



In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 24079 of 2015 (O&M)

Date of Decision: 28.10.2024

Smt. Rani Devi

... Petitioner(s)

Versus

National Human Rights Commission and Others

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Sheel Nagu, Chief Justice.
Hon'ble Mr. Justice Anil Kshetarpal.**

Present: Mr. S.S.Narula and Mr. Dishant Jindal, Advocates
for the petitioner(s).

Mr. D.P.S.Randhawa, Advocate
for respondent No.1.

Mr. R.S.Bains, Senior Advocate
with Ms. Aarushi Garg, Mr. Inderpal and Mr. Sarabjot,
Advocates, for respondent No.2.

Mr. Deepak Balyan, Additional Advocate General,
Haryana, for respondent No.3 to 5.

Anil Kshetarpal, J.

1. This writ petition under Article 226/227 of the Constitution of India has been filed to assail the correctness of the National Human Rights Commission's order passed on 08.10.2015 with the following directions:-

- "i) Disciplinary action against police officials.*
- ii) Get case registered regarding loss of mobile of Smt. Nisha Singh.*
- iii) Get inquiry regarding beating of Nisha conducted by CB/CID.*
- iv) Get FIR No. 428/2015, P.S. Sadar Gurgaon further*



investigation by CB/CID.”

2. Though the learned counsel representing the parties have made elaborate submissions on various aspects of the case including failure to follow the principles of natural justice before making recommendations and the impugned order being verbatim the same with the report submitted, however, this Bench does not find it appropriate to go into the aforesaid issue except on the question of requirement to pass orders after giving an opportunity of hearing to the concerned parties. In order to codify the human rights, the Central Government enacted the Protection of Human Rights Act, 1993 (hereinafter referred to as “the 1993 Act”). Section 16 of the 1993 Act is extracted 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.”

3. It is not in dispute that the Commission did not grant an opportunity of being heard to the petitioner who is a police official; before

issuing the directions. Though the learned counsel representing the private

**Civil Writ Petition No. 24079 of 2015 (O&M)****3**

respondents has submitted that the petitioner was associated before the report was submitted by the Fact Finding inquiry committee, however, it is not disputed that the Commission failed to grant an opportunity of hearing to the petitioner before making its recommendations/directions. In fact, this issue is no longer *res integra* in view of the judgment passed in ***Jagbati v. State of Haryana and Others (Civil Writ Petition No. 12804 of 2021, decided on 23.09.2024), Punjab State Civil Supplies Corporation Limited and Others v. Punjab State Human Rights Commission and Others 2007(3) RCR (Civil) 552 and Chief Commissioner of Income Tax (CCA) Patna and Others v. The State of Bihar and Others***. Though the learned senior counsel representing the private respondents has submitted that the hearing is required only when the conduct of any person is being inquired into, however, Section 16 is in two parts. Clause (a) provides the requirement of hearing when the Commission decides to inquire into the conduct of any person. Clause (b) provides for granting an opportunity of hearing when the reputation of any person is likely to be prejudicially affected. From the directions/recommendations, it is evident that the Commission has directed the disciplinary action against the various police officials including the petitioner, registration of case regarding loss of mobile of Smt.Nisha Singh, inquiry regarding beating of Nisha be conducted by CB/CID and further investigation of FIR No. 428 of 2015, Police Station Sadar, Gurugram, by CB/CID. Thus, the Commission has inquired into the conduct of the petitioner and such order is likely to prejudicially affect the reputation of the petitioner.

**Civil Writ Petition No. 24079 of 2015 (O&M)****4**

4. Keeping in view the aforesaid discussion, the impugned order passed by the Commission is set aside with the liberty to pass a fresh order.

5. With the observations made above, the present writ petition is disposed of. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

(Sheel Nagu)
Chief Justice

October 28, 2024

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No