IN THE SUPREME COURT OF INDIA

**CIVIL ORIGINAL JURISDICTION**

##### **WRIT PETITION (CIVIL) NO. \_\_\_\_\_\_ OF 2018**

**( WITH PRAYER FOR INTERIM RELEIF)**

**IN THE MATTER OF:-**

**Kamlakar Ratnakar Shenoy ..Petitioner**

**Versus**

**State of Maharashtra & Ors. ...Respondents**

**PAPER BOOK**

**KINDLY SEE INSIDE FOR INDEX**

**WITH**

**I.A NO. of 2018**

**AN APPLICATION FOR GRANT OF INTERIM RELIEF**

**ADVOCATE FOR PETITIONER: KUNAL CHEEMA**

**PROFORMA FOR FIRST LISTING**

SECTION**:**

The case pertains to (Please tick/check the correct box):

D Central Act: (Title): **N.A**

Section: : **N.A**

Central Rule: (Title) :**N.A**

Rule No(s): : **N.A**

State Act: (Title): **N.A**

Section:

State Rule: (Title): **N.A**

Rule No(s): **N.A**

Impugned Interim Order: (Date) : **N.A**

Impugned Final Order/Decree : **N.A**

High Court : (Name) :**N.A**

Names of Judges: :**N.A**

Tribunal/Authority: (Name): **N.A**

1. Nature of matter : Civil Criminal

2. (a) Petitioner/appellant No.1: **Kamlakar Ratnakar Shenoy**

(b) e-mail ID: : **shenoykr2001@yahoo.co.in**

(c) Mobile phone number : **9870987359**

3. (a) Respondent No.1 : **State of Maharashtra**

(b) e-mail ID: **N.A**

(c) Mobile phone number: **N.A**

4. (a) Main category classification: **\_\_\_**

(b) Sub classification: **\_\_\_\_\_**

5. Not to be listed before: **N.A**

6. Similar/Pending matter: **Writ Petition (Civil) No. 310 of 1996**

7. Criminal Matters:-

(a)Whether accused/convict has surrendered: **N.A** Yes No

(b) FIR No. : **N.A**  Date:  **N.A**

(c) Police Station: **N.A**

(d) Sentence Awarded: **N.A**

(e) Sentence Undergone: **N.A**

8. Land Acquisition Matters: **N.A**

(a) Date of Section 4 notification: **N.A**

(b) Date of Section 6 notification: **N.A**

(c) Date of Section 17 notification: **N.A**

9. **Tax Matters:** State the tax effect: **N.A**

10. **Special Category** (first petitioner/appellant only):**N.A**

Senior citizen > 65 years SC/ST Woman/child

Disabled Legal Aid case In custody

11. Vehicle Number (in case of Motor Accident Claim

matters): **N.A**

12. Decided cases with citation:

**Date: AOR for petitioner(s)/appellant(s)**

**(Name) : Kunal Cheema**

**Registration No.: 2250**

**Email:** [**kunalcheema@gmail.com**](mailto:kunalcheema@gmail.com)

**Cell No. 9811787578**

**I N D E X**

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**SYNOPSIS**

* The present Writ Petition is filed for a Writ of Mandamus qua the Respondent no.1 i.e State of Maharashtra and Respondent no.2 i.e Union Public Service Commission to immediately comply with the mandatory direction issued almost 12 years back by this Hon’ble Court, regarding procedure for selection of the Director General of Police for the State, passed by this Hon’ble Court in the case of Prakash Singh & others vs. Union of India and others (reported in (2006) 8 SCC 1) and further a Writ of Prohibition qua the Respondent No.1 and Respondent no.3 to immediately and for future desist in any further violation of the said mandatory direction.
* The Petitioner submits that, the Petitioner is constrained to approach this Hon’ble Court since the actions and/or in actions of the Respondents, as set out hereinbelow, are resulting in violation of Article 14 and Article 21 of the Constitution of India. The Petitioner submits that, when the governance by the State is not in accordance with law and discriminatory, the fundamental rights of equality and life of the citizens of this Country are violated. Furthermore, the Prakash Singh’s Case is still pending before this Hon’ble Court, wherein orders are being passed.
* It is submitted that, in the celebrated Judgment dated 22.09.2006 passed in Prakash Singh’s (case) i.e Writ Petition (Civil) No. 310 of 1996 concerning *“Police Reforms”*, in one of the directions, this Hon’ble Court was pleased to direct the following:

*“(2) The Director General of Police of the State shall be selected by the State Government from amongst the three seniormost officers of the Department who have been empanelled for promotion to that rank by the Union Public Service Commission on the basis of their length of service, very good record and range of experience for heading the police force. And, once he has been selected for the job, he should have a minimum tenure of at least two years irrespective of his date of superannuation. The DGP may, however, be relieved of his responsibilities by the State Government acting in consultation with the State Security Commission consequent upon any action taken against him under the All India Services (Discipline and Appeal) Rules or following his conviction in a court of law in a criminal offence or in a case of corruption, or if he is otherwise incapacitated from discharging his duties.”*

* It is pertinent to mention here that, recently, while hearing an I.A No. 25307 of 2018, filed in Writ Petition © No. 310 of 1996 seeking modification of the Judgment of this Hon’ble Court, this Hon’ble Court vide order dated 03.07.2018 was pleased to observe as follows *(only relevant portion reproduced for brevity)* :-

*“xxxxxxxxxxxxxx It is submitted by Mr. K. K. Venugopal, learned Attorney General, that out of 29 States, only 5 States, namely, the States of Karnataka, Tamil Nadu, Telangana, Andhra Pradesh and Rajasthan have approached the Union Public Service Commission for empanelment. The other States have not followed the direction. It is further urged by him that some of the States are adopting a method of appointing acting Director Generals of Police whereas such a concept is not perceptible from an analysis of the decision in Prakash Singh’s case (supra). We have also been apprised by Mr. Venugopal that some Director Generals of Police are initially appointed on acting basis and thereafter, they are made permanent just before the date of their superannuation as a consequence of which they continue till the age of 62 years….xxxxx*

*xxxxxxxxx….. Having heard learned counsel for the parties, we pass the following directions:*

*(a) All the States shall send their proposals in anticipation of the vacancies to the Union Public Service Commission, well in time at least three months prior to the date of retirement of the incumbent on the post of Director General of Police;*

*(b) The Union Public Service Commission shall prepare the panel as per the directions of this Court in the judgment of Prakash Singh’s case (supra) and intimate to the States;*

*(c) The State shall immediately appoint one of the persons from the panel prepared by the Union Public Service Commission;*

*(d) None of the States shall ever conceive of the idea of appointing any person on the post of Director General of Police on acting basis for there is no concept of acting Director General of Police as per the decision in Prakash Singh’s case (supra).*

*(e) An endeavour has to be made by all concerned to see that the person who was selected and appointed as the Director General of Police continues despite his date of superannuation. However, the extended term beyond the date of superannuation should be a reasonable period. We say so as it has been brought to our notice that some of the States have adopted a practice to appoint the Director General of Police on the last date of retirement as a consequence of which the person continues for two years after his date of superannuation. Such a practice will not be in conformity with the spirit of the direction.*

*(f) Our direction No. (c) should be considered by the Union Public Service Commission to mean that the persons are to be empanelled, as far as practicable, from amongst the people within the zone of consideration who have got clear two years of service. Merit and seniority should be given due weightage.*

*(g) Any legislation/rule framed by any of the States or the Central Government running counter to the direction shall remain in abeyance to the aforesaid extent.*

*The present directions shall be followed scrupulously by the Union of India and all the States/Union Territories. If any State Government/Union Territory has a grievance with regard to these directions, liberty is granted to them to approach this Court for modification of the instant order.”*

*(Emphasis supplied by petitioner)*

**FACTS & SUBMISSIONS IN BRIEF:**

* In the aforesaid background, the Petitioner desires to place on record the recent turn of events regarding the appointment of the present Director General of Police of the State of Maharashtra Mr. M. Padsalgikar. (hereinafter referred to as the “current DGP”).
* It is humbly submitted that the Petitioner has no grievance against any particular person and this petition is only to see that the mandate of the law, as laid down by this Hon’ble Court is followed.
* It is submitted that, barley two month prior to retirement, the current DGP, came to be appointed as DGP for State of Maharashtra, on 30.06.2018. He was to retire on 31.08.2018. If the order dated 03.07.2018 passed by this Hon’ble Court is perused carefully, it is clear that the current DGP was not appointed from any panel formed by the Respondent no.2, since it has been recorded therein that onlyout of 29 States, only 5 States, namely, the States of Karnataka, Tamil Nadu, Telangana, Andhra Pradesh and Rajasthan have approached the Union Public Service Commission for empanelment. The other States have not followed the direction. The Petitioner submits that, thus the appointment is clearly in violation of the mandate of this Hon’ble Court in the Prakash Singh’s Judgment. (supra).
* In the meanwhile, the Respondent no.1 had also sought extension of the tenure of the current DGP under the All India Service (DCR) Rules, 1958 from the Respondent no.3 i.e Union of India .
* That vide recent notification dated 28.08.2018, issued by the Respondent no.3, the current DGP has been granted extension for a period of three months in relaxation of Rule 16(1) of All India Service (DCR) Rules, 1958 and therefore he continues to be the DGP for the Respondent no.1 until end of November 2018.
* However, the aforesaid actions of the Respondent no.1 are totally contrary to the directions of this Hon’ble Court in the Prakash Singh’s Case read with the recent order dated 03.07.2018. That, in spite of the directions of this Hon’ble Court, the Respondent no.3 has acceded to the request of the respondent no.1 for extending the tenure.
* That from the submission of the learned Attorney General, as recorded in the order dated 03.07.2018, it is also clear that, the Respondent no.1 & Respondent no.3 have till date not complied with the directions of this Hon’ble Court regarding timely formation of panel for selection of the DGP for the State. That it is imperative that the same be done immediately.
* It is submitted that the purported reason stated in the order dated 28.08.2018 issued by the Respondent no.3 is “public interest”. However, no reason whatsoever has been given by Respondents Nos. 1 and 3 for wilfully overlooking the orders passed by this Hon’ble Court.
* It is further submitted that aforesaid actions of the said Respondents are in complete contravention to Article 144 of the Constitution of India. Article 144 reads as under:

*“144. All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.”*

* That despite such clear mandate set out under the Constitution of India, Respondents Nos.1 and 3 have passed the aforesaid orders. It is submitted that, prima facies the act of Respondent Nos. 1 and 3 are not only illegal but contemptuous.
* It is submitted that from the newspaper articles circulating it appears that Respondent No. 1 had other motives for seeking extension of service of present DGP. It has been widely reported that in order to ensure that one senior most IPS officer after the present DGP, remains as Commissioner of Police, Mumbai, the said move seeking extension of service of present DGP was orchestrated. It is submitted that such a consideration cannot be a valid one while seeking extension of service or appointing any officer to the post of DGP. A move with such an intention is violative of the Judgment in Prakash Singh’s case and the procedure established by law to appoint an Officer to the post of DGP.
* The question then arises is that whether such a consideration can be said to be in public interest? It is reiterated that the reason given by Respondent No. 3 while approving the extension of service of present DGP is public interest. However, Respondent No. 1 and 3 have failed to demonstrate how the extension of service of Respondent No. 2 would be in public interest.
* Hence the present Writ Petition has been filed.

**LIST OF DATES**

22.09.2006 This Hon’ble Court was pleased to pronounce the Judgement in the Prakash Singh and others vs. Union of India and others i.e Writ Petition © No. 310 of 1996 reported in (2006) 8 SCC 1.

30.06.2018 Mr. D.D Padsalgikar, was appointed as Director General of Police, State of Maharashtra.

03.07.2018 This Hon’ble Court was pleased to pass the order dated 03.07.2018 wherein this Hon’ble Court was pleased to issue further directions in aid of the directions issued in the Prakash Singh’s case (supra).

06.07.2018 An article reported in the Time of India on 06.07.2018, that the Appointment of the present DGP raises questions after the order of this Hon’ble Court.

18.08.2018 A local daily, Mumbai Mirror reports on 18.08.2018 that the Respondent no.1 wants extension of the present DGP, who is stated to retire on August 30. It reports that, according to highly placed sources, this move will facilitate a longer term for the present Commissioner of Police, Mumbai who was appointed on June 30. That he is the second senior most officer in DG rank and will, therefore, have to be promoted as state DG if Mr. Padsalgikar retires as per his superannuation on 31st August 2018.

28.08.2018 Respondent No. 3 vide Order No. 6/26/2018-EO(SM-1) dated 28.08.2018 approved the proposal for extension in service of present DGP for a period of three months beyond the date of his superannuation i.e. 31.08.2018, in relaxation of Rule 16(1) of All India Service (DCR) Rules, 1958, purportedly in public interest.

\_\_.10.2018 Hence the present Writ Petition.

**IN THE SUPREME COURT OF INDIA**

**[CIVIL ORIGINAL JURISDICTION]**

**WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2018**

**(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA**)

**IN THE MATTER OF:**

Kamlakar Ratnakar Shenoy

B/903, Vaishali apt,

Motisha (Love) Lane,

Opp. Telephone Exchange,

Mazgaon, Mumbai-400010

Maharashtra …….PETITIONER

VERSUS

1. State of Maharashtra,

through Principal Secretary,

Department of Home,

Having address at

Mantralaya, Madam Cama Road,

Nariman Point, Mumbai-400032, Maharashtra.

1. Union Public Service Commission,

Through Chairman,

Having office at Dholpur House,

Shahjahan Road, New Delhi -110069

1. Union of India

Through Ministry of Home Affairs,

Though Home Secretary,

Having address at North Block,

New Delhi-110001 ….RESPONDENTS

**ALL ARE CONTESTING RESPONDENTS**

**WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA FOR A WRIT OR ORDER IN THE NATURE OF MANDAMUS FOR COMPLIANCE OF THE DIRECTIVES REGARDING PROCDURE FOR APPOINTMENT OF DGP’s ISSUED BY THIS HON’BLE COURT VIDE ORDER DATED 22.09.2006 AND 03.07.2018 IN WRIT PETITION ( C) NO. 310 OF 1996.**

TO,

THE HON’BLE CHIEF JUSTICE OF INDIA,

AND HIS LORDSHIP’S COMPANION JUSTICES OF THE HON’BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE PETITIONER ABOVE NAMED:

**MOST RESPECTFULLY SHEWETH:-**

1. The present Writ Petition is filed for a Writ of Mandamus qua the Respondent no.1 i.e State of Maharashtra and Respondent no.2 i.e Union Public Service Commission to immediately comply with the mandatory direction issued almost 12 years back by this Hon’ble Court, regarding procedure for selection of the Director General of Police for the State, passed by this Hon’ble Court in the case of Prakash Singh & others vs. Union of India and others (reported in (2006) 8 SCC 1) and further a Writ of Prohibition qua the Respondent No.1 and Respondent no.3 to immediately and for future desist in any further violation of the said mandatory direction.

1A. That the Petitioner has not approached either the

Respondent no.1, No.2 or Respondent no.3 for the

reliefs sought for in the petition.

1. The Petitioner submits that Petitioner is a public-spirited citizen and the Petitioner has no personal interest in the issue raised in the present Petition.
2. The Petitioner is a public-spirited citizen. The details as per requirement of Order XXXIX Rule 12 (2) of the Supreme Court Rules, 2013 are as follows in Tabular form: -

|  |  |
| --- | --- |
| Full Name | Kamlakar Ratnakar Shenoy |
| Postal Address | B/903, Vaishali apt, Motisha (Love) Lane, Opp. Telephone Exchange, Mazgaon, Mumbai-400010, Maharashtra |
| Email add. | shenoykr2001@yahoo.co.in |
| Phone No. | 9870987359 |
| Occupation: | Hotel Business |
| PAN number | AACPS7374K |
| Aadhar Nr. | 558001983770 |
| Annual Income | Around 10 lacs |

NATURE OF INJURY:

1. The Petitioner submits that, the Petitioner is constrained to approach this Hon’ble Court since the actions and/or in actions of the Respondents as set out hereinbelow are resulting in violation of Article 14 and Article 21 of the Constitution of India. The Petitioner submits that, when the governance by the State is not in accordance with law as laid down by parliament and/or as interpreted by this Hon’ble Court and binding as per Article 141 of the Constitution of India r/w Article 144 and same therefore being discriminatory, the fundamental rights of the citizens of this Country, are violated. The Petitioner, submits that this Hon’ble Court while issuing the directions regarding laying down a fair procedure for appointment of DGP’s by State Governments in the Judgment of Prakash Singh (supra) has issued the same on the touchstone of the fundamental right of equality and fairness guaranteed under Article 14 of the Constitution of India. Thus, when the State Authorities are slow/slack in implementing the same, the same results in injury to the citizens of the country, as then there is inequality which creeps in thereby violating Article 14 of the Constitution and the right to life as well, guaranteed under Article 21 of the Constitution of India.

DETAILS REGARDING CIVIL, CRMINAL OR REVENUE LITIGATION:

1. The Petitioner is a public-spirited citizen and there is no personal gain or private motive or oblique reason for filing the present writ petition in public interest. The details of some of the public issues taken by the Petitioner before the Hon’ble High Court of Judicature at Bombay and before this Hon’ble Court are set out hereinbelow: -
2. PIL (L) No. 141 of 2015 filed before Bombay High Court regarding irregularities in demolition of Hancock bridge and Carnac bridge in Mumbai and for providing of Foot Over Bridge and alternative arrangement for crossing the railway line. The same has been disposed of vide order dated 23.04.2018, since alternate option given by railways to use foot over bridge and directions to construct the Hancock Bridge were also issued. Being aggrieved, the Petitioner had preferred SLP © No. 14984 of 2018, which came to be dismissed vide order dated 03.07.2018.
3. Filed PIL No. 28 of 2017 before the Bombay High Court regarding Rs. 20,000/- Crores fraudby MHADA and developers by not surrendering 1.98 lacs Sq. Mtrs of area to MHADA, thereby depriving the needy citizens of 10000 houses. The Petitioner submits that, after investigation the amount may go up to 4 Lakh crores.PIL is pending.Criminal prosecutions initiated by ACB after PIL was filed and enquiry is on.
4. The Petitioner, has also been pursuing as an impleader in a matter against the BEST, Mumbai regarding the illegally collecting Transport Losses from Electricity Consumers. This Hon’ble Court has in Civil appeal 10488 of 2014 arising out of Appeal 155 of 2013 passed by appellate Tribunal for Electricity at New Delhi issued interim directions to BEST to stop collecting the said charges and the issue regarding refund of the amount of about 3,600 crores collected in past four years prior to the interim order, has been referred to a bench of three judges, which is pending.
5. The Petitioner has also played an active role by sending representation to PMO offices for reducing the GST levied on eating houses catering to common man to 5% from 18%.
6. The Petitioner has filed PIL No. 16 of 2018 before the Hon’ble Bombay High Court against Municipal Commissioner of Mumbai Municipal Corporation Mr. Ajoy Mehta for calling RTI activists as an extortionist. The said PIL is pending.
7. The Petitioner had also opposed the circular dt. 1.7.2017 issued by the present DGP, who was then the Commissioner of Police, Mumbai, requiring to forward all complaints in Slum Rehabilitation Authority (SRA) matters to SRA. After meeting him on 10.7.2017, it was amended on 15.7.17 to the extent that it should be in accordance with provision of Cr.P.C.
8. The Petitioner has also filed before Hon. Bombay High Court a PIL (lodging no. 93 of 2018) against the recent order passed by Hon. Maharashtra Electricity regulatory Commission (MERC) wherein it has been deciding to stop video recording of the future proceedings and destroying of all video and audio recordings of earlier proceedings. The same is also pending.
9. The petitioner submits that, the Petitioner is having a small family business of eating house in Mumbai. The advocates appearing for Petitioner appear pro-bono as the Petitioner’s cause is in public interest. The Petitioner is a public-spirited citizen and all issues which the Petitioner canvasses are in public interest.
10. **FACTS CONSTITUTING CAUSE OF ACTION:**
11. That on 22.09.2006 this Hon’ble Court was pleased to pronounce the Judgement in the Prakash Singh and others vs. Union of India and others i.e Writ Petition © No. 310 of 1996 reported in, (2006) 8 SCC 1, issuing certain directions in respect of the administration of

the police force of the country. The directions that were issued by this Hon’ble Court were applicable on all the States and the Union of India. This Hon’ble Court was pleased to direct the following:

*“(2) The Director General of Police of the State shall be selected by the State Government from amongst the three seniormost officers of the Department who have been empanelled for promotion to that rank by the Union Public Service Commission on the basis of their length of service, very good record and range of experience for heading the police force. And, once he has been selected for the job, he should have a minimum tenure of at least two years irrespective of his date of superannuation. The DGP may, however, be relieved of his responsibilities by the State Government acting in consultation with the State Security Commission consequent upon any action taken against him under the All India Services (Discipline and Appeal) Rules or following his conviction in a court of law in a criminal offence or in a case of corruption, or if he is otherwise incapacitated from discharging his duties.”*

True copy of the Judgment of this Hon’ble Court in the case of Prakash Singh and others vs. Union of India and others i.e Writ Petition © No. 310 of 1996 reported in (2006) 8 SCC 1, dated 22.09.2006, is annexed herewith and marked as **Annexure P/1 (page nos.\_\_ to \_\_).**

1. That on 30.06.2018 i.e two months prior to superannuation, Mr. D.D Padsalgikar was appointed as Director General of Police, State of Maharashtra, which was totally contrary to the mandate of this Hon’ble Court in Prakash Singh’s case ( supra) .
2. That on 03.07.2018 this Hon’ble Court was pleased to pass the order dated 03.07.2018 wherein this Hon’ble Court was pleased to issue further directions in aid of the directions issued in the Prakash Singh’s case (supra). This Hon’ble Court specifically observed and directed as follows:

*“xxxxxxxxxxxxxx It is submitted by Mr. K. K. Venugopal, learned Attorney General, that out of 29 States, only 5 States, namely, the States of Karnataka, Tamil Nadu, Telangana, Andhra Pradesh and Rajasthan have approached the Union Public Service Commission for empanelment. The other States have not followed the direction. It is further urged by him that some of the States are adopting a method of appointing acting Director Generals of Police whereas such a concept is not perceptible from an analysis of the decision in Prakash Singh’s case (supra). We have also been apprised by Mr. Venugopal that some Director Generals of Police are initially appointed on acting basis and thereafter, they are made permanent just before the date of their superannuation as a consequence of which they continue till the age of 62 years….xxxxx*

*xxxxxxxxx….. Having heard learned counsel for the parties, we pass the following directions:*

*(a) All the States shall send their proposals in anticipation of the vacancies to the Union Public Service Commission, well in time at least three months prior to the date of retirement of the incumbent on the post of Director General of Police;*

*(b) The Union Public Service Commission shall prepare the panel as per the directions of this Court in the judgment of Prakash Singh’s case (supra) and intimate to the States;*

*(c) The State shall immediately appoint one of the persons from the panel prepared by the Union Public Service Commission;*

*(d) None of the States shall ever conceive of the idea of appointing any person on the post of Director General of Police on acting basis for there is no concept of acting Director General of Police as per the decision in Prakash Singh’s case (supra).*

*(e) An endeavour has to be made by all concerned to see that the person who was selected and appointed as the Director General of Police continues despite his date of superannuation. However, the extended term beyond the date of superannuation should be a reasonable period. We say so as it has been brought to our notice that some of the States have adopted a practice to appoint the Director General of Police on the last date of retirement as a consequence of which the person continues for two years after his date of superannuation. Such a practice will not be in conformity with the spirit of the direction.*

*(f) Our direction No. (c) should be considered by the Union Public Service Commission to mean that the persons are to be empanelled, as far as practicable, from amongst the people within the zone of consideration who have got clear two years of service. Merit and seniority should be given due weightage.*

*(g) Any legislation/rule framed by any of the States or the Central Government running counter to the direction shall remain in abeyance to the aforesaid extent.*

*The present directions shall be followed scrupulously by the Union of India and all the States/Union Territories. If any State Government/Union Territory has a grievance with regard to these directions, liberty is granted to them to approach this Court for modification of the instant order.”*

True copy of the order dated 03.07.2018 passed by this Hon’ble Court in W.P. (C) No. 310/1996 is annexed herewith and marked as **ANNEXURE P-2**. (Page to )

1. That an article reported in the Times of India on 06.07.2018, that the Appointment of the present DGP raises questions after the order of this Hon’ble Court.

True copy of the article dated 06.07.2018 published in The Times of India is annexed herewith and marked as **Annexure P-3**. (Page to )

1. A local daily, Mumbai Mirror reported on 18.08.2018 that the Respondent no.1 wants extension of the present DGP, who is stated to retire on August 30. It reported that, according to highly placed sources, this move will facilitate a longer term for the present Commissioner of Police, who was appointed on June 30. That he is the second senior most officer in DG rank and will, therefore, have to be promoted as state DG if Mr. Padsalgikar retires as per his superannuation on 31st August 2018.

True copy of the Newspaper report dated 29.08.2018 published in Mumbai Mirror is annexed herewith and marked as **ANNEXURE P-4**. (Page to )

1. That on 28.08.2018, the Respondent No. 3 vide Order No. 6/26/2018-EO(SM-1) dated 28.08.2018 approved the proposal for extension in service of present DGP for a period of three months beyond the date of his superannuation i.e. 31.08.2018, in relaxation of Rule 16(1) of All India Service (DCR) Rules, 1958, purportedly in public interest.

True copy of the order No. 6/26/2018-EO(SM-1) dated 28.08.2018 issued by Respondent No. 3 is annexed herewith and marked as **ANNEXURE P-5**. (Page to )

1. Hence the present Writ Petition.
2. That since the aforesaid is in contravention of the directions of this Hon’ble Court and since no panel has yet been formed by the Respondent no.1 & 3 as directed by this Hon’ble Court, the present Writ Petition in public interest is being preferred by the Petitioner on the following grounds taken without prejudice to one another.

**GROUNDS**

1. Because the order of appointment of the present DGP and the consequent extension granted is in utter disregard to the law laid down by this Hon’ble Court in Prakash Singh case (supra) and subsequent orders therein.
2. Because this Hon’ble Court was pleased to observe the following in Prakash Singh case (Supra):

*“(2) The Director General of Police of the State shall be selected by the State Government from amongst the three seniormost officers of the Department who have been empanelled for promotion to that rank by the Union Public Service Commission on the basis of their length of service, very good record and range of experience for heading the police force. And, once he has been selected for the job, he should have a minimum tenure of at least two years irrespective of his date of superannuation. The DGP may, however, be relieved of his responsibilities by the State Government acting in consultation with the State Security Commission consequent upon any action taken against him under the All India Services (Discipline and Appeal) Rules or following his conviction in a court of law in a criminal offence or in a case of corruption, or if he is otherwise incapacitated from discharging his duties.”*

1. Because the Respondent No. 1 has failed to comply with the abovementioned mandatory directions laid down by this Hon’ble Court till date. The Respondent No. 1 appointed present DGP just two months prior to the date of superannuation and thereafter sought an erroneous extension of the term by requesting the Respondent No. 3, Union of India to relax the age of superannuation. The Respondent No. 3 vide order dated 28.08.2018 has erroneously extended the term of present DGP by 3 months beyond his date of superannuation i.e. 31.08.2018, in relaxation of Rule 16(1) of All India Service (DCR) Rules, 1958. Such an order has been passed with utter disregard to the orders passed by this Hon’ble Court on 03.07.2018 in the abovementioned case.
2. That this Hon’ble Court vide order dated 03.07.2018 passed in Prakash Singh’s case has observed as follows:-

*“It is submitted by Mr. K. K. Venugopal, learned Attorney General, that out of 29 States, only 5 States, namely, the States of Karnataka, Tamil Nadu, Telangana, Andhra Pradesh and Rajasthan have approached the Union Public Service Commission for empanelment. The other States have not followed the direction. It is further urged by him that some of the States are adopting a method of appointing acting Director Generals of Police whereas such a concept is not perceptible from an analysis of the decision in Prakash Singh’s case (supra). We have also been apprised by Mr. Venugopal that some Director Generals of Police are initially appointed on acting basis and thereafter, they are made permanent just before the date of their superannuation as a consequence of which they continue till the age of 62 years….*

*….. Having heard learned counsel for the parties, we pass the following directions:*

*(a) All the States shall send their proposals in anticipation of the vacancies to the Union Public Service Commission, well in time at least three months prior to the date of retirement of the incumbent on the post of Director General of Police;*

*(b) The Union Public Service Commission shall prepare the panel as per the directions of this Court in the judgment of Prakash Singh’s case (supra) and intimate to the States;*

*(c) The State shall immediately appoint one of the persons from the panel prepared by the Union Public Service Commission;*

*(d) None of the States shall ever conceive of the idea of appointing any person on the post of Director General of Police on acting basis for there is no concept of acting Director General of Police as per the decision in Prakash Singh’s case (supra).*

*(e) An endeavour has to be made by all concerned to see that the person who was selected and appointed as the Director General of Police continues despite his date of superannuation. However, the extended term beyond the date of superannuation should be a reasonable period. We say so as it has been brought to our notice that some of the States have adopted a practice to appoint the Director General of Police on the last date of retirement as a consequence of which the person continues for two years after his date of superannuation. Such a practice will not be in conformity with the spirit of the direction.*

*(f) Our direction No. (c) should be considered by the Union Public Service Commission to mean that the persons are to be empanelled, as far as practicable, from amongst the people within the zone of consideration who have got clear two years of service. Merit and seniority should be given due weightage.*

*(g) Any legislation/rule framed by any of the States or the Central Government running counter to the direction shall remain in abeyance to the aforesaid extent.*

*The present directions shall be followed scrupulously by the Union of India and all the States/Union Territories. If any State Government/Union Territory has a grievance with regard to these directions, liberty is granted to them to approach this Court for modification of the instant order.”*

1. Because this Hon’ble Court has directed vide order dated 03.07.2018 that the direction No. (c) should be considered by the Union Public Service Commission to mean that the persons are to be empaneled, as far as practicable, from amongst the people within the zone of consideration who have got clear two years of service. Merit and seniority should be given due weightage.
2. Because this Hon’ble Court has observed that it has been brought to the notice of this Hon’ble Court that some of the States have adopted a practice to appoint the Director General of Police on the last date of retirement as a consequence of which the person continues for two years after his date of superannuation. Such a practice will not be in conformity with the spirit of the direction.
3. Because even in the case of the appointment of the present DGP, the appointment has been done mere two months prior to the respondent no.2’s superannuation.
4. Because the purported reason stated in the order dated 28.08.2018 is public interest. However, no reason whatsoever has been given by Respondents Nos. 1 and 3 for willfully overlooking the orders passed by this Hon’ble Court. It is further submitted that acts of the said Respondents are in complete contravention to Article 144 of the Constitution of India. Article 144 reads as under:

*“144. All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.”*

1. Because despite such clear mandate arising out of the Constitution, Respondents Nos.1 and 3 have passed the orders appointing and extending the term of present DGP.
2. It is pertinent to note that neither Respondent No. 1 nor Respondent No. 3 thought it would have been appropriate to approach this Hon’ble Court for seeking permission or for modification of orders dated 22.09.2006 and 03.07.2018 in order to facilitate the order of appointment and extension of age for superannuation of present DGP, despite liberty being given in clear terms by this Hon’ble Court vide the order dated 03.07.2018. It is submitted that the act of Respondent Nos. 1 and 3 are not only illegal, but contemptuous.
3. Because from the newspaper articles it appears that Respondent No. 1 had other motives for seeking extension of service of present DGP. It has been widely reported that in order to ensure that one senior most IPS officer after present DGP, remains as Commissioner of Police, Mumbai, the said move seeking extension of service of present DGP was orchestrated. It is submitted that such a consideration cannot be a valid one while seeking extension of service or appointing any officer to the post of DGP. A move with such an intention is violative of the Judgment in Prakash Singh’s case and the procedure established by law to appoint an Officer to the post of DGP.
4. Because such a consideration cannot be said to be in public interest and the Respondent No. 1 and 3 have failed to demonstrate how the extension of service of present DGP would be in public interest.
5. Because it is high time that the Respondent no.1 and Respondent no.2 forthwith comply with the directions of this Hon’ble Court in formation of panel from which the DGP ought to be chosen by the Respondent no.1.
6. That the Petitioner has not filed any other or similar Petition before this or any other court in respect of the issues raised in the present Writ Petition.

**PRAYER**

It is most respectfully prayed that this Hon’ble Court may kindly be pleased to issue:

1. A Writ or order in nature of Mandamus directing the Respondent nos. 1 & 2 to forthwith prepare panel of three senior most officers as per directions of this Hon’ble Court contained in the case of Prakash Singh & others vs. Union of India and others (reported in (2006) 8 SCC 1) read with order dated 03.07.2018 passed in Writ Petition (Civil) No. 310 of 1996.
2. A writ or order in the nature of prohibition restraining the Respondent no.1 and Respondent no.3 for making any further appointments/ extensions to the post of Director General of Police, State of Maharashtra, in contravention of the directions issued by this Hon’ble Court in the case of Prakash Singh & others vs. Union of India and others (reported in (2006) 8 SCC 1) read with order dated 03.07.2018 passed in Writ Petition (Civil) No. 310 of 1996.
3. Pass any other order or orders as this Hon’ble Court may deem fit in the circumstances of the case.

Drawn by: Filed by:

KUNAL CHEEMA KUNAL CHEEMA

& APOORV SHUKLA Advocate for the Petitioner

Filed on:

Place:

IN THE SUPREME COURT OF INDIA

**CIVIL ORIGINAL JURISDICTION**

**I.A No. of 2018**

**IN**

##### **WRIT PETITION (CIVIL) NO. \_\_\_\_\_\_ OF 2018**

**( WITH PRAYER FOR INTERIM RELEIF)**

**IN THE MATTER OF:-**

**Kamlakar Ratnakar Shenoy ..Petitioner**

**Versus**

**State of Maharashtra & Ors. ...Respondents**

# AN APPLICATION FOR GRANT OF INTERIM RELIEF

**TO,**

**HON’BLE THE CHIEF JUSTICE OF INDIA**

**AND HIS COMPANION JUSTICES OF THE**

**SUPREME COURT OF INDIA, NEW DELHI**

**THE HUMBLE APPLICATION OF THE APPLICANT ABOVENAMED**

**MOST RESPECTFULLY SHOWETH:**

1. The Petitioner has preferred the present Writ Petition for a Writ of Mandamus qua the Respondent no.1 i.e State of Maharashtra and Respondent no.2 i.e Union Public Service Commission to immediately comply with the mandatory direction issued almost 12 years back by this Hon’ble Court, regarding procedure for selection of the Director General of Police for the State, passed by this Hon’ble Court in the case of Prakash Singh & others vs. Union of India and others (reported in (2006) 8 SCC 1) and further a Writ of Prohibition qua the Respondent No.1 and Respondent no.2 to immediately and for future desist in any further violation of the said mandatory direction. This is an application for interim relief, pending the hearing and final disposal of the said Writ Petition. The Petitioner submits that the grounds and submissions of the writ be considered and part and parcel of this application and the same are not being repeated in entirety for the sake of brevity.
2. It is submitted that, barley two month prior to retirement, the current DGP of Respondent no.1, came to be appointed as DGP on 30.06.2018. He was to retire on 31.08.2018.
3. If the order dated 03.07.2018 passed by this Hon’ble Court is perused carefully, it is clear that the current DGP was not appointed from any panel formed by the Respondent no.2, since it has been recorded therein that onlyout of 29 States, only 5 States, namely, the States of Karnataka, Tamil Nadu, Telangana, Andhra Pradesh and Rajasthan have approached the Union Public Service Commission for empanelment. The other States have not followed the direction. The Petitioner submits that, thus the appointment is clearly in violation of the mandate of this Hon’ble Court in the Prakash Singh’s Judgment. (supra).
4. In the meanwhile, the Respondent no.1 had also sought extension of the tenure of the current DGP from the Respondent no.3. That vide recent notification dated 28.08.2018, issued by the Respondent no.3, the current DGP has been granted extension for a period of three months in relaxation of Rule 16(1) of All India Service (DCR) Rules, 1958 and therefore he continues to be the DGP for the Respondent no.1. The said period would be expiring around end of November 2018.
5. The aforesaid actions of the Respondent no.1 are totally contrary to the directions of this Hon’ble Court in the Prakash Singh’s Case read with the recent order dated 03.07.2018. That, in spite of the directions of this Hon’ble Court, the Respondent no.1 has acceded to the request of the respondent no.1 for extending the tenure.
6. That from the submission of the learned Attorney General, as recorded in the order dated 03.07.2018, it is also clear that, the Respondent no.1 & Respondent no.3 have till date not complied with the directions of this Hon’ble Court regarding timely formation of panel for selection of the DGP for the State. That it is imperative that the same be done immediately.
7. It is submitted that the purported reason stated in the order dated 28.08.2018 issued by the Respondent no.3 is “public interest”. However, no reason whatsoever has been given by Respondents Nos. 1 and 3 for wilfully overlooking the orders passed by this Hon’ble Court.
8. It is further submitted that aforesaid actions of the said Respondents are in complete contravention to Article 144 of the Constitution of India
9. The Petitioner submits that, in view of the aforesaid factual scenario, it is imperative that, pending the hearing and final disposal of the Writ Petition the Respondent no.1 be restrained from making any further appointments/ extensions to the post of Director General of Police, State of Maharashtra, in contravention of the directions issued by this Hon’ble Court in the case of Prakash Singh & others vs. Union of India and others (reported in (2006) 8 SCC 1) read with order dated 03.07.2018 passed in Writ Petition (Civil) No. 310 of 1996.
10. The Petitioner submits that, this application is a bonifide application and deserves to be granted.

**PRAYER**

It is, therefore, most respectfully prayed that this Hon’ble Court may graciously be pleased to:

a) Pending the hearing and final disposal of the Writ Petition, the Respondent no.1 be restrained from making any further appointments/ extensions to the post of Director General of Police, State of Maharashtra, in contravention of the directions issued by this Hon’ble Court in the case of Prakash Singh & others vs. Union of India and others (reported in (2006) 8 SCC 1) read with order dated 03.07.2018 passed in Writ Petition (Civil) No. 310 of 1996.;

b) pass such other and further orders as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE HUMBLE PETITIONER AS IN DUTYBOUND SHALL EVER PRAY.

Filed by,

(Kunal Cheema)

Advocate for the Petitioner

New Delhi

Filed on:

**Kunal Cheema**  Date:- 25.10.2018

Advocate-on-Record,

Supreme Court of India,

New Delhi.

To,

Hon’ble Registrar,

Supreme Court of India,

New Delhi.

**Subject:-** **Letter**

**Reference:-** Writ Petition No. of 2018 (Diary No. 38639/2018)

**Kamlakar Ratnakar Shenoy ...Petitioner**

**Versus**

**Laxmibai Narayan Satose, since**

**State of Maharashtra**

**..Respondents**

Sir,

It is submitted that the registry has notified defect no.5 seeking clarification regarding maintainability of Writ Petition.

It is humbly submitted that, the Writ Petition would be maintainable since the Petitioner feels aggrieved by the actions and/or in-actions of the Respondent authorities whereby in spite of the directions of the Hon’ble Supreme Court of India till date no panel has been formed for selection of DGP by the State of Maharashtra, which is also clear from order dated 03.07.2018 passed in Writ Petition (Civil) No. 310 of 1996. The Petition bears submissions regarding violation of right to equality and right to life guaranteed under Article 14 and 21 of the Constitution of India. Hence, accordingly, it is humble belief of the Petitioner that the Writ Petition is maintainable before this Hon’ble Court.

Thanking you,

Yours’ respectfully,

Advocate Kunal Cheema