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Government, senior cop in dock over wrongful arrest

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Mumbai: The Maharashtra State Human Rights Commission (MSHRC) has fined the state government Rs 25,000 for putting a man behind bars for more than 60 days.

The commission said that it would now be up to the state to recover the amount from Pradnya Sarvade, additional police commissioner. It also directed the additional secretary (home) to institute a departmental inquiry against Sarvade, which the commission said should be completed by December 31, 2008.

The fine and indictment of the Mumbai police follows the jailing of Powai resident P Manivelan for 62 days without presenting a chargesheet for more than 29 months. Manivelan is a co-accused in a corruption inquiry against encounter specialist Dayanand Nayak. Manivelan had knocked on the doors of the MSHRC, seeking justice. The state and senior Mumbai police officials have been made respondents in Manivelan's plea.

In his judgment dated August 22, 2008, MSHRC chairperson Justice Kshitij R Vyas quoted two Supreme Court judgments focusing on the fact that the police cannot arrest anyone simply because it has the authority to do so. The seven-page indictment quotes, besides other facts, the Supreme Court case of D K Basu vs State of West Bengal AIR, 1977.

Page 160 of the order states that a realistic approach should be taken in the matter: "The law of arrest is one of balancing individual rights, liberties and privileges, on the one hand and individual duties, obligations and responsibilities on the other; of weighing and balancing the rights, liberties and privileges of the single individual and those of individuals collectively; of simply deciding what is wanted and where to put the weight and the emphasis; of deciding which comes first the criminal or society, the law violator or the law abider," says the judgment.

The judgment by Justice Vyas says that there was no justification to Pradnya Sarvade ordering the arrest of Manivelan simply because she had the power to do so. "There is nothing on record to show that there was any reasonable satisfaction reached by her to exercise the right to arrest," said Vyas. According to him, one of the respondents, investigating officer D N Bhonge tried to persuade her not to arrest in absence of any material against the complainant. "However, he was overpowered by Sarvade. This act on her part is nothing but a display of arrogance, prejudice and bias against the complainant," added Vyas.

Vyas said Manivelan was forced to remain in police custody for 62 days till he was released by the high

The rights panel has fined the government Rs 25,000 for putting a man behind bars for over 60 days. The state has to recover the money from Pradnya Sarvade, additional police commissioner

court. "The police have failed to file a chargesheet till today. It has been more than 29 months. While narrating the facts in the aforesaid paragraphs, I have given a detailed version of the harassment, torture and mental agony caused to the complainant while remaining in police custody for 62 days," he added.

According to him, the complainant suffered serious ailments like blood pressure, liver problem, acidity and muscular pain. "The complainant has, in fact, undergone mental trauma because of the arbitrary high-handedness and vindictive attitude of Sarvade. In the opinion of the commission, Sarvade is solely responsible for the illegal arrest of the complainant. The arrest is in total violation of the law laid down by the apex court in D K Basu's case," said Vyas.

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