

Rohit Ghuge

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 12683 OF 2023

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1. **Maharashtra State Electricity
Distribution Company Ltd.**

Having its office at
Prakashgad, Bandra (E),
Mumbai.

2. **Chief Executive Engineer,
MSEDCL Bhosari Subdivision,
Pune – 411026.**

...Petitioners

Versus

1. **Maharashtra State Human Rights Commission
9, Hajarimal Somani Marg,
Opp Chhatrapati Shivaji Maharaj Terminus,
Mumbai-400001.**

2. **Commissioner of Police,
Pimpri Chinchwad Police Commissionerate
Pune.**

...Respondents

Mr. Hiten Raut i/b Hassan Khan, for Petitioners.

Ms. Anamika Malhotra, for Respondent No.1.

Mr. Ketan Joshi, 'B Panel counsel' a/w Mr. M. M. Pable, AGP for State-
Respondent.

***CORAM: BHARATI DANGRE &
ASHISH S CHAVAN, JJ.***

DATE : 30th SEPTEMBER 2026.

JUDGMENT [Per Ashish S. Chavan J.]:

1. Rule. Rule made returnable forthwith with the consent of the learned counsels appearing for the respective parties. Learned Counsel for the respondents waive service of notice on behalf of the respective parties.

2. The Maharashtra State Electricity Distribution Company Ltd. (“MSEDC”), is aggrieved by the communication dated 31.03.2023 emanating from the order dated 01.03.2023 passed by the Maharashtra State Human Rights Commission (“Commission”) in MAS/Case No. – 2568/13/23/2020. By way of the order dated 01.03.2023, the Commission had made recommendations in a complaint filed at the instance of a public spirited body, viz. Human Rights Association for Protection. Aggrieved by the said recommendations, the Petitioner has approached this Court by invoking the Writ Jurisdiction seeking quashing and setting aside of the communication dated 31.03.2023 and consequently the order dated 01.03.2023.

3. The facts germane to consider the issue at hand are as follows. On 05.09.2020 at about 1.30 pm, there was an explosion in the Transformer situated at Indraini Nagar, Rajwada, Bhosari, Pune resulting into spillage of oil from the Transformer. The oil spillage inflicted serious burn

injuries on a 5 month old child, her mother and another lady, who unfortunately succumbed on account of the burn injuries caused due to the oil spillage. One Human Rights Association for Protection (“**Complainant**”) approached the Respondent No. 1- Commission vide its complaint letter dated 16.09.2020 *inter alia* raising grievances against the erring officials, employees of the Petitioner alleging that it was on account of their negligence that the victims lost their lives and hence, appropriate legal action maybe taken against these officials.

Acting upon the Complaint of the Association, Respondent No. 1- Commission issued summons in exercise of power u/s 13 of the Protection of Human Rights Act, 1993 (“**the Act of 1993**”) to the Petitioner No. 2. On considering the report placed on record by Petitioner No. 2 - Chief Executive Engineer, Bhosari, Pune, the Commission passed an order dated 04.03.2021 in exercise Section 16 of the Act of 1993 giving an opportunity to the erring officials to file their defence before the Commission.

4. In compliance with the aforesaid directions, the officials of the Petitioners filed their respective replies before the Commission, setting out all the relevant facts which led to the unfortunate transformer blast. It was the Petitioner’s contention that the blast occurred due to a fault in the LT Cable line due to heavy rain in the preceding months and that the

same had caused technical malfunction in the pressure winding of the transformer which caused the explosion due to heat and high pressure. Relying on the Electrical Inspector's Report, the Petitioner had denied any negligence by contending that the incident occurred on account of excavation work done along the low voltage underground lines and it being monsoon season, technical defaults occurred in these low voltage lines resulting into high pressure winding of the transformer, leading to its explosion due to severe heat and pressure.

5. The Learned Commission vide its order dated 01.03.2023, placing reliance on the fact that the maintenance and supervision of electrical appliances installed by the Petitioner is its responsibility and obligation, which in the facts of the case has not been discharged by the officials of the Petitioner, moreover, criminal prosecution for negligence being initiated against the higher officials of the Petitioner which is demonstrated from the FIR No. 394 of 2020 registered by MIDC Bhosari Police Station, Pimpri-Chinchwad and the subsequent chargesheet laid against them, observed that the replies to the summons issued by the Learned Commission were an eyewash and proceeded to conclude that the negligence of the concerned officials warranted invocation of the powers of the Commission u/s 18 of the Act of 1993 and has recommended payment of compensation to the tune of Rs.

10,00,000/- [Rupees Ten Lakhs] each to the legal heirs of the victims by the office of the Petitioner No. 2 and Respondent No. 2 jointly.

6. Heard Mr. Raut for the Petitioner and Ms. Malhotra for Respondent No.- 1, Mr. Joshi for Respondent No.-2.

7. On behalf of the Petitioners, the impugned order was assailed on several grounds. It was contended that Respondent No. 1 had erred in coming to the conclusion that the incident had occurred due to failure on part of the concerned officers to maintain and supervise the functioning of the transformer. It was canvassed that the impugned order disregards the fact that on the night of 05.09.2020, the Petitioner had replaced the transformer and thereafter fixed the fuse of the transformer and also conducted cable testing for fixing the fault in the cable. The Learned Counsel for the Petitioner submitted that the Respondent No.-1 Commission has exceeded its jurisdiction insofar as the Commission is only a recommendatory authority and cannot direct the authorities viz. Petitioner No. 2 and Respondent No. 2 to pay compensation. It was also urged on behalf of the Petitioner that the order dated 01.03.2023 does not reflect that the Learned Commission has conducted any fact finding exercise to apportion the blame or determine the degree of negligence *qua* the Petitioner.

8. The Learned Counsel for the Respondent No. 1 has defended the order dated 01.03.2023 contending that the Commission has not exceeded its jurisdiction and was well within the powers vested in it under the Act of 1993 to recommend imposition of compensation. She also submitted that the recommendations of the Commission u/s 18 cannot be ignored by the State at its discretion reducing the recommendation of the Commission to a mere opinion. She also urged that the Commission has followed rules of natural justice as envisaged u/s 13 of the Act of 1993 and has dealt with the reply and rejected the contentions of the Petitioner in its order dated 01.03.2023.

9. Considering the conspectus of the issue set out by the Petition, we must note that a co-ordinate bench of this Court (to which one of us, Bharati Dangre J. was a party) had an occasion to consider a similar set of issues which dealt with the recommendatory powers of the State Human Rights Commission. Through a speaking order dated 23rd February 2026¹, this Court has traced the scheme of the Act of 1993, with emphasis on its legislative intent, setting out the procedure in making inquiry into a complaint as set out in Chapter IV of the Act of 1993 more particularly Sections 17 and 18. This Court has noticed the recommendatory power vested in the Commission by virtue of Section

1 2026:BHC-OS:5370-DB

18 of the Act of 1993 (as amended in 2006) and considered the parameters of the recommendatory powers of the Human Rights Commission as seen from the lens of the judgments of various High Courts. After taking a review of the diverse opinions expressed by various High Courts, this Court observed thus:

“19. From the aforesaid observations from the decision of the High Court of Delhi and Allahabad, we have no hesitancy in holding that the recommendation of the Human Rights Commission is liable to be treated as binding and definitely cannot be ignored with impunity as in our view, if it is held to be merely recommendary, leaving it to the discretion of the Government/Authority whether to implement the same or not it would defeat the avowed purpose for which the Commission is constituted. However, such an order passed by the Commission, in absence of a provision of appeal provided under the Act is permitted to be reviewed in exercise of the power of judicial review available to a constitutional court. If the State Government or Authority is aggrieved by a decision of the Commission, and when it approaches the constitutional court by raising a challenge to the same, the Court is duty bound to exercise its power of review, and examine the correctness of the said decision and this is what we propose to do on taking into consideration the grounds on which the Corporation has raised a challenge to the impugned order of the Commission...”

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28. The Human Rights Commission, under Chapter IV is empowered to inquire into the complaints of violation of human rights and in determining the liability, it may call for information or report from the Government or any other Authority or Organization subordinate thereto,

within the time prescribed and if on receipt of such information or report the Commission is satisfied that no further inquiry is required, or that the required action must be initiated by the Government or the Authority, it may not proceed with the complaint, but if it considers to be necessary having regard to the nature of the complaint, it may initiate an inquiry.

As per Section 18, the Commission is entitled to take various steps during or upon completion of the inquiry and where the inquiry discloses violation of human rights or negligence in prevention of violation of human rights or abatement thereof, by a public servant, it may recommend to the concerned Government or Authority to make payment of compensation or damages to the complainant or to the victim or to the members of his family as the Commission may consider necessary.

The conjoint reading of Section 17 and 18, as a part of Chapter IV, highlighting the procedure to be adopted by the Commission, when it conduct inquiry into the complaint, it is noted that the Commission may call for the information and if it considers necessary, initiate an inquiry.

The power conferred on the Commission upon initiating any inquiry into the complaint of violation of human rights, if result into disclosure of commission of violation of human rights or negligence in the prevention of violation of human rights, it is authorized to recommend the concerned Government or Authority to make payment of compensation or damages as the Commission may deem necessary.

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32. Though the remedy of monetary compensation for violation of human rights was expounded through various authoritative pronouncements, the Courts had at the same time imposed limitations on its power to grant such relief. In several cases the courts have refused to exercise its writ jurisdiction in granting compensation when it involved disputed questions of fact and there is a clear denial of tortious liability by the State. In SPS

Rathod vs.State of Haryana & Ors², the Apex Court recorded that it can grant compensation only when there is prima facie or established violation of guaranteed fundamental right, but when the Foundational fact itself is in dispute, the Court will desist from ordering compensation and the exercise of power for determining the compensation in glaring and clear cases of custodial rape or death or illegal detention of the poor and helpless, is not feasible in each and every case.

In M.C. Mehta & Anr. vs Union of India & Ors³, the Supreme Court evolved another self imposed restriction being, that the power to award compensation for violation of fundamental rights, but limited this remedy to appropriate cases where infringement was gross and patent i.e. it is incontrovertible and ex-facie glaring and that the the violation must be of such magnitude as it would shock the conscience of the Court.”

10. Thus, summarizing the position of law, this Court in the aforementioned order has observed that award of compensation/damages does not come as grace or bounty and only when the necessary link is established between the fault of the authority and its culpability by way of negligence can the Court award such compensation.

11. Examining the impugned communication dated 31.03.2023 and the order of the Commission dated 01.03.2023 emanating therefrom in the light of the aforesaid principles, certain facts emerge with clarity. The Commission vide its initial order dated 04.03.2021, observing that a case was made out for its intervention called for an explanation from four

² (2005) 10 SCC 1

³ (1987) 1 SCC 395

senior officials of the Petitioner in terms of its powers u/s 16 of the Act of 1993. The concerned officials in compliance with the aforesaid directions of the Commission submitted their detailed explanations wherein they took a stand that there was no negligence on their part and that they had done everything in their power to fix the transformer and restore the electricity and that the blast had occurred due to reasons beyond their control. The impugned order comes to a conclusion that the explanations were an attempt to wash out any culpability against the officials and was only an eye wash. The only reason that the Learned Commission ascribes in the impugned order to arrive at such a conclusion is that the officers being experts in their field ought to have anticipated occurrence of such a mishap and had they taken timely action, the same would have been averted. The Commission has laid emphasis on the fact that criminal action has been initiated against the officers by the Police where they have been prosecuted for the offence of rash and negligent action. A perusal of the impugned order would reveal firstly that there is no discussion or reasoning by the Learned Commission as to why it did not find favour with the explanations of the concerned officials of the Petitioner. The impugned order also does not reflect the material or the grounds on which the learned commission was persuaded to return a finding of negligence against the officials of the Petitioner. As noted above, the Commission was vested with wide amplitude of powers u/s 13,

14 and 17 of the Act of 1993. U/s 13 (1), the Commission could have summoned witnesses, called for documents or requisitioned any public record. Section 14 of the Act of 1993 empowers the Commission to conduct an investigation and in aid thereof utilize the services of any officers or investigating agencies and to record their statements during the course of giving evidence before the Commission. However, the learned Commission has not resorted to any of these powers vested in it by the Statute to carry out a meaningful inquiry as envisaged under the Act of 1993. The recommendatory powers of the Commission are triggered only when the inquiry discloses negligence in the prevention of violation of human rights or its abetment by a public servant. In the facts of the present case, although the learned Commission concludes a finding of negligence, the same is not a reasoned order as can be seen from the aforesaid discussion. In view thereof, it must be set aside. The Ld. Counsel for the Petitioner during the course of arguments has submitted that the Petitioner has paid a compensation of Rs. 12,00,000/- [Rupees Twelve Lakhs] to the legal heirs of the deceased. This fact has not been controverted by the Ld. Counsel for the Respondent No.-1.

In light of the aforesaid discussion, the challenge to the impugned order succeeds. Writ Petition is allowed. Communication dated 31.03.2023 and the order dated 01.03.2023 passed by the Maharashtra State Human Rights Commission is set aside. Rule is made absolute.

We must clarify that the victim and/or the Complainant is at liberty to approach the Competent Civil Court by filing proceedings seeking compensation/damages against the appropriate authority and that the observations made by us in the aforesaid order shall not impede the victim or the complainant in claiming adequate compensation or seeking damages.

ASHISH S. CHAVAN, J.

BHARATI DANGRE, J.