority conducted inquiry and concluded as below:-



“27. From the above discussion, it is very clear that neither the proceedings in this case were carried out by the SHO and I.O. in a fair manner nor all the evidences and proofs were collected/gathered, which shows clearly that the complainant was not given justice. A careful consideration of statements of both the parties reveal bias of the SHO in dealing with the matter and dispensing justice to complainant and his wife. Even if there was brash behavior on part of the complainant, it did not merit this kind of police action which was clear in far in excess. The fact that the young gentleman had revealed his background further implies some kind of bias. Hence, this Authority recommends that SHO Sudhir Kumar and ASI Satish Kumar (I.O.) need to be placed under suspension and they may be charge-sheeted for major penalty for bias and lapses in investigation, misuse of their power for intimidation through alleged beating of the complainant.”

3. On the basis of recommendations of aforesaid authority, the petitioners were transferred and thereafter placed under suspension. The Disciplinary Authority by impugned orders ordered to initiate departmental proceedings.

4. Mr. S.P. Chahar, learned counsel for the petitioners submits that alleged inquiry was conducted by State Police Complaint Authority. The State Authority had acted beyond its jurisdiction because as per Section 65 of Haryana Police Act, 2007 (in short ‘2007 Act’), State Police Complaint Authority can conduct inquiry against an officer holding rank of Deputy Superintendent of Police or above. Inquiry against an officer holding rank upto Inspector may be conducted by District Police Complaint Authority. The petitioners were holding rank of Inspector/Assistant Sub Inspector, thus,



inquiry could not be conducted by State Police Complaint Authority. There is no provision which empowers State Authority to conduct inquiry against officers holding rank below DSP.

5. The Authority conducted inquiry on the basis of complaint lodged by an accused against whom police after completing investigation has filed its report under Section 173 Cr.P.C. As per Section 68C(2) of 2007 Act, District Police Complaint Authority has no right to inquire into any matter where a report under section 173 Cr.P.C. has been filed in an appropriate Court. The suspension order passed by respondent and consequent proceedings were outcome of report of State Police Complaint Authority, thus, need to be set aside.

6. Mr. Raman Sharma, Addl. A.G., Haryana and Mr. Rajesh Gupta, learned counsel for respondent No.8 submit that as notification dated 24.09.2021 issued by State Government, State Authority till the constitution of District Authority can conduct inquiry against Officers upto the rank of Inspector. Till date District Police Complaint Authority has not been constituted, thus, inquiry was conducted by State Police Complaint Authority.

7. I have heard the arguments and perused the record.

8. From the perusal of Sections 65 and 68C of 2007 Act, it is quite evident that State Police Complaint Authority has power to inquire into complaints against officers holding rank of DSP or above whereas District Police Complaint Authority has power to inquire complaints against personnel upto the rank of Inspector. Sections 65 and 68C of 2007 Act are reproduced as below:-



"Functions of Authority-

65(1) The Authority shall inquire into allegations of serious misconduct against police personnel of the rank of Deputy Superintendent of Police and above as detailed below, either suo motu or on a complaint received from,-

(a) a victim or any person on his behalf on a sworn affidavit; or

(b) the National or State Human Rights Commission.

Explanation.- "serious misconduct" for the purpose of this Chapter shall mean any act or omission of a police officer that leads to or amounts to –

(a) rape or attempt to commit rape;

(b) death in police custody;

(c) grievous hurt;

(d) custody or detention without due process of law;

(e) extortion;

(f) acquiring property through coercion ;

(g) involvement of police personnel in organized crime;

(h) inaction by police official in any offence as defined in 'the Indian Penal Code, 1860(45 of 1860) which attracts minimum punishment of ten years or more:

Provided that the Authority shall inquire into a complaint of such arrest or detention, only if it is satisfied prima facie about the veracity of the complaint:

Provided further that no anonymous, synonymous and pseudonymous complaints shall be entertained.



(2) *The Authority may also inquire into any other case referred to it by the Director General of Police or the State Government.”*

68C. Functions of the District Police Complaint Authority.-

(1) The District Police Complaint Authority shall enquire into allegations of serious misconduct against police personnel upto the rank of Inspectors either suo motu or on a complaint received from,-

(a) a victim or any person on his behalf on a sworn affidavit; or

(b) the National or State Human Rights Commission.

Explanation- "serious misconduct" shall have the same meaning as assigned to it in section 65:

Provided that no anonymous, synonymous, and pseudonymous complaints shall be entertained;

(2) The District Police Complaint Authority shall not enquire into-

(i) any matter where a report under section 173 of the Code of Criminal Procedure, 1973 (2 of 1974) has been filed in an appropriate court;

(ii) any matter pending in National Human Rights Commission/ State Human Rights Commission/ State Commission for Scheduled Castes;

(iii) any matter falling within its jurisdiction after more than one year of its alleged occurrence;

(iv) any matter arising out of use of force by the police authorities in dealing with any unlawful assemble, protest, dharna, blockage of any public passage or disruption of essential services.



(3) The District Police Complaint Authority shall decide the complaints within a period of six months from the date of receipt of the complaint.

(4) The District Police Complaint Authority shall work under the overall control and supervision of the Authority for its proper functioning.

(5) The District Police Complaint Authority shall have powers to make recommendations to the concerned disciplinary authority and it shall take appropriate action thereon.”

9. From the perusal of record and arguments of both sides, it is evident that in the instant case inquiry was conducted by State Police Complaint Authority which as per notification dated 24.09.2021 was competent authority to inquire into complaints against the petitioners. The said notification reads as:-

“ORDER

In pursuance of the provision of sub-section (2) of Section 65 of the Haryana Police Act, 2007, the Governor of Haryana is pleased to order that the allegations of serious misconduct, against police personnel upto the rank of Inspector, which are required to be inquired into by the District Police complaint Authority, under Section 68 (c) (1) of the said Act, shall be inquired into by the State Police Complaint Authority till the District Police Complaint Authority is constituted for one or more Districts in the State of Haryana.

(RAJEEV ARORA, IAS)

Dated, Chandigarh the

*Additional Chief Secretary to
Government, Haryana*

24th September 2021

Home Department.”



10. In view of the above notification, contention of petitioners that State Authority was incompetent to conduct inquiry is mis-conceived. There is substance in the argument of petitioners while they assert that police report under Section 173 Cr.P.C. has been filed with respect to incident occurred on 3/4th June' 2023. Trial Court is seized of the matter. As per Section 68C(2)(i), Authority could not enquire into any matter because report under Section 173 Cr.P.C. has been filed.

11. The Disciplinary Authority is not bound by recommendations of State or District Police Complaint Authority. The Disciplinary Authority may act upon any complaint received from any source. The source of information may or may not be recommendations of State/District Police Complaint Authority. A complainant/victim may directly approach Disciplinary Authority with respect to his grievances. The Punjab Police Rules, 1934 (as made applicable to the State of Haryana) specifically permit Disciplinary Authority to initiate proceedings either *suo moto* or on the basis of complaint lodged by anyone. Thus, proceedings initiated by Disciplinary Authority cannot be set at naught on the ground that proceedings were initiated on the basis of recommendations of State Authority.

12. In the backdrop, it is hereby held that Disciplinary Authority would be at liberty to proceed against petitioners without being influenced by observations/recommendations of State Police Complaint Authority. During the pendency of petition, as per statement of petitioners, suspension orders have been recalled. They would not be placed under suspension on the sole ground that instant petition stands disposed of with liberty to respondents to proceed with inquiry.



13. Disposed of.

02.07.2025
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
Yes