

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1334 of 2012**

Bhagwandas Agrawal, S/o. Shri Ramchandra Agrawal, Aged About 52 Years, Occupation- Business, R/o. Main Road, Basna, District Mahasamund, Chhattisgarh.

---- Petitioner**Versus**

1. Ku. Champa Jangde, D/o. Kariyaram Jangde, Aged About 40 Years, Occupation- Service, Working as Shiksha Karmi, Grade-I, R/o. Village Jhumka, Post Sarsiwa, Tahsil Bilaigarh, District Raipur, Chhattisgarh.
2. State of Chhattisgarh, Through the Secretary, Home Department Mantralaya, D.K.S.Bhawan, Raipur, District Raipur, Chhattisgarh.
3. Chhattisgarh Rajya Anushuchit Jati Aayog, Raipur Through its President, Chhattisgarh Rajya Anushuchit Jati Aayog, Raipur, District Raipur, Chhattisgarh.
4. Collector, Mahasamund, District Mahasamund, Chhattisgarh.
5. Superintendent of Police, Mahasamund, District Mahasamund, Chhattisgarh.
6. R.R.Bhardwaj, Legal Advisor-cum-Personal Assistant of Minister, Chhattisgarh Rajya Anushuchit Jati Aayog, Raipur, District Raipur, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Awadh Tripathi with Mr. Avinash Singh, Advocates
For State/Respondent No.2, 4 & 5.	:	Mr. Priyank Rathi, Panel Lawyer
For Respondent No.3 & 6	:	Mr. Atul Kumar Kesharwani, Advocate on behalf of Mr. V.R.Tiwari, Advocate
For Respondent No.1	:	None appears.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****30.09.2019**

Heard

1. The present petition is against the order dated 25.06.2012 passed by the Chhattisgarh Rajya Anusuchit Jati Ayog, Raipur, whereby recommendation has been made for registering a case against the petitioner under Section 420, 467, 468 & 471 of I.P.C. read with Section 3(1)(8)(10) of the Scheduled

Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The facts as pleaded by the petitioner that the respondent No.1 had taken a loan from the petitioner in the year 1995 and the same was repaid with interest in the year 2006. Subsequently, the respondent No.1 was transferred from village of the petitioner in the year 2010 and on 14.11.2010 another loan of Rs.60,000/- was availed and accordingly the necessary agreement was executed. To secure the loan, two cheques of Rs.35,400/- and Rs.30,000/- were given in lieu of the interest @ 5% and repayment of principal sum which were payable on 16.08.2011. It is further contended that the respondent No.1 had made a complaint to the Secretary, Chhattisgarh Rajya Anusuchit Jati Ayog by Annexure P-4 and simultaneously had sent an intimation to the Bank for stop payment of the cheque on 02.06.2011. When the cheque was lodged for encashment, the same was dishonoured on 29.08.2011 as the payment was stopped. At the same time, when the complaint was made to the Chhattisgarh Rajya Anushuchit Jati Aayog, the cognizance of the same was taken and the recommendation was made.
3. Learned counsel for the petitioner would submit that the cognizance of the like nature are not within the jurisdiction of the Ayog and if the respondent goes with such order to any Police Station, obviously the case would be registered. He further submits that such order of recommendation in the like nature cannot be passed by the Ayog.
4. Learned counsel for the respondent No.3 & 6 would submit that such order would reflect that it is only recommendatory in nature, therefore, no mandate exists for the State Government to act upon it. Consequently, the petition has no merit.
5. Learned counsel appearing for the State/ respondents No.2, 4 & 5 too supports the submission of the learned counsel for the respondent No.3 & 6 and would submit that such recommendation are not mandatory to act upon.

6. Heard learned counsel appearing for the parties and perused the order of the Commission.
7. Reading of the documents would show that there has been some *inter se* transaction took place in between the parties. When the cheque was lodged, which was said to be as a security for the repayment, got dishonoured for the reason that payment was stopped; at the same time, a complaint was being investigated by the Commission. The power of the Commission is defined under Section 9 & 10 of Chapter III of the Chhattisgarh Rajya Anusuchit Jati Ayog Adhiniyam, 1995, which reads as under :

9. Functions of the Commission. - (1) It shall be the function of the Commission-

(a) to act as watch-dog Commission for the protection afforded to the members of the Scheduled Castes under the Constitution and under any other law for the time being in force;

(b) to recommend to the State Government to take steps to add particular castes, races or tribes or parts of or groups within castes, races or tribes in the Constitution (Scheduled Castes) Order, 1950.

(c) to watch the proper and timely implementation of programmes meant for welfare of Scheduled Castes and to suggest improvement in such programmes of the State Government or any other body or authority responsible for such programmes;

(d) to tender advice regarding reservation for Scheduled Castes in public services and admission in educational institutions;

(e) to perform such other functions as may be assigned to it by the State Government.

(2) The advice of the Commission shall, ordinarily be binding upon the State Government, where, however, the Government does not accept the advice, it shall record its reason therefor.

10. Powers of the Commission. - The Commission shall, while performing its functions under sub-section (1) of Section 9, 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 from any part of the State and examining him on oath;

- (b) requiring the discovery and production of any document;
- (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.

8. This Court in the like nature of case i.e. WPC No.1760 of 2012 in between *Tulsi Ram and State of Chhattisgarh & Others* had occasion to interpret the power of the Chhattisgarh Rajya Anusuchit Jati Ayog and it is held that the powers of the Commission are limited and confined to Section 9 of the Act of 1995. It is also obvious in this case and I find force with the argument of the petitioner that if the respondent who holds the order in her favour goes to the Police, the Police would naturally register the case as ordinarily the S.H.O. would not understand the difference of recommendation and mandate. For all practical purpose, it would be taken to be mandate, though the power itself of the Act is not vested with the Ayog. It is a settled proposition that certain act which could not be done directly can not be achieved by circuitous way or otherwise. Consequently, the order dated 25.06.2012 being devoid of jurisdiction of the Ayog is liable to be set aside.
9. Accordingly, the petition is allowed to the above extent. No costs.

ashok

Sd/-
Goutam Bhaduri
Judge