

Government of Nepal reluctant in implementing the decision of the Supreme Court

Human Rights Without Frontiers International (Brussels) condemns the failure of the Office of the Prime Minister and the Council of Ministers, Ministry of Home Affairs and Police Headquarters to promote four Deputy Inspector Generals (DIGs) in the post of Additional Inspector General of Police (AIGP) as per the Directives of the Supreme Court.

HRWF (02.03.2016) – The Brussels-based INGO Human Rights Without Frontiers Int'l (HRWF Int.) urges the Office of the Prime Minister and the Council of Ministers, Ministry of Home Affairs and Police Headquarters to abide by the decision of the Supreme Court concerning the appointment of AIGPs. HRWF Int'l urges the European Union, the DFID (Department of International Development) and UN agencies to revisit its aid policy to Nepal Police so long as the Government does not implement the final decision of the Supreme Court in this case.

Timeline of the legal proceedings

On 27th June 2014, the Committee for Promotion of AIGP published a name list of seven DIGs that it deemed eligible for the position of Additional Inspectors General of Police (AIGP). That list was sent to the Office of the Prime Minister and the Council of Ministers.

On 14th August 2014, the Council of Ministers created two additional positions for AIGP and therefore promoted two more DIGs. This means that the DIGs ranked eighth and ninth on the list of recommendations for promotion, issued by the Complaint Hearing Committee for Promotion, should have filled these two new positions. However, Ramesh Shekhar Bajracharya and Kedar Prakash Saud, who ranked tenth and thirteenth on the list of recommendations were selected. The four candidates who were not promoted, although they were ranked higher on the list of recommendations, filed a writ petition.

On 24th September 2014, the Supreme Court ruled that the government had to promote the remaining four DIGs to the position of AIGP. The Court directed that the existing promotion regulations had been violated and the four plaintiffs had been illegally deprived of promotion.

The Government filed a review petition at the Supreme Court to revert its double bench decision about the promotion of DIGs. On 18th December 2015, the full bench comprising the Chief Justice Kalyan Shrestha decided not to open the case for revision and upheld the verdict of the Bench of 24th September 2014 to be final and binding.

Effort of Judgment Execution Directorate

For more than a year, the Government of Nepal has failed to execute the order despite of tremendous pressure exerted by the Judgment Execution Directorate of the Supreme Court. Letters were sent to the Prime Minister and the Council of Ministers, the Ministry of Home Affairs and the Police Headquarters on 8th December 2014, 1st November 2015 and 5th January 2016.

Article 126(2) of the Constitution of Nepal says that "All shall abide by the order of decisions made in the course of trial of lawsuits by the courts." In a letter dated 5th January 2016, the Judgment Execution Directorate wrote to the Office of the Prime Minister and the Council of Ministers, Ministry of Home Affairs and Police Headquarters, reminding them of this provision of the constitution. Further it stated that "If the order or judgment is not executed at proper time, then the concerned party does not feel as achieved justice; public confidence to the court of justice will decrease; and it will be

against the spirit of the rule of law. If it happens that the judgment/order of the Supreme Court is not executed by important and responsible state bodies like the Office of the Prime Minister, the Council of Ministers, the Ministry of Home Affairs and the Police Headquarters, then what can be expected from other bodies?"

Moral ground of Nepal police in peacekeeping operations

The Nepal Police force has been contributing significantly in the United Nations Peacekeeping operation in different parts of the world since 1992. If the Nepal Police are hesitant in implementing the Apex Court's order, it might embrace marginal moral ground to be a part of peacekeeping operations.