



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3325 OF 2023

Mr.Raju @ Rajkumar Shamandas Aswani,

Age – 55 years, Occ – Business

Residing at Sham Bhavan, Plot No.140,

Opp. Cosmos Bank, Pimpri, Pune- 017

... Petitioner.

V/s.

1. State of Maharashtra
Through Secretary,
Government of Maharashtra,
Mantralaya Mumbai
2. National Commission for Scheduled Castes,
A Constitutional body set up under
Article 338 of the Constitution of India,
5th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi 11003
3. The Chairman,
National Commission for Scheduled Castes,
Kendriya Sadan A wing, 1st floor,
Opp. Akurdi Railway Station,
Nigdi Pradhikaran, State Office,
Pune, Maharashtra.
4. The Commissioner of Police,
Pimpri Chinchwad, Mumbai Road,
Anand Nagar, Chinchwad, District,
Pune, Maharashtra.
5. The Senior Inspector of Police,
Pimpri Police Station.

6. Anil Parcha,
Age : 32 years, Occupation: Service
Residing at Flat No. A-204, Second Floor,
Waghare Park, Near Kirti Hospital,
Pimpri, Pune, Maharashtra 411017 ... Respondents.

Ms. Minal Chandnani, Mr.Zoheb Merchant i/by Jaiwant S.Chandnani & Associates for Petitioner.

Ms. Anamika Malhotra, APP for Respondent-State.

Mr. Harshad Inamdar for Respondent No.6.

**CORAM : A.S. GADKARI &
SHARMILA U. DESHMUKH, JJ.**

Reserved on : 20th October, 2023.

Pronounced on : 2nd November, 2023.

JUDGMENT : (Per A.S.Gadkari, J.):

1) Heard Ms. Minal Chandnani, learned counsel for Petitioner, Ms. Anamika Malhotra, learned APP for Respondent-State and Mr. Harshad Inamdar, learned counsel for Respondent No.6.

2) The Petition was heard at considerable length on two dates. On the earlier date of hearing, the counsel appearing for the Petitioner was heard at length and he sought time to take instructions and as such, the matter was adjourned. On the adjourned date, different counsel appeared and she was also heard at length.

3) By this Petition filed under Article 226 of the Constitution of India, the Petitioner seeks quashing of the impugned Communications/Notices dated 9th July, 2021 and 27th March, 2023 and

stay of the proceedings initiated by the Respondent No.2-National Commission for Scheduled Castes, New Delhi.

4) Ms. Chandani, learned counsel appearing for the Petitioner submits that, the Petitioner had registered CR No.1093 of 2021 dated 22nd October, 2019 with the Pimpri Police Station, against the Accused, which included the Respondent No.6 herein-Mr. Anil Parcha. She would submit that, Respondent No.6 belongs to a rival political party and wanted to kill the Petitioner due to political rivalry. That, CR No.1091 of 2021, is a false CR registered against the Petitioner and his party workers on 21st October, 2019 with the same police station, in which the charge-sheet has been filed. According to her, the Petitioner's family is being targeted due to political rivalry and the investigation records in the CR No.1091 of 2021 clearly proves that the evidence has been tampered. That, in CR No.1091 of 2021, the Respondent No.6 has given a supplementary statement falsely implicating the Petitioner and other co-accused. That, the Respondent No.6 with the intention to protect himself against any liability for the criminal acts committed by him, addressed a Complaint to the Respondent No.2-Commission. She points out the complaint dated 15th June, 2021 and the second complaint dated 20th March, 2023 addressed by the Respondent No.6 to the Chairman of National Commission for Scheduled Castes.

4.1) She would submit that, the Respondent No.2-Commission without satisfying itself about the complaint made by the Respondent No.6 has issued the impugned Notices dated 9th July, 2021 and 27th March, 2023 annexed at page Nos.25 and 25-F of the Petition. That, the Respondent No.2-Commission has exceeded its jurisdiction as the crimes are subjudice. She would submit that, there is no evidence which would demonstrate that, the assault or the false case was done only due to the Respondent No.6 belonging to Scheduled Caste.

5) We have considered the submissions and perused the record.

6) As noted earlier, by the present Petition, the Petitioner seeks quashing of the Communications/Notices dated 9th July, 2021 and 27th March, 2023 issued by the Respondent No.2-Commission. The fallacy in the arguments of the learned counsel for the Petitioner is in construing the impugned Communications as Orders passed by the National Commission for Scheduled Castes. In the prayer clause also, the communications are being referred to as 'order'.

7) We have perused the communications dated 9th July, 2021 and 27th March, 2023. The said communications have been addressed by the Respondent No.2-Commission to the Commissioner of Police, Pimpri Chinchwad, District Pune, Maharashtra and the District Collector, District Pune, Maharashtra, calling upon the noticee to submit action

taken report in the format given in the said communications. The format indicates that, only the details of the incident are sought at this stage by the Respondent No.2-Commission.

8) The National Commission for Scheduled Castes is a constitutional body which is created under Article 338 of the Constitution of India. The powers and the functions of the National Commission for Scheduled Castes are set out in Clause (5) of Article 338 of the Constitution. Sub-Clause (b) of Clause (5) of Article 338, provides for an inquiry into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes. It is evident from the communications which are impugned in the present Petition that, the Commission upon receipt of the complaint from the Respondent No.6 has sought certain information from the concerned Authorities i.e. the Commissioner of Police and the District Collector.

9) The communications have not been addressed to the Petitioner and no summons has been issued to him. This is a preliminary stage where upon receipt of the complaint from Respondent No.6, the Respondent No.2-Commission has merely sought the information about the incident in-question. At this premature stage, the Petitioner has approached this Court seeking a writ in the nature of an injunction to restrain and/or to preempt the Respondent No.2-

Commission from proceeding any further. The inquiry which the Respondent No.2-Commission has the jurisdiction in view of the Sub-Clause (2) of Clause 5 of Article 338 of the Constitution is at the nascent stage. Only information is being sought from the concerned authorities. It remains to be seen whether Respondent No.2-Commission takes any further steps after having received the information.

10) According to the learned counsel for the Petitioner, the Rules of the procedure of the Commission do not permit an action to be taken on matters which are subjudice. At this stage, there is no recommendation of the Respondent No.2-Commission in respect of the crimes which have been being lodged against Respondent No.6. What the Petitioner seeks is to preempt the Respondent No.2-Commission from taking any action upon the complaint of the Respondent No.6, which in our opinion is not permissible.

11) We find that there is no recommendation or any direction passed by the Respondent No.2-Commission on the complaint received from the Respondent No.6. The Petition is therefore, filed prematurely. It cannot be stated that, the Respondent No.2-Commission does not have the jurisdiction to inquire into the complaint which has been lodged by the Respondent No.6, as Article 338 of the Constitution of

India empowers the Respondent No.2-Commission to inquire into specific complaints with respect to deprivation of rights and safeguards of the Scheduled Castes.

12) In our opinion, the cause of action if any, will accrue to the Petitioner only in event of any orders/recommendation being passed by the Respondent No.2-Commission, which would be in excess of the jurisdiction or and/or in violation of the Rules of the procedure of the Commission. If the contention of learned counsel for the Petitioner is accepted, it would amount to prohibiting the Respondent No.2-Commission from even seeking information about any incident pursuant to complaint being received by it.

13) Having regard to the above, in our opinion, the Petition is thoroughly misconceived being premature and is liable to be dismissed. Before parting, we may note that, the pleadings in the present Petition leaves much to be desired. Right from terming the communications as 'orders' to the pleadings referring to the Petitioner at some places as Appellant, to the discrepancy in the pleadings and the documents annexed to the Petition has presented this Court with a lot of difficulty in adjudicating the Petition. Be that as it may, we would only like to add that, the pleadings and the documents which are annexed to the Petition play an important role in assisting the Court to adjudicate the

subject matter and it is expected that, due care would be taken by the draftsmen to ensure that there is no discrepancy between the pleadings and documents and that the documents are referred to correctly and pleadings are not drafted in a casual manner. We leave it at that.

14) In view of the discussion above, in our opinion, this is not a stage at which the proceedings initiated by the Respondent No.2-Commission can be thwarted. Respondent No.2-Commission has not issued any direction or recommendation which would require to be considered by this Court in exercise of its powers under Article 226 of the Constitution of India. In our opinion, no cause of action having been accrued, Petition is liable to be dismissed.

15) Petition is accordingly dismissed.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)