

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
(CIVIL WRIT JURISDICTION)**

CWP No. _____ – 2020

IN THE MATTER OF:-

Haryana Progressive Farmers Union - Sabka Mangal Ho;

Through its Convenor Deepak Lohan

.....Petitioners

//VERSUS//

1. State of Haryana

Throught its Additional Chief Secretary to Government, Haryana,
Home Department, Room No. 47, 9th floor, Haryana Civil Secretariat,
Sector1, Chandigarh.

2. Director General of Police, Haryana

Police Headquarter, Sector – 6, Panchkula (Haryana)

CHANDIGARH

PARDEEP KUMAR RAPRIA [P/784/2007]

PARVEEN KUMAR [PH/1306/2020]

DATED: 15.09.2020

ADVOCATES FOR PETITIONER

Mobile: 9467556024

E-mail: pradeep.kumar.rapria@gmail.com

CIVIL WRIT PETITION under Article 226/227 of the Constitution of India for issuing a writ in the nature of mandamus directing the Respondents to ensure that the Police officers of all ranks while on law and order duty during protests/agitations; shall wear uniform with accurate, visible and clear identification and name tags with their designations and all such details must be recorded in the police register; while complying with the directions of the Hon'ble Supreme in judgment dated: **18.12.1996** in case titled: '**D.K. Basu Vs. State of West Bengal**'.

Further, the Respondents may be directed to ensure that all the protestors detained or arrested; especially the injured one; must get immediate medical treatment. And/or

Issue writ in the nature of mandamus directing the Respondents to take action and pass speaking order on the Legal Notice/Representation dated: **12.09.2020 (ANNEXURE P-5)** issued by the petitioner. Or

Issue any other appropriate writ, order or direction which this hon'ble high court may deem fit and proper in the facts and circumstances of the present case.

RESPECTFULLY SHOWETH:

- 1.** That The Petitioner is a group of citizens residing in Haryana. Therefore, the Petitioner being a group of citizen of India is entitled to invoke the jurisdiction of this Honourable Court under Article 226/227 of the Constitution of India.

2. That the Petitioner is an advocacy group formed by the farmers of various parts of Haryana; for the welfare of farmers; set-up under the registered Trust, founded and run by the group of public spirited *Advocates of Hon'ble Supreme Court, High Courts, Educationists & Healthcare Experts*, for the propagation and protection of the FUNDAMENTAL RIGHTS, FUNDAMENTAL DUTIES & DIRECTIVE PRINCIPLES OF STATE POLICY; envisaged under the Constitution of India. The true copy of the requisite resolution, registration certificate; along with the aims and objects of the Trust is annexed herewith as **ANNEXURE P-1**
3. That it may be worthwhile to mention here that the Petitioner being an advocacy group of farmers does not participate in the protests and agitations, but the issues being raised in the present petition have direct as well as indirect impact on the interests of the members/farmers of the petitioner group. Therefore, being direct beneficiaries of the relief sought in the petition; as per the PIL Rules; the Petitioner is not allowed to file PIL petition.
4. That the Hon'ble Supreme Court through a judgment dated: 18.12.1996; in case titled D.K. Basu Vs. State of West Bengal had issued comprehensive directions to Police while focusing on the vital processual safeguards relating to arrest and detention, including, all officials must carry name tags and full identification, arrest memo must be prepared, containing all details regarding time and place of arrest, attested by one family member or respectable member of the locality. The location of arrest must be intimated to one family or next friend, details notified to the nearest legal aid organisation and arrestee must be made known of each DK Basu right, all such compliances must be recorded in the police register, he must get periodical medical examination, inspection memo must be signed by

arrestee also and all such information must be centralised in a central police control room.

The facts and circumstances of the present case would reveal the aforesaid DK Basu guidelines need to be implemented by police while discharging duties of maintaining law and order during protests/agitations by citizens.

5. That the Bhartiya Kisan Union (BKU) and other farmer organisations on 10.09.2020; assembled peacefully and without arms at Pipli in Haryana's Kurukshetra district to protest against the Centre's three agriculture ordinances, which they claim are "anti-farmer". The various opposition parties also supported the farmers' agitation. In any number of judgments, the Hon'ble Supreme Court has held that the right to protest is constitutional guarantee. However, during the protest; numerous unknown persons without uniform as well as in police uniform resorted to *lathicharge* on the agitating farmers when they tried to move to the rally venue, in which numerous farmers including old aged persons were injured. Various persons including old aged persons were mercilessly packed in buses. The confrontation between police and farmers went on from 11 am to 2 pm before the latter were finally allowed to hold the rally at Pipli. Photographs showing the numerous persons in civil dress as well as in police uniform attacking the agitating farmers are annexed herewith as **ANNEXURE P-2.**

6. That it is very relevant and important to mention here that as per the **Rule 4.4 of the Punjab Police Rules**, the Police officers of all ranks shall wear uniform on all duties which involve the exercise of their powers as police officers. Further, the protection of section 353, Indian Penal Code, shall not

be afforded to any police officer without uniform who may be assaulted.

The **Rule 4.4**; is reproduced as under:

“4.4. Uniform to be worn on all duties. - (1) Police officers of all ranks shall wear uniform on all parades and on all duties of a ceremonial nature or which involve the exercise of their powers as police officers; provided that this rule shall not apply to police officers specifically deputed on plain clothes duty. The wearing at any time of a mixture of uniform and plain clothes, or of unauthorized variations of uniforms, is absolutely prohibited.

(2) The nature of uniform to be worn on duty shall be regulated by the order of the Superintendent of Police according to climatic conditions and the nature of the duty, subject to the rules in this chapter, and its appendices and provided that all men parading or proceeding on duty together shall be clothed alike. Deputy Inspectors-General shall require that the spirit of these orders be observed, but should not otherwise limit the discretion of Superintendents.

(3) These orders apply strictly to police officers exercising their legal powers in rural areas. The protection of section 353, Indian Penal Code, shall not ordinarily be afforded to any police officer who may be assaulted, unless the Superintendent of Police is satisfied that such officer was at the time properly dressed in an authorised uniform and equipment. For all duties performed in the public view police officers of all ranks shall be so turned out that there can be no possibility of mistake as to their being police officers. For such duties, though the comfort of officers and men in climatic and other circumstances must be considered, smartness shall not be scarified.

(4) Officers and men appearing in courts of law as prosecutors, witnesses, orderlies or escorts, and clerks on duty at city, cantonment or civil lines police stations, shall wear uniform. Other officers shall not ordinarily wear uniform on the office duties.

(5) Police regulation uniform shall not be worn at fancy dress balls, nor shall such uniform be lent for use or worn by their owners in dramatic performances or other entertainments. There is, however, no objection to uniform of obsolete pattern being worn on such occasions”

7. That the Haryana Home Minister in the press conference claimed that “*no lathicharge took place anywhere*” on the protesting farmers. “*No orders were passed to use force on farmers*” The general public at large; including petitioner; were shocked to know that actually the attackers on farmers were not policemen. The true copies of the media reports reporting the specific stand of the Haryana Home Minister are annexed herewith as **ANNEXURE P-3.**

8. That on the other hand; the Haryana Deputy Chief Minister condemned the police’s use of force on agitating farmers and demanded a probe into the incident. As per the various media reports the categorical statement of the Deputy CM is: “*Action should be taken against those who first stopped (farmers) and then gave permission. The incident of Pipli is highly condemnable.*” The true copy of the media report is annexed herewith as **ANNEXURE P-4.**

9. That in view of the aforesaid specific contradictory stand of Haryana Home Minister and Deputy Chief Minister; the Petitioner concerned with the Fundamental Rights of farmers and general public at large; through a through E-mail representation/Legal Notice dated: 12.09.2020; to the

Respondents; forwarded the photographs (Annexure P-1), along with various media reports; showing and reporting the brutal attack on agitating farmers by the numerous persons in civil dress as well as in police uniform. Through the representation/legal notice through Counsel the Petitioners requested the Respondents to conduct enquiry into the matter to ascertain the identity of persons attacking the farmers, especially the persons without uniform and requested to issue directions that only the policemen in uniform with proper name plate/identification are posted during discharging of their official duties while maintaining law and order. The true copy of the Legal Notice/Representation is annexed herewith as **ANNEXURE P-5.**

10. That in continuance of their agitation, nineteen farmers' unions on 13.09.2020 announced that *"the farmers' unions have decided to hold protests in all district headquarters on September 15 and block roads across the state on September 20 for three hours and if their demands are not met we will start a statewide yatra from September 27."* The true copy of the media reports reporting the announcement of farmers' agitation are attached herewith as **ANNEXURE P-6**

11. That in view of the above stated situation; the Petitioner has apprehension that some antisocial elements while camouflaging as policemen may resort to violence and create law and problem during farmer agitation, culminating into the butchering of the fundamental rights of not only of farmers but also of police officials. In fact, if the policemen are without uniform and proper identification on duty during protests; they can even become victims of violence either at the hands of fellow policemen or agitating farmers.

12. _____ **GROUND:** _____

- (i) **BECAUSE** the Fundamental Rights of the Petitioner/farmers envisaged in the Article 21 of the Constitution, are in jeopardy.
- (ii) **BECAUSE** the transparency and accountability in police action are two possible safeguards for securing the fundamental rights of citizens
- (iii) **BECAUSE** the compliance of DK Basu guidelines while maintaining law and order during protest/agitation is imperative to secure the fundamental rights of public at large.
- (iv) **BECAUSE** as per the Punjab Police Rules the Police officers of all ranks are required to wear uniform on all duties which involve the exercise of their powers as police officers.

13. That the following question of law of general public importance arise for consideration of this Hon'ble Court in the present Writ Petition:-

A. Whether the Fundamental Rights of the farmers as well other persons; envisaged under Article 21 of the Constitution; is locality is under threat?

B. Whether the compliance of DK Basu guidelines while maintaining law and order during protest/agitation is imperative to secure the fundamental rights of public at large?

C. Whether the transparency and accountability in police actions are two possible safeguards for securing the fundamental rights of citizens?

14. That the petitioners have not filed any such or similar Writ Petition earlier in this Hon'ble Court or in the Hon'ble Supreme Court of India.

15. That the petitioner is left with no alternative and equally efficacious legal remedy of appeal or revision, except to invoke the jurisdiction of this Hon'ble Court, for effective and meaningful enjoyment of the fundamental rights envisaged under Article 21 of the Constitution of India,

PRAYER

It is, therefore, respectfully prayed that in view of the facts and circumstances enumerated in this petition, this Hon'ble Court may kindly be pleased to: -

- (i) Issue a writ in the nature of mandamus directing the Respondents to ensure that the Police officers of all ranks while on law and order duty during protests/agitations; shall wear uniform with accurate, visible and clear identification and name tags with their designations and all such details must be recorded in the police register; while complying with the directions of the Hon'ble Supreme in judgment dated: **18.12.1996** in case titled: **'D.K. Basu Vs. State of West Bengal'**
- (ii) Further, the Respondents may be directed to ensure that all the protestors detained or arrested; especially the injured one; must get immediate medical treatment. And/or
- (iii) Issue writ in the nature of mandamus directing the Respondents to take action and pass speaking order on the Legal Notice/Representation dated: **12.09.2020 (ANNEXURE P-5)** issued by the petitioner. Or
- (iv) Pass any other order/direction that this court may deem fit.
- (v) Dispense with from filing the certified/typed copy of Annexure P-1 to P-6

DATED: 15-09-2020 (Haryana Progressive Farmers Union-Sabka Mangal Ho)
CHANDIGARH Through Deepak Lohan
PETITIONER
Through Counsels

DATED: 15 -09-2020 (PARDEEP KUMAR RAPRIA & PARVEEN KUMAR)
CHANDIGARH **ADVOCATES**