

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201

CWP-12804-2021
Date of decision: 23.09.2024

JAGBATI ..Petitioner

Versus

STATE OF HARYANA AND ORS ..Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rakesh Sobti, Advocate
for the petitioner.

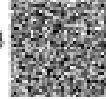
Mr. Deepak Balyan, Addl. A.G., Haryana.

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SHEEL NAGU, C.J. (Oral)

1. The challenge in the present petition is to the recommendations/directions passed by the National Human Rights Commission (in short 'Commission') vide its order dated 13.02.2021 (Annexure P-14), by which the following recommendations/directions have been passed:-

“The Commission has considered the matter. The response to the Show Cause Notice is not based on merits. The complainant had made allegations of police inaction against the Palwal District Police including the SP. Palwal. The directions of the Commission with regard to registration of the criminal case on the complaint of petitioner disclosing commission of a cognizable offence have also not been complied with. Is not in dispute that despite the complaint of the victim disclosing commission of a cognizable offence. the law was not set in motion and therefore the case has not gone for judicial scrutiny. In the light of facts and circumstances of the case, an amount of Rs. 1,00,000/- (Rupees One-lakh only) is recommended to be paid to the victim. Let a direction be issued to the Chief Secretary, Govt. of Haryana, culling upon him to see that the amount of monetary relief as



recommended by the Commission is paid is the victim within a period of 8 weeks from the date of receipt of this order and a compliance report on this behalf be forwarded to the Commission expeditiously for records. A direction be also issued to the DGP, Haryana calling upon him to get a criminal case registered in the matter and to take appropriate legal/departmental action against the delinquent police personnel in accordance with law and similarly a compliance report be forwarded to the Commission expeditiously for records. With these directions, no further intervention on the part of the Commission is called for and the case is closed.”

2. As regard the disciplinary action against petitioner is concerned, the same could not be initiated due to interim order passed by this Court on 18.08.2021, in the present petition, which continues to subsist till date.

3. As regard the other recommendations/directions (Annexure P-17) for grant of compensation to victim and recovering the same from the petitioner is concerned, it is informed by learned counsel for State of Haryana that the compensation amount of Rs.1,00,000/- has been paid to the victim but the same could not be recovered due to the matter regarding disciplinary proceedings being stayed by this Court.

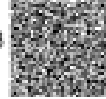
4. Learned counsel for petitioner has drawn the attention of the Court that recommendations/directions of the Commission (Annexure P-14) is in direct conflict with mandatory provisions of Section 16 of Protection of Human Rights Act, 1993 (in short 1993 Act), which provides as under:-

“16. Persons likely to be prejudicially affected to be heard.- If, at any stage of the inquiry, the Commission-

(a) consider it necessary to inquire into the conduct of any person; or

(b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry, it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this section shall apply where the credit of a witness is being impeached.”



5. Aforesaid provision categorically obliges the commission to provide prior hearing, which includes affording of opportunity of being heard and supplying of relevant documents to petitioner.

6. The record in the instant case shows that neither such opportunity was afforded to the petitioner nor any document was supplied to her prior to reaching the adverse finding against the petitioner.

7. The terminology used in Section 16 is in mandatory terms and therefore, the Commission could not have passed an adverse order/recommendations against petitioner without complying with Section 16 of the 1993 Act, which is manifestation of the principle of *audi alteram partem*.

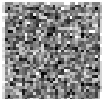
8. Accordingly, the recommendations/directions (Annexure P-14) stand vitiated on the anvil of principles of natural justice.

9. It is pertinent to point out that offences under Section 323, 354, 452 and 506 of the Indian Penal Code, 1860, were registered against petitioner, which culminated into filing of closure/cancellation report which in turn was accepted by the concerned Magistrate vide order dated 01.04.2023.

10. Consequently, the present petition stands allowed to the following extent:-

i. The impugned recommendations/directions (Annexure P-14) dated 13.02.2021 passed by the Commission, relating to petitioner are set aside.

ii. The Commission is now expected to afford fresh opportunity to the petitioner in terms of Section 16 of the



1993 Act and thereafter, make its recommendations, but not directions.

iii. Since, direction/recommendation qua disciplinary proceedings were also passed in violation of principles of natural justice, the same are also set aside extending liberty to the Commission to make fresh orders in that regard as per law.

11. This Court does not deem it appropriate to mention about the compensation amount as the same has already been paid by the State and received by the victim.

12. With these observations, the present petition stands disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

September 23rd, 2024
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>