

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) No. 9547/2015**

% **3rd March, 2017**

UNION OF INDIA Petitioner

Through: Mr. Sameer Agarwal, Advocate.

versus

THE NATIONAL COMMISSION FOR SCHEDULE CASTES &
ANR. Respondents

Through: Mr. S.K. Mohanty, Advocate for
R-1.

Dr. K.S. Chauhan, Advocate for
R-2.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition under Article 226 of the Constitution of India, the petitioner/Union of India impugns the order dated 18.8.2015 passed by the National Commission for Scheduled Castes. The order is in the nature of Minutes of Meeting. The said Minutes of Meeting dated 18.8.2015 reads as under:-

“ No.R-7/I&B-1/2013-SSW-I

National Commission for Scheduled Castes.

Minutes of hearing held on 18/8/2015 in the Commission.

The matter relating to representation of Shri Ratan Singh, Surveyor of Works (E), CCW, AIR, New Delhi for his promotion was discussed on 18/08/2015.

Shri Ajay Joshi, Deputy Secretary (Broadcasting-II) M/o I&B and the petition, Shri Ratan Singh were present.

It was observed that the M/O I&B and the AIR authorities have not implemented the Department of Personnel & Training O.M. No. 36012/45/2005-Esstt.(Res) dated 18.08.2010 regarding reservation in promotion-treatment of SC/ST candidates promoted on own merit so far. Further, this order has not been withdrawn by the DoP&T order. It is a serious case and merely, on the court's decision, non(missing) implementation of DoP&T guidelines (Nodal Ministry/Deptt.) is violation of reservation policy of Govt. of India. Hence, it is decided that the Secretary, M/o I&B and the Director General, All India Radio may be called in the next heaving fixed on 08/9/2015 at 12:30 p.m. along with action taken report.

Sd/-
(Dr. Raj Kumar Verka)
Vice-Chairman
18.8.2015"

2. The Supreme Court way back in the year 1996 passed its judgment in the case of ***All India Indian Overseas Bank SC and ST Employees' Welfare Association and Others Vs. Union of India and Others, 1996 (6) SCC 606***, that a Scheduled Caste/Scheduled Tribe Commission is not a Civil Court and it cannot pass a judgment like a Court of law and issue injunctions. The relevant paras of the judgment in the case of ***All India Indian Overseas Bank SC and ST Employees' Welfare Association (supra)*** are paras 10 and 11 and the same read as under:-

"10. Interestingly, here, in clause (8) of Article 138, the words used are "the Commission shall... have all the powers of the civil court trying a suit." But the words "all the powers of a civil court" have to be exercised "while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause 5". All the procedural powers of a Civil Court are given to the Commission for the purpose of investigating and inquiring into these matters and that too for that limited purpose only. The powers of a civil court of granting injunctions, temporary or permanent, do not inhere in the Commission nor can such a power be inferred or derived from a reading of clause (8) of Article 338 of the Constitution.

11. The Commission having not been specifically granted any power to issue interim injunctions, lacks the authority to issue an order of the type found in the letter dated March 4, 1993. The order itself being bad for want of jurisdiction, all other questions and considerations raised in the appeal are redundant. The High Court was justified in taking the view it did. The appeal is dismissed. No costs.”

3. A reading of the impugned order shows that though the same is proffered in the form of ‘Minutes of Meeting’ asking for an ‘Action Taken Report’, actually an Action Taken Report is for seeking the report for implementation of the order, and therefore, the order dated 18.8.2015 is in the nature of a judgment passing an injunction order and which has been passed without the Scheduled Castes Commission having jurisdiction to pass such an order in view of the judgment of the Supreme Court in the case of *All India Indian Overseas Bank SC and ST Employees’ Welfare Association (supra)*.

4. In view of the above discussion, the impugned order dated 18.8.2015 is totally illegal and is therefore set aside. The writ petition is, accordingly, allowed and disposed of, leaving the parties to bear their own costs.

MARCH 03, 2017/AK

VALMIKI J. MEHTA, J