

LPA No.320 of 2017 (O&M) -1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA No.320 of 2017 (O&M)

Date of Decision : 02.03.2017

Punjab Tourism Development Corporation
Ltd. and another

....Appellants

Versus

The Punjab State Commission for NRIs
and another

....Respondents

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN**

Present: Mr. Anil Kshetarpal, Sr. Advocate with
Mr. Maninder S.Saini, Advocate
for the appellants.

.....

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the
learned Single Judge dated 16.01.2017.

The question raised before us is that the judgment of
the learned Single Judge has given the order of the Commission a
colour of a judicial order whereas the Commission in itself is not
empowered to pass any order which has the effect of a judicial
determination. Learned counsel for the appellants has referred to
the provisions of the Punjab State Commission for Non-resident
Indians Act, 2011, in particular Sections 2(c), 12, 13 and 14,
which are extracted herebelow, to contend that at best the

Commission could have made a recommendation after holding an

inquiry/investigation into any complaint received by it but in no circumstances can it pass an order which would have the effect of binding two parties to a dispute so as to give it finality and an enforceable order.

“2. In this Act, unless the context otherwise requires,--

- (a)
- (b)
- (c) “complaint” means all petitions or communications received in the Commission from a Non-resident Indian or from any other person on his behalf, in person or by post or by telegram or by fax or by any other means whatsoever, alleging, disputes or violations or abetment thereof or negligence in the prevention of such dispute or violation, by a public servant or a private person or providing material on the basis of which the Commission takes suo-motu cognizance;”

“12.(1) The Commission shall, while investigating any matter under this Act, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely :-

- (a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents; and

(f) any other matter which may be prescribed

(2) The Commission shall perform its functions by holding “sittings” and “meetings” at any place within the State of Punjab.

(3) The Members of the Commission including the Chairperson shall function in accordance with the rules framed under this Act.

13. The Government shall consult the Commission on all major policy matters affecting Non-resident Indians.

14. The Commission may conduct inquiry or investigation into the matters falling within its authority :-

(a) either directly; or

(b) through an investigating team constituted by the Commission; or

(c) through the Deputy Commissioner of the

district concerned; or

(d) through the Government.”

In support of his contention he has referred to *Subramanian Swamy v. Arun Shourie*, (2014) 12 Supreme Court Cases 344 with a particular reference to paras 23, 25 and 34 that a Commission such as the one in question does not have the powers of a court even though equipped with similar trappings and the part that it has to establish any complaint in an inquiry with appropriate recommendations to the Government as a follower.

Although this judgment was rendered with respect to the human right commission and its powers the discussion according to us would be relevant to the present case as well. We have examined the powers of the Commission as contained in the Act and are of the opinion that it is largely a recommendatory body to the Government in matters of complaints as also policy decisions affecting the Non-resident Indians.

Having said so we have also perused the order impugned in the writ proceedings and are of the opinion that the Commission did not transgress its powers and after establishing the complaint made before it merely made recommendations to the State of Punjab. Evidently, it was upto the State and its functionaries to accept these recommendations in whole or in part but for reasons best known to them they missed the plain

language of the Commission to rush this Court in writ proceedings. The learned Single Judge in this regard has observed as follows :-

“...The interest of an NRI is to be safeguarded and protected by recommending suitable relief for the complainant. The NRI Commission thus has not exceeded jurisdiction in ordering refund of the amount deposited by the complainant along with interest.”

We may also note here that the grievance of the appellants is confined to this aspect of the judgment and not to any other portion of the same. After hearing the learned counsel for the appellants, we are of the view that the learned Single has merely approved the order of the Commission to hold that it has not exceeded its jurisdiction but we are also of the opinion that the words deployed by the learned Single judge “ordering refund” is capable of misinterpretation as the order of the Commission merely makes a recommendation to the Government and entails no mandate.

With this clarification we dispose of the instant appeal.

(MAHESH GROVER)
JUDGE

02.03.2017
dss

(SHEKHER DHAWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No