

Sonali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3471 OF 2021**

Sunil Tukaram Zodge

...Petitioner

Versus

The Honorable Maharashtra State
Human Rights Commission through
its Chairperson & Ors.

...Respondents

Mr Abhay Anturkar *i/b. Dhruv Tank and Ms. Bhavya Pande,*
for the Petitioner.

Mr Satyavrat Joshi, *for the Respondent Nos. 4 and 5.*

Mr V. M. Mali, *AGP for Respondent-State.*

**CORAM: G.S. Patel &
 Madhav J. Jamdar, JJ.**

DATED: 16th November 2021

ORAL JUDGMENT (per Madhav J. Jamdar, J.)

1. The Petitioner has challenged the order dated 19th April 2021 passed by the Acting Chairperson, Maharashtra State Human Rights Commission in MAS/Case No.-1791/13/23/2020.

2. Heard Mr Anturkar, learned counsel for the Petitioner and Mr Joshi, learned counsel for Respondent Nos. 4 and 5 and learned AGP for Respondent No. 2.

3. By the impugned order, the Respondent No. 1 has disposed of the complaint filed by the Petitioner on the ground that the complainant has an appropriate remedy of redressal in matters sub judice before the Court. The Respondent No. 1 has also observed that besides approaching the Court, Petitioner has also approached Divisional Police Authority, Pune vide Case No. 205 of 2019 virtually on the same facts seeking action against the alleged erring police officers. It is further observed that the Divisional Police Authority, Pune by order dated 25th February 2020 after detailed inquiry discarded the allegations raised in the complaint.

4. Mr Anturkar, learned counsel for the Petitioner submitted that as far as the complaint dated 4th August 2020 at Exhibit-A to the Petition, the allegations are made against police officials and therefore, according to him Maharashtra State Human Rights Commission has jurisdiction to examine those aspects. He submitted that without verifying the contentions raised in the complaint of the Petitioner, the impugned order is passed.

5. Mr Satyavrat Joshi, learned counsel appearing for the Respondent Nos. 4 and 5 submitted that Respondent No. 5 approached the Court under Section 156(3) of Cr.P.C. for initiating prosecution against the Petitioner and his brother Anil Zodge. However, after concluding the investigation, a charge sheet has been filed against only brother of the Petitioner i. e. Anil Zodge. Thus, the same clearly shows that police are acting in fair manner. Therefore, he submitted that apart from the observations of the Respondent No.1 in the impugned order, this is the additional

reason to substantiate conclusion of the Respondent No.1 that there is no substance in the complaint made by the Petitioner.

6. He also relied on the judgment of Supreme Court in *N. C. Dhoundial Vs. Union of India & Ors.*¹

7. The factual position, which is not disputed as set out in the impugned order, shows that the Petitioner approached Divisional Police Complaint Authority, Pune vide Case No. 205 of 2019 seeking action against certain police officials and the said complaint was dismissed after conducting a detailed inquiry by order dated 25th February 2020. The Respondent No. 1 Commission noted that by making the same allegations, a complaint is filed against Respondent No.1.

8. In the background of this factual position Section 36 of the Protection of Human Rights Act, 1993 (“said Act”) becomes very relevant. The same reads as under:-

“36. Matters not subject to jurisdiction of the Commission

“(1) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.”

“(2) The Commission or the State Commission shall not inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.”

1 (2004) 2 SCC 579.

9. Thus, it is clear that as complaint was filed with Divisional Police Complaint Authority, Pune, the complaint before Respondent No.1-Commission is not maintainable as per section 36(1) of the said Act.

10. Apart from that, the complaint filed before Respondent No.1 Commission is dated 4th August 2020 and the allegations made against police officials are of the period of February 2019. Thus, it is clear that the complaint is barred by limitation as per section 36(2) of the said Act. Thus, the observations in *N. C. Dhoundial* (Supra) on which learned counsel of the Respondent Nos. 4 and 5 has relied, particularly paragraph 15 and 16, of the same are applicable to the present case. Respondent No.1 has also observed that the Petitioner has appropriate remedies for redressing his grievances and has adopted such remedies. The matter is sub judice before the Court.

11. It is significant to note that the factual position on record shows that there are civil disputes. The learned counsel appearing for the Petitioner failed to show that the impugned order is perverse or illegal or is otherwise vitiated by any procedural irregularity.

12. In the facts and circumstances of this case, we are not inclined to exercise our jurisdiction under Article 226 of the Constitution of India and therefore, the Petition is rejected. There will be no order as to costs.

13. All concerned will act on production of a digitally signed copy of this order.

(Madhav J. Jamdar, J)

(G. S. Patel, J)