

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8424 OF 2023

The Principal Secretary Urban Development ... Petitioner
Department

Versus

Maharashtra State Human Rights Commission, Mumbai ... Respondents

Mr. Omkar Chandurkar, Add. G. P. a/w. Ms. P. J. Gavhane, AGP for the
Petitioner-State.

Mr. Kunal Kumbhat for the Respondent.

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 11th January, 2024

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BAPPASAHEB
KAKDE

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1. Not on board. Upon mentioning taken on board.
2. When a *suo moto* Enquiry is pending before the learned Chairperson of the Maharashtra State Human Rights Commission (for short the "Commission"), the present proceedings are filed on behalf of the State Government taking objection to a notice dated 28th February 2023 issued by the Commission taking cognizance of a newspaper article, which, according to the Commission, affects human rights of several persons on account of several unauthorized constructions which were undertaken during the Covid-19 lockdown period. We find from the impugned notice issued by the Commission to the State of Maharashtra, the Municipal Commissioner and the

Collector Mumbai Suburban District. Out of three noticees, only the State Government, through the Principal Secretary, Urban Development Department, has questioned the issuance of such a notice.

3. The contention as urged on behalf of the Petitioner is that the Commission would not have jurisdiction to undertake an enquiry on such issues as highlighted in the impugned notice as they are not related to violation of humans rights.

4. On the perusal of the provisions of the Protection of Human Rights Act, 1993 ("the Act"), and more particularly Section 16, it provides that persons who are prejudicially affected shall be heard by the Commission. Such provision in fact is clear, to the effect that if at any stage of the enquiry, the Commission considers it necessary to enquire into the conduct of any person or is of the opinion that the reputation of any person is likely to be prejudicially affected by the enquiry, it shall give to that person a reasonable opportunity of being heard in the enquiry, and to produce evidence in his defence. Needless to observe, it is only on the completion of the enquiry that the Commission is expected to take steps as provided under Section 18 of the Act which are in the nature of recommendations as specifically provided by Section 18 (3) of the Act.

5. We, therefore, find that, at this stage of the proceedings as pending before the Commission, it would be premature for the State to feel aggrieved

by such notice, so as to warrant any interference of this Court in its extraordinary jurisdiction under Article 226 of the Constitution of India. In any event, the jurisdiction of the Commission is to make recommendations and it is up to the State of Maharashtra or other authorities to consider the recommendations and take appropriate action as it may feel appropriate.

6. We accordingly dispose of this Petition permitting the Petitioner to raise all contentions in the pending enquiry, including on the jurisdiction of the Commission, so that all such contentions can be examined by the Commission and further appropriate steps as per law can be taken.

7. Petition stands disposed of in the aforesaid terms. No costs.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)