

Court No. - 2

Case :- MISC. BENCH No. - 25848 of 2021

Petitioner :- Piyush Shrivastava (In Person) & Ors.

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. & Ors.

Counsel for Petitioner :- Piyush Shrivastava, Shailendra Kumar Misra, Suchita Singh

Counsel for Respondent :- C.S.C., Arvind Kumar, Subhash Chandra Pandey

Hon'ble Rakesh Srivastava, J.

Hon'ble Shamim Ahmed, J.

In pursuance of the order dated 30.11.2021 passed by this Court Shri Somen Verma, Deputy Commissioner of Police, West Zone, Lucknow, Shri Raj Kishore Pandey, Station House Officer, Police Station Wazirganj, Lucknow and Shri Tej Prakash Singh, Investigating Officer, are present.

Report submitted by the Deputy Commissioner of Police as well as the supplementary affidavit dated 29.11.2021 filed today, are taken on record.

We have perused the report submitted by the District Judge earlier, from which it appears that in the case regarding misbehaviour with the Chief Judicial Magistrate, Smt. Sandhya Srivastava, a charge sheet was submitted in the year, 2017. However, charges have not been framed, which is not a happy situation. We expect that the District Judge, Lucknow shall submit a fresh report as to what steps have been taken to procure the attendance of the accused and whether process has been served or not.

It further appears that a large number of cases are pending in which advocates are accused. We would like to know from the District Judge as to how many cases are pending against advocates. The District Judge will also submit his report giving the status of trial by the next date in a sealed cover.

In the report submitted by the District Judge there is no mention of the reference, if any, made by Smt. Sandhya Srivastava, Chief Judicial Magistrate.

The District Judge shall also inform as to whether any reference was made by Smt. Sandhya Srivastava, the said Chief Judicial Magistrate, and if so, its status.

Needless to say that any obstruction in the Courts of justice construed as contempt of courts. As such, if a complaint regarding activities causing obstruction in the administration of justice is made, then it being a statutory reference, cannot be withheld at the level of the District Judge. It is for the High Court to take an appropriate decision thereon.

We have perused the report submitted by the Deputy Commissioner of Police, Shri Somen Verma.

Shri Verma prays for and is granted two weeks further time to complete the investigation and submit a status report by the next date fixed.

In the supplementary affidavit dated 29.11.2021 filed by Shri Piyush Srivastava today, it has been stated that a Community Center constructed by the Lucknow Development Authority was demolished by the same set of lawyers and a first information was lodged on 04.10.2021, but till date no arrest has been made.

The supplementary affidavit further makes reference to an FIR which has been lodged by Ms. Suman Lata against some advocates, which included offence under the provisions of the Scheduled Castes and Scheduled Tribes(Prevention of Atrocities) Act, 1989, but no concrete steps have been taken in the matter.

It is stated that the advocates misbehaved with the police personnel of Kushi Nagar as well. It is informed that the advocates involved in the said incident have been identified and some of them are involved in the episode before us.

We would like to know the action taken by the police on these FIRs.

It has been brought to our notice that a large number of cases are pending against advocates, but nothing material is being done when it comes to investigation in such matters. We are informed that several advocates are indulging in land grabbing, money laundering and other anti-social activities and taking advantage of their robe to go scot free.

It appears that the police feels apprehensive when it comes to making arrests in matters pending against advocates, and either submits a charge sheet without accessing them or submits a final report. If advocates are permitted to indulge in violence then maintenance of peace in the society would become an impossibility. Advocates are the officers of the Court and a few black sheep cannot be allowed to tarnish the image of the entire profession.

It appears that an organized group of advocates is indulging in extortion, money laundering, blackmailing and is creating difficulty in law and order in the court campus, which is difficult to countenance.

Such a state of affairs, wherein the rule of law stands hijacked by a few anti-social elements, cannot be allowed to continue.

In the circumstances, the Police Commissioner is directed to file his personal affidavit stating the details of all those cases which have been registered against advocates along with the status of investigation and trial in District Lucknow.

The Police Commissioner will also revisit the cases in which the final report has been submitted and if it is found that there was some laxity in investigation and all the witnesses do not come forward due to fear of the accused persons, it would be open to him to order further investigation in accordance with law.

The officers who have appeared today shall appear again on the date fixed.

List on 13.12.2021 for further hearing.

The Senior Registrar is directed to communicate this order to the District Judge, Lucknow and Commissioner of Police, Lucknow.

Order Date :- 30.11.2021

Mustaqeem

(Shamim Ahmed, J.) (Rakesh Srivastava, J.)