

# **Mandamus for Independent Inquiry: Redefining the Judicial Oversight of Police Action under Section 144 CrPC**

Date: Apr 9, 2025

## **Mandamus for Independent Inquiry: Redefining the Judicial Oversight of Police Action under Section 144 CrPC**

### **Introduction**

In the case of **SRI JAGADGURU BASAVA JAYMRITYUNJAY SWAMIJI v. THE STATE OF KARNATAKA**, the Karnataka High Court was confronted with intensifying controversy surrounding the use of police power during public protests. The petition, filed under Articles 226 and 227 of the Constitution of India, sought a writ of mandamus directing the respondents to constitute a Commission of Inquiry for investigating alleged police excesses – specifically, the use of a lathi charge during a peaceful protest held at Suvarna Soudha, Belagavi on December 10, 2024.

The petitioners, who are influential members of the Panchamasali community, argued that a government reservation order was being implemented in violation of their rights and that, when their protest occurred, the police's response was unprovoked and contrary to the law. The case involved complex factual disputes, detailed evidentiary submissions (including photographs, medical reports, and video recordings), and extensive reference to judicial precedents on both the legality of police action and the procedural requirements for imposing restrictions under Section 144 of the CrPC.

### **Summary of the Judgment**

The Court meticulously examined the sequence of events surrounding the protest – from the initial peaceful assembly and subsequent protest permissions granted by the authorities, to the contentious police response involving barricading, lathi charge, and injuries to protestors. In rejecting the argument that the protestors had violated public order in a manner justifying the police's countermeasures, the Court found that:

- The police invoked Section 144 CrPC without sufficient independent inquiry and without properly stating the material facts on which a restriction order was based.
- The statutory procedural requirements, including the mandate that any order under Section 144 must be in writing and state the underlying facts, were not met.
- The decision to impose the police restrictions appeared overly broad and unmindful of the proportionality principle, especially in light of judicial safeguards that protect the fundamental rights of peaceful assembly and expression.

As a remedy, the Court held that the exercise of power by the police and the District

Magistrate was illegal on its face. Thus, it issued a writ of mandamus directing that a Commission of Inquiry be constituted under the Commission of Inquiry Act, 1952. The inquiry would be tasked with investigating the police actions, determining whether an excessive use of force was employed, and ensuring accountability for any unlawful police conduct.

## Analysis

### Precedents Cited

The judgment refers extensively to landmark Supreme Court decisions such as *Ram Lila Maidan Incident* and *Anuradha Bhasin v. Union of India*. These cases collectively underscore several important judicial principles:

- **Requirement for a Written Order:** The Court emphasized that any order passed under Section 144 CrPC must be in writing and include material facts to enable meaningful judicial review. The Apex Court in earlier decisions, including *Babulal Parate v. State of Maharashtra* (AIR 1961 SC 884) and related rulings, stressed that the absence of reasoned documentation renders the imposition of restrictions arbitrary.
- **Doctrine of Proportionality:** Referencing cases such as *Feiner v. New York* (95 L Ed 295) and the discussions in *Anuradha Bhasin*, the Court highlighted that police measures must be the least restrictive means available and must balance the right to protest against public order considerations.
- **Judicial Oversight of Executive Action:** The Court reiterated that the exercise of executive power in curtailing fundamental rights should be subject to stringent judicial scrutiny. In supporting this view, it pointed out that decisions made without an adequate inquiry or proper reason posting not only violate procedural safeguards but undermine the rule of law.

### Legal Reasoning

The Court's legal reasoning rested on three major pillars:

- **Failure to Comply with Procedural Requisites:** The Court observed that the impugned order did not detail the material facts that justified the invocation of Section 144. Relying solely on police reports from various Deputy Commissioners, the District Magistrate did not independently verify the facts or make a careful inquiry, as required under the provisions of the CrPC.
- **Excessive Restriction on Fundamental Rights:** By ordering a lathi charge against a resorting peaceful protest, the authorities were found to have overstepped their bounds.

The Court underlined that while the State has the power to restrict rights in the interest of public order, such restrictions must be proportional, reasonable, and supported by clearly stated factual findings.

- **Mandamus as the Appropriate Remedy:** Recognizing the seriousness of police misconduct and the potential abuse of state power, the Court concluded that only a Commission of Inquiry—comprising either a single member or a multi-member panel headed by a retired judge—could impartially determine the facts on record and hold the erring parties accountable. This remedy, granted by the mandamus, reaffirms the judiciary’s commitment to checking arbitrary executive actions.

### Impact on Future Cases and Area of Law

The decision sets an important precedent in two interrelated areas:

- **Judicial Scrutiny of Preventive Orders:** Future cases involving the imposition of Section 144 orders will now be evaluated not only on their necessity but also on the quality and depth of the inquiry conducted by the executive authorities. The requirement of a written and reasoned order is likely to serve as a robust check against arbitrary restrictions.
- **Protection of the Right to Peaceful Assembly:** By emphasizing the balance between maintaining public order and safeguarding constitutionally protected rights, the judgment reinforces that any state action curtailing freedom of speech or the right to protest must be narrowly tailored and based on clear, material facts. This will promote greater accountability in the enforcement of police measures during public demonstrations.

### Complex Concepts Simplified

The Court’s discussion of Section 144 CrPC involves several complex legal ideas:

- **Sufficient Ground and Opinion:** “Sufficient ground” means that there must be a strong factual basis before imposing restrictions. The concept of forming an “opinion” by the District Magistrate requires an independent, careful inquiry into whether the facts justify an urgent preventive measure.
- **Proportionality and Least Restrictive Means:** This principle requires that any curtailment of individual freedoms must be to the minimum extent necessary to avert a real threat. It prevents the state from using disproportionate force or blanket orders that unnecessarily impede democratic rights.

- **Judicial Review and Mandamus:** Judicial review permits courts to examine whether a government order or action complies with the law. The writ of mandamus is an order directing a public official or agency to carry out a statutory duty. In this case, mandamus is used to compel the state to set up an independent inquiry.

## Conclusion

In summary, the Karnataka High Court's decision in **SRI JAGADGURU BASAVA JAYMRITYUNJAY SWAMIJI v. THE STATE OF KARNATAKA** provides a crucial judicial rebuke against arbitrary police action and underscores the importance of rigorous procedural safeguards when fundamental rights are at stake. By mandating the constitution of an independent Commission of Inquiry, the Court reaffirms that restrictions on the right to protest must be based on a careful, independent inquiry and that any undue curtailment of freedom must be subject to robust judicial review.

The judgment not only serves as a corrective measure in the present case but also sets a lasting precedent for balancing law enforcement powers with the constitutional rights of citizens, thereby strengthening the rule of law and democratic accountability in India.

## Case Details

SRI JAGADGURU BASAVA JAYMRITYUNJAY SWAMIJI v. THE STATE OF KARNATAKA

Year: 2025

Court: Karnataka High Court

## Judge(s)

M.NAGAPRASANNA

## Advocates

POOJA RAJSHEKAR SAVADATTI