

18072

10/11/16



GOVERNMENT OF KERALA

Abstract

IPS - ALL INDIA SERVICE (D&A) RULES, 1969 - DISCIPLINARY ACTION AGAINST SHRI.VIJAY S.SAKHARE IPS (KL:1996) - DROPPED - ORDERS ISSUED.

GENERAL ADMINISTRATION (SPECIAL C) DEPARTMENT

G.O.(Rt.)No.7072/2016/GAD Dated, Thiruvananthapuram, 09.11.2016.

Read:- 1. Articles of Charges and Statement of Imputations dated 02.02.2016 served to Shri. Vijay S.Sakhare IPS.
2. Written Statement of Defence dated 08.06.2016 furnished by Shri. Vijay S.Sakhare IPS.
3. Letter No. T8/28995/10/PHQ dated 04.10.2016 from the Director General of Police (Head of Police Force) & State Police Chief, Kerala, Thiruvananthapuram.

ORDER

Disciplinary action was initiated against Shri. Vijay S.Sakhare IPS (KL:1996), former Superintendent of Police, Palakkad on the basis of the recommendation in the CBI report on the Sampath Custodial death case. Though the CBI, have recommended for major penalty against the officer, it was decided to proceed with minor penalty as the involvement of the officer was not grave in nature. Accordingly Articles of Charges and Statement of Imputations were framed and served to the delinquent officer on 31.03.2016 as per the reference read as 1st paper above. The charges were as follows:

- (i) He violated Circular No. 10/75 dated 19.03.1975 of the Director General of Police in connection with the Custodial Death of Sampath registered as CBI case No. RC8(S)/2010-TVPM.
- (ii) He failed to ensure that there is no custodial torture or illegal detention within his jurisdiction.
- (iii) He failed to visit the scene of crime immediately after coming to know about the custodial death of Sampath and he did not ensure the legal formalities.

2. Shri. Vijay S.Sakhare IPS has submitted his Written Statement of Defence as per his written statement read as 2nd paper above by which the officer denied the charges and stated as follows:

- (a) There is absolutely no allegation against him in the Charge Sheet accepted by the Hon'ble High Court.
- (b) He was falsely implicated in this case.
- (c) The Circular No. 10/75 specifying the need for an enquiry by a Superior Police Officer by visiting the spot. It does not direct a mandatory enquiry by the SP himself by visiting the spot immediately. In the absence of a mandatory

instruction binding on the SP contained in the circular, the allegation that the SP violated the Circular by failing to make a personal visit to the scene of crime is not sustainable.

- (d) The National Police Commission has highlighted the need for an enquiry, by an independent authority, it is emphasised by the Courts also. National Human Rights Commission (NHRC) has prescribed elaborate procedure to be followed by the Police & other agencies, soon after the reporting of a custodial death as SP, the delinquent officer had fully complied with the directions of the NHRC.
- (e) CBI is only an Investigation Agency, when a violation of an order in Circular 1975 is alleged, it was pointed out in a rather mechanical manner without looking into the historic context behind the circular. It is for the Government, to carefully consider the matter in the context of the advancement of statutes, rules, procedures and Administrative Orders including orders of NHRC. It will be appropriate to the Government to direct the State Police Chief to the need for revising the circular.
- (f) He did not effect the arrest of the deceased. The arrest was made by the Dy SP/CI. These matters are done by the subordinate officers. There is no allegation that there is failure on his part to discharge any supervisory activity. He has requested that further action against him may be dropped.

3. The State Police Chief & Director General of Police as per the letter read as 3rd paper above informed that the charges levelled against the officer is baseless and devoid of merits. The officer was neither aware of the scene of crime nor present on the scene of crime. He received the information in the middle of the night. After coming to know of the incidents he has taken all measures as stipulated by the Hon'ble Supreme Court and National Human Rights Commission. The 1975 Circular is old and antiquated. It is out of sync with the current times. More procedures in case of Custodial death have evolved. Procedures stipulated by National Human Rights Commission & Supreme Court are rigorous and should be adhered to stringently. The officer has followed the rigorous procedures and guidelines. Even the CBI does not have a case against the officer on this account. The DGP has recommended that the explanation offered by the officer is fully convincing and hence the same may be accepted & further action may be dropped.

4. Government have examined the case in detail. No serious lapse has been raised against the delinquent officer in the Enquiry Report of CBI. The sole lapse pointed out in the report is non compliance of the instructions viz., not visiting the spot of custodial death. No other lapse or consequential flaws developed due to the absence of the officer at the spot has been pointed out. The officer himself has stated that he had received the information at midnight only. Many developments have been taken place in the matter of custodial death from the issuance of instructions contained in the circular and numerous information and guidelines have been formulated making the circular irrelevant and antiquated to a great extent. The DGP has also admitted that the circular 10/1975 is old and antiquated which is out of sync with the recent time. All circulars issued in this regard need to be modified in accordance with the guidelines of NHRC and the directions of the Hon'ble Supreme

Court of India. Therefore taking a lenient view in this matter Government are pleased to drop further action against Shri. Vijay S.Sakhare IPS.

(By Order of the Governor),
S.M.Vijayanand
Chief Secretary to Government.

To

Shri. Vijay S.Sakhare IPS (through the Director General of Police (Head of Police Force) & State Police Chief, Kerala, Thiruvananthapuram).
The Principal Accountant General (Audit) Kerala, Thiruvananthapuram.
The Principal Accountant General (A&E), Kerala, Thiruvananthapuram.
The Secretary to Government of India, Ministry of Home Affairs,
North Block, New Delhi- 110 001.
The Director General of Police (Head of Police Force) & State Police Chief,
Kerala, Thiruvananthapuram.
The Director General of Police, Border Security Force, New Delhi.
The General Administration (SC) Department.
The Home Department.
The Web & New Media Division of I&PRD.

Copy to:-

The Secretary to Chief Minister.
The Private Secretary to Chief Minister.
The Additional Secretary to Chief Secretary.
The PA to Additional Chief Secretary, Home & Vigilance Department.
The P.A to Additional Secretary, General Administration (Special A&C) Department.
Stock File/Office Copy

Forwarded/By Order,


Section Officer.