

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 14.03.2018****CWP No.1700 of 2018**

Simmi Nayyar

...Petitioner

Vs.

Haryana Human Rights Commission & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINAPresent: Mr. Ashok Sharma Nabhewala, Advocate,
for the petitioner.Mr. R.K.Malik, Senior Advocate, for
Ms. Rimple Kadyan, Advocate, for respondents No.1 & 2.Ms. Shruti Jain Goyal, AAG, Haryana,
for respondent No.3.**RAJIV NARAIN RAINA, J.**

1. By way of this petition filed under Articles 226 & 227 of the Constitution, the petitioner seeks a writ in the nature of certiorari quashing the orders dated 20.02.2017 (Annex P-7), whereby her services have been arbitrarily and illegally de-regularized and the further order dated 17.01.2018 (Annex P-11), which abruptly dispenses with her services. She prays further for a writ of mandamus directing the respondents to declare the petitioner as Private Secretary in a regular appointment in view of the orders passed by the Chairperson of the Haryana Human Rights Commission.

2. The brief facts of the case are that the petitioner was appointed as Personal Assistant by the Chairperson of the Haryana Human Rights Commission, Chandigarh vide appointment letter dated 13.02.2013. The appointment was purely on contract/temporary basis to run initially for a

period of six months on fixed/consolidated pay of Rs.20,000/- per month. By further order dated 24.06.2013, the petitioner was appointed by the Chairperson as Private Secretary on the same terms on contract/temporary basis. The Chairperson was pleased to extend the period of service by six months placing the petitioner in the pay scale of Rs.9300-34800 + GP 4200 with initial start of Rs.16,290/- on the terms and conditions set out in the office order dated 26.11.2014. The tenure was extended for six months vide order dated 17.06.2015 and again on 08.12.2015. Thereafter, by order dated 01.08.2016, her services as Private Secretary were regularized w.e.f. 06.07.2016 in the pay scale Rs.9300-34800 + 4200 GP plus such allowances as may be admissible from time to time to the employees of Haryana Government against the post sanctioned by the Haryana Government.

3. The then Chairperson, Haryana Human Rights Commission, Chandigarh retired while demitting office on 01.08.2006 on completion of age of 70 years. The Members of the Commission were a retired High Court Judge and an IAS Officer both retiring on 19.09.2017 and 20.09.2017 respectively. Presently, the Haryana Human Rights Commission has neither Chairperson nor Members and in this regard litigation is pending in this Court in CWP No.20951 of 2017 titled 'Arjun Sheoran, Advocate Vs. Haryana State Human Rights Commission & others'.

4. The Parliament has enacted the Protection of Human Rights Act, 1993 (for short 'the Act'), which provides for the establishment of a National Human Rights Commission, State Human Rights Commission in all the States and establishes Human Rights Courts for better protection of human rights and for matters connected therewith or incidental thereto.

Section 21 constitutes the State Human Rights Commission. The State of Haryana has constituted the Haryana Human Rights Commission. Section 21(2)(a) requires a Chairperson to be appointed, from amongst persons who have been a Chief Justice of a High Court. Section 21(2)(b) provides for appointment of one Member, who is, or has been, a Judge of a High Court or District Judge in the State with a minimum of seven years experience as District Judge. The Commission must also have a Member having knowledge of or practical experience in matters in relation to human rights. Section 21(3) provides that there shall be a Secretary who shall be the Chief Executive Officer of the State Commission and shall exercise such powers and discharge such functions of the State Commission as it may delegate to him.

5. Section 27 deals with Officers and other staff of the State Commission. Section 27(2) is of paramount importance to this case, when it provides that subject to such rules as may be made by the State Government, the State Commission may appoint such other administrative, technical and scientific staff as it may consider necessary. In exercise of powers conferred under Section 41 of the Act, the Government of Haryana has made draft Haryana Human Rights Commission (Group C) Service Rules, 2015, which are still in draft shape and have not been notified by the State Government. With the retirement of the last incumbent Chairperson, the reigns of the administration came in the hands of a former Judge of this Court to be the acting Chairperson of the Commission. With the change of guard, the services of the petitioner were de-regularised w.e.f. 14.02.2017 (AN) with the order being passed by the acting Chairperson, but it was ordered she would continue to draw the same pay and allowances w.e.f. 15.02.2017 as

had been drawn by her on 05.07.2016 i.e. one day prior to the date of regularization as Private Secretary on 06.07.2016. The order is dated 20.02.2017/01.03.2017 endorsed on 03.03.2017 issued by the Secretary of the Haryana Human Rights Commission, Chandigarh. The appointment was on contract up to 31.03.2017 on the terms and conditions specified in the letter. The acting Chairperson extended the term of contract for a period of three years from 01.04.2017 or till the rules are notified by the Government, whichever is earlier, vide order dated 22.03.2017. If this order has to be given effect to, then the petitioner continues till 31.03.2020. The Rules are not being notified upon which the pre-condition rests.

6. The Haryana Human Rights Commission is without the Chairperson and Members. On 04.12.2017, the Secretary of the Commission transferred the petitioner from the post of SPIO to Incharge Record Room. On 18.12.2017, the Registrar (Law & Legal), a retired Judicial Officer, passed a confidential order calling explanation from the petitioner on the following day. The order dated 18.12.2017 reads as follows:

“Vide orders dated 04.12.2017 passed by the Ld. Secretary, HHRC, you were transferred from the post of S.P.I.O. to Incharge Record Room, besides performing the duties of filling up of forms of fresh complaints etc. in addition to the work of Research Wing, NHRC references being looked after by Sh. Hemant Jain, Assistant. It was also ordered that in absence of Mr. Satwinder Sharma, Assistant Registrar, the work of S.P.I.O. being looked after by him, you would look after the work of S.P.I.O. The above mentioned orders were conveyed to you vide Endst.No.7497/HHRC/Chd./dated 05.12.2017. But despite passage of a week neither you visited Record Room to see its work nor performed duties of SPIO during the leave period of

Mr. Satwinder Sharma. It shows that you are not interested to work and neglecting the same. Show cause why you should not be proceeded under the C.S.R.

Your explanation in this regard, must reach by tomorrow, otherwise it would be presumed that you have nothing to say in this regard and disciplinary action would be taken against you as per law.”

7. Since it was a show cause notice, the petitioner filed a detailed reply on 21.12.2017 requesting that the show cause notice be dropped in view of the contents of the reply. It would be worthwhile to reproduce the relevant part of the reply to the show cause notice regarding non-performance of duties which is self explanatory. The relevant part of the defence against the show cause reads as follows:

“In the Hon’ble Commission appointments are made by the Commission which includes the Hon’ble Chairperson and Members of the Commission but at present all these posts are lying vacant since September, 2017. No such power which can be exercised vests with the Commission in the present circumstances. Therefore, the impugned show cause notice is without jurisdiction. Even the action taken by the previous Acting Chairperson has been questioned in the Hon’ble High Court of Punjab and Haryana being violative of Section 27(2) of Protection of Human Rights Act, 1993. Therefore, the said show cause notice issued to me is contrary to law.

So far as non-performance of duties are concerned, it may be pointed out that since September, 2016, four posting and transfer orders have been issued in the interest of the administration by the Ld. Secretary/Registrar (Law & Legal). Vide order dated 28.09.2016, I was transferred from the office of the Secretary to the office of the Registrar (Law & Legal), but was also called upon to look after the work

already assigned (i.e. work relating to Research Wing and NHRC references which related to Sector 19 Extension Office). Vide order dated 03.08.2017, I was again transferred from the office of Registrar (Law & Legal) to the office of the Secretary in addition to the duties already assigned to me. Vide order dated 24.08.2017, I was transferred from the office of the Secretary to SPIO and in addition thereto, I was asked to perform the duties of filling up forms of fresh complaints etc. and the duties already assigned to me. Since both these duties were to be performed at Sector 33 office, therefore, I was asked to perform my duties at Sector 33. Still vide order dated 04.12.2017, I was transferred/posted from SPIO to Incharge, Record Room and also asked to perform the duty of filling up of forms of fresh complaints etc. in addition to the work of Research Wing, NHRC references which is being looked after by Sh. Hemant Jain, Assistant. It may however be submitted that in addition to the above, so many duties were orally assigned i.e. organizing of celebration of International Human Rights Day-All States Human Rights Commission meet, held on 18.12.2016 at Chandigarh Judicial Academy and work of Establishment Branch viz. dealing with matters relating to internship of students, grant of leave of the officials of the Commission, etc., which I faithfully carried out.

It may however be submitted that I was appointed as Private Secretary on 25.06.2013 by Hon'ble Human Rights Commission. The duties of Private Secretary are well defined and well performed by me. Despite that I have been discharging the duties of SPIO and other miscellaneous duties assigned by the Hon'ble Commission from time to time, although the said duties had nothing to do with the duties of Private Secretary.

It is further submitted that the office of Record Room is situated in Sector 19, Extension Wing of HHRC whereas the office of the Hon'ble Commission is situated in Sector 33-A. Since the work of filling up of forms of fresh complaints

which are being received daily at the main office of Hon'ble Commission was also to be done by me, I could not find time to visit the Record Room and no necessity ever arose as no requisition of any file was received for which I was required to visit the Record Room. I was never conveyed by the authorities to sit in Sector 19, Extension Wing. No Clerk or Assistant has been posted in the Record Room except me as Incharge Record Room despite the fact that it was brought to the notice of your goodself for posting a Clerk or Assistant for smooth functioning of the work of Record Room. Only one Peon (MTS) has been posted in Record Room. Moreover on 06.12.2017 and 07.12.2017, I was on sick leave, 9th and 10th December were holidays and from 11.12.2017 to 13.12.2017, Shri Satwinder Sharma, SPIO was on leave and I was asked to look after his work. There was sufficient work in the main office as such I could not find time to go to Sector 19, Extension Office.

Despite sincerely performing all my duties whatsoever assigned to me by the Hon'ble Commission from time to time, I have been transferred four times and harassed being a woman for no fault of mine which is against the principles of Administrative Law.

The reason for issuance of show cause notice is entirely different. I was verbally asked by your goodself to sign the forwarding letter of RTI Appeal of Prof. Satish K. Gupta with which no order passed by the Appellate Authority was enclosed, in compliance of which the same was to be issued and when I requested you to ask the dealing Assistant to attach the order passed by your goodself, it was flatly refused saying that the same may be against me and as such I showed by inability to sign that letter without being aware of the order passed in that appeal. My request was only for enclosing the order which culminated into issuance of this notice. There is no dereliction of duties on my part which may call for any action under the CSR or any other Rule."

8. The petitioner did not hear anything on her objections reproduced above and to her utter dismay and disbelief, she was served with the impugned order dated 17.01.2018 dispensing with her services by terminating the contract of service before expiry of the stipulated period on the ground that her services are no longer required.

9. A fact may be noticed that the acting Chairperson appointed one Mrs. Rita Rathore as Private Secretary in a Walk-in-Interview vide appointment letter dated 12.09.2017 issued one day short of the Hon'ble Member demitting office on 18.09.2017. He accepted the joining report of Mrs. Rathore on a consolidated pay of Rs.35,000/- per month to be effective for a period of three years.

10. Apart from challenging the order of de-regularisation and termination on the merits, the petitioner on a legal point contends that the Registrar (Law & Legal), HHRC, Chandigarh is neither the appointing authority nor the disciplinary authority of the petitioner and had no power or delegated authority to have passed the order dated 17.01.2018 in the absence of Chairperson and Members of the Commission, additionally when posts are lying vacant. No power has been delegated to the Registrar (Law & Legal), HHRC, Chandigarh by the Chairperson/State Commission at any time before demitting office.

11. The Registrar (Law & Legal), HHRC, Chandigarh has appeared in Court on directions and I asked him to produce evidence of authority delegated to him to justify the impugned order. He was unable to explain or produce any documentary evidence in this regard. None of which material

have been produced in the copious joint written statement filed on behalf of respondents No.1 & 2 to contest the case.

12. In the opening preliminary submission, the very appointment of the petitioner has been questioned in many ways including that she was over-age at the time of appointment as per prevailing instructions of Government of Haryana dated 22.09.1999. The upper age limit for entry into service of the State Government is 40 years for General category candidates. It was subsequently on 26.08.2014, that the age was increased to 42 years and even as per these instructions, the petitioner is ineligible being overage. While taking that objection, the Secretary of the HHRC, who has signed the written statement, has stated that Haryana Human Rights Commission is an autonomous body, distinct from Government and empowered under the Protection of Human Rights Act, 1993.

13. It is for the Commission under Section 27(2) to appoint such other administrative, technical and scientific staff, as it may consider necessary. This case involves an appointment to the administrative staff and the Commission in the hands of retired Chief Justice of this Court which is best left to the prerogative and wisdom of the holder of the high office as to who should be the Personal Assistant or the Private Secretary to the Chairperson/State Commission. It is stated that the Commission came into existence in September, 2012 but the recruitment rules and service rules have not been framed so far by the State Government. In the absence of rules, it is for the Chairperson to act in the best interest of the Commission as Appointing Authority. Neither the Secretary of the Commission nor the Registrar (Law & Legal) is the appointing authority and accordingly neither

could pretend to act as empowered authorities to terminate the contract of employment. It is only when the Chairperson is appointed to hold office may he consider or reconsider the decisions taken by his predecessor-in-interest, but that would not give a mandate or carte blanche to persons other than Chairperson and Members of the Commission to pass orders affecting the rights of employees. The Secretary and the Registrar (Law & Legal), HHRC, Chandigarh have apparently usurped the jurisdiction of the Chairperson and Members of the HHRC to pass the impugned orders without powers of appointing and disciplinary authority delegated to them in writing by the Commission.

14. If the State Government has not responded to the call of the day to appoint Chairperson and Members of the Commission, then it must bear the costs of its inaction letting the status quo continue even regarding services of the many employees working in the Commission of which, I was verbally informed at the hearing that there are about 100 working. If the order of de-regularization is without authority, then it is no objection to take in the written statement that the petitioner has not challenged the order of de-regularization for about one year and has submitted to her act and conducts and waived her right. Even this is an incorrect statement in the written statement when the last holder of office being the acting Chairperson passed an order continuing with the services of the petitioner till three years beyond 01.04.2017. The contract could not be rescinded prior to the date of expiry of the stipulated period. The petitioner being a lady appears to have been harassed by transferring her four times here and there in different offices located in Chandigarh and then her work and conduct found faults with to make a ground for termination even when no such authority existed in those

who have passed the orders in the absence of State Commission. Neither the Secretary nor the Registrar (Law & Legal) can challenge the authority of the Chairperson, who is none other than a retired Chief Justice of the High Court nor can undermine his status by castigating his actions after His Lordship demitted office on completion of tenure. This amounts to passing orders behind the back of the Chairperson and Members of the Commission.

15. It may be stated that acts done and appointments made after 01.08.2016 by the then acting Chairperson are under challenge in *Arjun Sheoran's* case, where notice of motion has been issued and the case is pending hearing.

16. A similarly situated employee, also on contract, and despite her appointment against sanctioned post was adversely dealt with by the officers of the Commission is already in Court in challenge to those orders in CWP No.16060 of 2017 in case titled 'Ms. Shilpa Sharma Vs. Haryana Human Rights Commission', wherein the operation of the order declaring her service as contractual has been ad interim stayed by this Court including the subsequent order dated 25.07.2017 whereby contract of service has been withdrawn on the ground that services are no longer required w.e.f. 27.07.2017. These orders in *Shilpa Sharma* case have been stayed vide interim order dated 01.08.2017, which matter is also pending.

17. In my considered view, the Registrar (Law & Legal) has no power or authority under the Act to initiate action against the officers/officials of the Commission since he is not an authority competent to pass such orders or to take disciplinary action, which action can only be

taken by the Commission as a disciplinary authority, as provided by Section 25 of the Act.

18. As regards Mrs. Rita Rathore, she was appointed after the Chairperson had retired and both the Members were on the verge of retirement. Her appointment as Private Secretary was ordered just one day before the Member retired High Court Judge demitted office. Mrs. Rathore was given duties of Private Secretary, whereas the petitioner, who was senior to her, was made to do odd jobs with the object of showing her down, harassing and humiliating her at workplace. The petitioner has been in service since 2013 albeit in the capacity of contract/temporary basis but that position was changed by the Chairperson when orders of regularization were passed.

19. In the written statement, the respondents pretending to represent the Commission have harped on the regularization policy dated 18.06.2014 for Group C and Group D employees to submit that her case does not fall within that Haryana Government policy and further that she has not put in 10 years of service to be considered for changing her status as a regular hand. This stand has been taken without thought being paid to the order regularizing the services of the petitioner on 01.08.2016 w.e.f. 06.07.2016. The order was subject to medical fitness certificate for which the petitioner was required to appear before the Civil Surgeon, General Hospital, Sector 6, Panchkula. Respondent No.2 has no authority to go behind that order and all actions taken thereafter are rendered illegal and without due process or authority of law.

20. The noting sheet (Annex R-17 at pp.125 & 126) attached with the written statement contains letter written by the Registrar (Law & Legal) to the Secretary, Government of Haryana being the Secretary of the State Commission on 17.01.2018 (hand written) and 17.01.2017 (typed). It is worthwhile to reproduce here the two relevant paragraphs appearing at the end of the letter/noting sheet. The same are as follows:

“Though Ms. Simmi Nayar was appointed as Private Secretary to be attached with the Hon’ble Chairperson/Members or any officer of the Commission, however since 21/09/2017 the posts of Hon’ble Chairperson as well as members are lying vacant. So in order to keep her gainfully employed vide order dated 04/12/2017 (copy attached as PUC) in supersession of earlier posting orders, passed by the Competent Authority she was assigned the work of Incharge Record Room besides performing the duties of filling of the forms of the fresh complaints etc. in addition to the work of Research Wing, NHRC and references being looked up by the other official. However, she failed to perform the duties of Record Incharge in compliance of the said order of the competent authority. Since she was not performing the duties assigned to her satisfactorily so vide order dated 18/12/2017 (copy attached as PUC), show cause notice was issued to her.

However instead of submitting any satisfactory reply to the said show cause notice, she vide reply dated 21/12/2017 (copy attached as PUC), has leveled wild and frivolous allegations against the then Hon’ble Acting Chairperson and present officers/officials in the Commission and has challenged even the competency to issue show cause notice to her. Still further she has stated in her reply that she was appointed as Private Secretary and duties of the Private Secretary are well defined and the other duties assigned to her had nothing to do with the duties of Private Secretary.

In view of the above, it is submitted that though the contract of Ms. Simmi Nayyar is for three years from 01/04/2017, however, as per terms of conditions mentioned in her appointment order her services can be terminated at any time without any specific reason on or before completion of term of contract and she has no right of continued contractual appointment. At present the posts of Chairperson and the Members with whom a Private Secretary is to be attached are lying vacant and there is no requirement of Private Secretary. The appointment of new Chairperson and the Members is likely to take time. Ms. Simmi Nayar as is apparent from her conduct in not discharging satisfactorily the other duties assigned to her as she is not interested in discharging other duties. She is even challenging the authority of the Competent Authority to enforce discipline in the Commission. Moreover her work and conduct is not satisfactory. Number of oral complaints regarding her behavior and conduct has been received from the other officials working with her. In view of the above facts since there is no requirement of the Private Secretary at present and ms. Simmi Nayyar has no right to continued contractual appointment and the work and conduct of Ms. Simmi Nayyar is not satisfactory, her contract may be terminated in terms of clause 3 of her appointment order on the ground that her services are no longer required.”

21. A reading of the noting sheet shows apparent fallacies. The Registrar reasons (as above reproduced) that though the contract was for three years from 01.04.2017, but it was mentioned in the first appointment order that her services can be terminated at any time without any specific reason, on or before the completion of the term of contract and she has no right to continue on contractual appointment. Even the acting Chairperson had extended the appointment of the petitioner as Private Secretary for three years from 01.04.2017 or till the rules are notified by the Government,

whichever is earlier. The rest of the terms and conditions regarding pay etc. were to remain unchanged. There was no term in the letter dated 22.03.2017 that the services of the petitioner could be terminated at any time without any specific reason even before the completion of contract. The Registrar has mixed up the appointment letter with the letter dated 22.03.2017. It is another matter as to how the order of regularization was circumvented and by-passed by the acting Chairperson and later on by the answering respondents.

22. The second fallacy in the reasoning is that since the post of Chairperson or Members are lying vacant, so there is no requirement of Private Secretary. If this is so, then the post of Registrar (Law & Legal) can also be declared redundant and the matter left to the Secretary of the Commission to run the affairs in the absence of the Chairperson and the Members of the Commission. The Government may consider this as a waste of money. The third fallacy is that stigma is attached to the work and conduct of the petitioner when the noting is produced as a document with the written statement to form part of judicial record. Only if it was proper and legal defence against the relief sought by the litigant would such document be treated as confidential, although in judicial record, taken with a view to contest the case. In the noting even oral complaints of behavior have been alleged and imputed against the petitioner without any tangible proof and enquiry. If he has any personal grievance with the petitioner, he may take it up with the next Chairperson and the Members of the Commission, whenever appointed. Clause (3) of her appointment letter can have no effect after the Chairperson had regularized the services of the petitioner, which is an order of the State Commission which ought not to have been tinkered

with without due authority. The petitioner had ceased to be a contractual employee with the passing of the regularization order dated 01.08.2016. The case would then come within the ambit of Delhi Transport Corporation Vs. D.T.C. Mazdoor Congress, AIR 1991 SC 101, 1990 SCR Supl. (1) 142 that a regular employee is not open to hire and fire and any such hire or fire clause is arbitrary and illegal. The relevant extract from Delhi Transport Corporation's case reads as follows:

“The right to public employment which includes right to continued public employment till the employee is superannuated as per rules or compulsorily retired or duly terminated in accordance with the procedure established by law is an integral part of right to livelihood which in turn is an integral part of right to life assured by Article 21 of the Constitution. Any procedure prescribed to deprive such a right to livelihood or continued employment must be just, fair and reasonable procedure and conformable to the mandate of Articles 14 and 21. In other words, an employee in a public employment also must not be arbitrarily, unjustly or unreasonably deprived of his/her livelihood which is ensured in continued employment till it is terminated in accordance with just, fair and reasonable procedure. Otherwise any law or rule in violation thereof is void.”

23. The important thing as forthcoming from the above extracted noting portion is that it was put up before the Secretary of the Commission, who approved at 'A'. 'A' is the last sentence of the above reproduced noting. This approval has to be read in the context of noting of Ms. Renu Phulia, IAS (Secretary, HHRC) in her note dated 20.09.2017. The noting came in the background of the acting Chairperson and Shri J.S.Ahlawat, Member, who were to demit office one after the other on 19.09.2017 and

20.09.2017 passing orders hurriedly. Thereafter, there would be no Member of the Commission left for carrying out the day-to-day work and for this purpose the outgoing acting Chairperson had formed an Administrative Committee under the Chairmanship of the Secretary along with Registrar (Law & Legal) and the Registrar (Judicial) till the Commission was reconstituted by the State Government. The acting Chairperson had stated that the decisions of the Committee would be binding and shall be implemented by majority. Being careful and conscious of the law in the Act, the Secretary properly read the provisions of the Protection of Human Rights Act, 1993 and found that there is no provision to constitute a Committee for day-to-day administrative work in the absence of the Commission. She has been appointed by the Government under Section 27 of the Act and was bold enough to record *“that the orders are contrary to the Act and spirit of law and has no locus standi in the eyes of law”*. She solicited appropriate orders. The matter was put up to the Member In charge, namely, Shri J.S.Ahlawat on the same day. He penned the following note:

“I have gone through the provisions of the Act and find that there is no provision under the Act and Rules to constitute an Administrative Committee for the disposal of day to day administrative work in the absence of the Commission. Secretary of the Commission is a very senior IAS officer of the level of Secretary in the Government of Haryana and is competent to look after the day-to-day administration of the Commission and there is no provision in the Act to constitute an Administrative Committee. In the light of above situation, the constitution of Committee is illegal, contrary to the Act and Rules and have no locus standi in the eyes of law. Hence, the order dated 13.09.2017 issued by the Acting Chairperson stands withdrawn. All concerned be informed accordingly. However, the file be

produced before the Commission as and when it is constituted.”

24. Shri Ahlawat, IAS found the constitution of Administrative Committee as illegal and contrary to the Act and agreed with the views of Ms. Renu Phulia, IAS and as a result, the order dated 13.09.2017 was withdrawn. Hence, the order dated 13.09.2017 is consequently declared *coram non judice* and merely because a retired High Court Judge has passed the order as Member/Acting Chairperson would not lend any greater weight to it. The formal order to this effect was passed on 20.09.2017 signed by the Secretary HHRC, as its Chief Executive Officer. As a result, the Registrar (Law & Legal) was absolutely denuded of authority in relation to the subject matter dispute and over the petitioner, even though he had none to start with, but the declaration came on 20.09.2017 putting an end to the matter. The answering respondents have laboured long to present a voluminous written statement only trying to defend what is defenseless. The answering respondents cannot challenge the authority or orders of the Chairperson, which can only be challenged in judicial review before an appropriate forum. In my considered view interference in the impugned orders are eminently called for being without jurisdiction. The Registrar (Law & Legal) is neither the appointing or disciplinary authority. His actions are void and contrary to the provisions of the Act. Also because in absence of powers delegated specifically to him in writing by the Chairperson/State Commission he becomes persona non grata.

25. As a result of the above discussion, this writ petition is allowed. The impugned orders dated 20.02.2017 (Annex P-7) and 17.01.2018 (Annex P-11) are declared illegal, without jurisdiction and unconstitutional and are

consequently invalidated by issuing writ of certiorari. The petitioner is reinstated into service forthwith with all consequential benefits. She will be treated as regular Private Secretary for all intents and purposes. As far as her duties are concerned, those will be assigned by the Secretary of the Commission till the Chairperson and other Members of the Commission are appointed by the State Government.

26. The Registrar (Law & Legal) is directed not to pass an order affecting the rights of the petitioner till the State Commission is reconstituted and the Chairperson and Members are in the saddle. They may take decisions as they may want in accordance with law.

14.03.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>Yes</i>