

PETITIONER:  
KIRAN BEDI & ORS.

Vs.

RESPONDENT:  
COMMITTEE OF INQUIRY & ANR.

DATE OF JUDGMENT 18/08/1988

BENCH:  
VENKATARAMIAH, E.S. (J)  
BENCH:  
VENKATARAMIAH, E.S. (J)  
DUTT, M.M. (J)  
OJHA, N.D. (J)

CITATION:  
1988 AIR 2252                      1988 SCR Supl. (2) 518  
1988 SCC (4) 49                  JT 1988 (3) 372  
1988 SCALE (2) 272  
CITATOR INFO :  
R                  1989 SC 714 (6,16,26,41,46, TO 49)

ACT:  
Commissions of Inquiry Act, 1952/Commissions of Inquiry (Central) Rules, 1972: Sections 8B, 8C/Rule 5(5) (a)-Committee of Inquiry-Examination of witnesses-Delhi Administration directed to examine its witnesses first-Right of cross-examination-Some of the similarly placed persons to be cross-examined in the beginning and others at the end of the inquiry is discriminatory-Non-issuance of notice by Committee to a person makes no difference if that person satisfies the statutory conditions.

HEADNOTE:

A Committee consisting of Goswamy and Wadhwa, JJ. was constituted on 23rd February, 1988 to inquire into certain incidents involving lawyers and police officers, which took place in January, 1988.

Pursuant to this Court's order dated 2.6.88 to reconsider the whole question relating to the order in which the witnesses had to be examined, the Committee issued an order on 29.6.88 on the basis of which notices under Sec. 8B were issued to three other officers, but not to the petitioners. It was directed by the Committee that the petitioners be cross-examined at the beginning of the inquiry. On their refusal, the Committee directed the filing of a complaint against them for an offence punishable under Section 178 IPC. Pursuant to the complaints filed on behalf of the Committee, criminal proceedings were initiated against the petitioners before the Metropolitan Magistrate.

Against the above directions and complaints by the Committee, the petitioners have approached this Court by way of the present Writ Petitions/Special Leave Petitions.

The petitioners submitted that they did not either wish to delay the proceedings or to show disrespect to the Committee, but only wanted to protect their own interest in making the submission before the Committee as per the legal advice given to them.

Quashing the orders of the Committee directing the filing of the

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complaints and the criminal proceedings initiated against the petitioners before the Metropolitan Magistrate pursuant to the complaints, this Court,

HELD: 1. The Delhi Administration has to examine first all its witnesses as required by Rule 5(5)(a) of the Commissions of Inquiry (Central) Rules, 1972 framed under the Commissions of Inquiry Act, 1952. Even those witnesses who may have filed affidavits already may first be examined in chief before they are cross-examined. The question whether a party has the right of cross-examination or not shall be decided by the Committee in accordance with Sec. 8C of the Act. This direction does not apply to those witnesses falling under Sec. 8B of the Act, who have to be examined at the end of the inquiry as opined by the Committee itself. [520F-H]

2.1. The petitioners are persons who fall under Sec. 8B of the Act and have to be dealt with accordingly. [522A-B]

2.2 If the three persons to whom notices under Sec. 8B have been issued are to be examined even according to the Committee at the end of the inquiry there is no justifiable reason to deny the same treatment to the petitioners who are in the same position as those three persons. The action of the Committee in asking them to be cross-examined at the beginning of the inquiry appears to be discriminatory. Mere non-issue of notices to them under Sec. 8B ought not to make any difference if they otherwise satisfy the conditions mentioned in Sec. 8B. The issue of such a notice is not contemplated under Sec. 8B of the Act. It is enough if at any stage the Commission considers it necessary to inquire into the conduct of any person. Such person would thereafter be governed by Sec. 8B of the Act. [522E-G]

3. The Committee should not have, in the circumstances of the case, directed the filing of a complaint against either of the petitioners for an offense punishable under Sec. 178 IPC. [523C, D]

[For Judgment containing the reasons for this order, please see Sec (1989) 1 SCR p. 20.]

#### JUDGMENT:

ORIGINAL/CIVIL APPELLATE JURISDICTION: Writ Petition No. 626 of 1988 etc. etc.

(Under Article 32 of the Constitution of India)

G.Ramaswamy, Additional Solicitor General, S. Murlidharan, A.D.N. A. Subba Rao and Krishan Kumar for the Petitioners.

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Kuldip Singh, Additional Solicitor General, K.K. Venugopal, Kapil Sibbal, Lal Chand, C.S. Vaidyanathan, H.S. Phoolka, N.S. Das, Rajiv Khosla, P. Tripathi, Kailash Vasdev, Miss A. Subhashini, Harish Salve and Ravinder Sethi for the Respondents.

The following Order of the Court was delivered:

#### ORDER

VENKATARAMIAH, J. It is unfortunate that this case has arisen between lawyers and police who are both guardians of law and who constitute two important segments of society on whom the stability of the country depends. It is hoped that cordiality between the two sections will be restored soon.

In order to avoid any further delay in the proceedings before the Committee consisting of Goswamy and Wadhwa, JJ., constituted by Order dated 23rd February, 1988 to enquire

into certain incidents which took place on the 15th January, 1988, 21st January, 1988 and 17th February, 1988, we pass the following order now but we shall give detailed reasons in support of this order in due course.

The order is as under:

1. This order is passed on the basis of the material available on record, the various steps already taken before the Committee and other peculiar features of the case.

2. The Delhi Administration has to examine first all its witnesses as required by Rule 5(5)(a) of the Commissions of Inquiry (Central) Rules, 1972 (hereinafter referred to as 'the Rules') framed under the Commissions of Inquiry Act, 1952 (hereinafter referred to as 'the Act'). Even those witnesses who may have filed affidavits already may first be examined-in-chief before they are cross-examined, since it is stated that when the affidavits were filed the deponents did not know what the other parties who have also filed affidavits had stated in their affidavits. The question whether a party has the right of cross-examination or not shall be decided by the Committee in accordance with section 8-C of the Act. In the facts and circumstances of the case to which reference will be made hereafter this direction issued to the Delhi Administration to examine its witnesses first as provided by rule 5(5)(a) of the Rules referred to above does not apply to those witnesses falling under section 8-B of the Act, who have to be examined at the end of the inquiry as opined by the Committee itself.

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3. We have gone through the several affidavits and other material placed before the Committee and also the Interim Report dated 9.4.88 passed by the Committee. In para 13 of the Interim Report the Committee has observed thus:

"During the course of the inquiry, we have to examine the conduct of various police officers and others and particularly, as the record shows, of the D.C.P. (North), Addl. D.C.P. (North), S.H.O., P.S. Samepur (Badli) and S.I. Incharge Police Post, Tis Hazari and S.I., Samepur (Badli)."

In para 14 of the Interim report it is observed:

"Lawyers have seriously urged that this Committee should send a report recommending suspension of the D.C.P. (North) Ms. Kiran Bedi"

Ultimately the Committee recommended the transfer of the petitioners in these cases, namely, Ms. Kiran Bedi, D.C.P. (North) and Jinder Singh S.I. Incharge, 'Police Post, Tis Hazari.

Section 8-B of the Act reads :

"8-B. If, at any stage of the inquiry, the Commission-

(a) considers it necessary to inquire into the conduct of any person ; or

(b) is of opinion that the reputation of any person is likely to be prejudicial affected by the inquiry,

the Commission shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence :

Provided that nothing in this section shall apply where the credit of a witness is being impeached."

In its Interim Report the Committee has unequivocally observed that it had to examine the conduct of various police officers, and in particular among others Ms. Kiran Bedi, D.C.P. (North) and Jinder Singh, S. I., Incharge Police Post, Tis Hazari.

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Having given our anxious consideration to all the aspects of the case we hold that the petitioners Ms. Kiran Bedi and Jinder Singh are persons who fall under section 8-B

of the Act and have to be dealt with accordingly.

4. According to the Committee's own opinion formed in the light of the facts and circumstances of the case, all those persons to whom notices under section 8-B of the Act are issued have to be examined at the end of the inquiry. This is obvious from the order of the Committee passed on 29.6.88 after it was asked by this Court by its order dated June 2, 1988 to reconsider the whole question relating to the order in which the witnesses had to be examined in the case. In its order dated 29.6.88 the Committee has observed thus:

"Without going into the controversy if Rule 5(5) is an independent Rule or is governed by section 8-B and 8-C of the Act, we would direct that in the circumstances of the case three persons namely, the Additional Commissioner of Police (Special Branch), D.C.P. (Traffic) and Mr. Gopal Das Kalra, SI to whom notices under section 13-B of the Act have been issued be examined at the end of the inquiry."

If three persons referred to above to whom notices under section 8-B have been issued are to be examined even according to the Committee at the end of the inquiry there is no justifiable reason to deny the same treatment to the petitioners Ms. Kiran Bedi and Jinder Singh who are in the same position as those three persons. The action of the Committee in asking them to be cross-examined at the beginning of the inquiry appears to us to be discriminatory. Mere non issue of notices to them under section 8-B ought not to make any difference if they otherwise satisfy the conditions mentioned in section 8-B. The issue of such a notice is not contemplated under section 8-B of the Act. It is enough if at any stage the Commission considers it necessary to inquire into the conduct of any person. Such person would thereafter be governed by section 8-B of the Act. The Committee should have considered whether the petitioners were entitled to be treated as persons governed by section 8-B of the Act before asking them to get into the witness box for being cross-examined. If the Committee had found that the petitioners were covered under section 8-B then perhaps they would not have been asked to get into the witness box for being cross-examined till the end of the inquiry. The Committee would have then asked them to give

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evidence along with others who were similarly placed at the end of the inquiry.

On behalf of both the petitioners it is submitted that they did not either wish to delay the proceedings or to show disrespect to the Committee but only wanted to protect their own interest by making the submission which they made before the Committee as per legal advice given to them.

This is not a case where the circumstances in which the several incidents that had taken place were not known to anybody else. The affidavits and other material before the Committee show that there were a large number of persons who were eye-witnesses to the incidents and why could give evidence before the Committee.

Taking into consideration all the aspects of the case we feel that the Committee should not have in the circumstances of the case directed the filing of a complaint against either of the petitioners for an offence punishable under section 178 I.P.C.

In view of the foregoing we feel that the orders of the Committee directing the filing of the complaints and the criminal proceedings initiated against the petitioners before the Metropolitan Magistrate pursuant to the complaints filed on behalf of the Committee should be

quashed and we accordingly quash the said orders of the Committee and also the criminal proceedings.

A judgment containing the reasons for this order will follow.

Before concluding this order we record the statement made by Shri Kuldip Singh, learned Additional Solicitor General appearing for the Delhi Administration that the Delhi Administration and its police officers will fully cooperate with the Committee so that the Committee may complete its work as early as possible. We also record the statement made by Shri G. Ramaswamy, learned Additional Solicitor General that he and his clients, the petitioners in this case hold the Committee in great respect and that they never intended to show any kind of discourtesy to the Committee. He also expresses apology for using one or two strong words against the Committee in the course of the arguments in this Court.

