2024:PHHC:134753

IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH.

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CWP-33495-2018 (O&M).
Date of Decision: 15.10.2024.

SANJIT SINGH RANDHAWA AND OTHERS

... Petitioner(s)

Versus

STATE OF PUNJAB AND OTHERS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Nitin Kaushal, Advocate, for the petitioners.

Ms. Niharika Sharma, AAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

The petitioners before this Court have challenged the report dated 09.08.2018 submitted by the Commission constituted vide notification dated 30.05.2017 under the Commissions of Inquiry Act, 1952, to the extent of the adverse finding, remarks, comments, inference, conclusion and recommendation made against the petitioners on the ground that the same are ultra vires the Constitution of India and in violation of the Commissions of Inquiry Act, 1952.

2 Briefly summarized, the facts of the case are that the petitioners entered into different partnerships in the name and style of M/s Rajbir Enterprises, M/s Rajbir Enterprises Mohali and M/s Rajbir Enterprises on 10.04.2017, 11.04.2017 and 10.04.2017 respectively with an object of mining and sale of mined minerals. The Government of Punjab, vide E-Auction notice dated 03.05.2017, had put to auction 102 mines, which included 12 mines of Mehandipur, Shaheed Bhagat Singh Nagar and Saidpur Khurd Mines appearing at Sr. No.79 and 81 of the e-auction notice. Pursuant to the above e-auction notice, the bidding took place on 20.05.2017 and the above two mines were provisionally allotted to two individuals namely Amit Bahadur and Kulvinder Paul Singh, partners of the petitioners, subject to fulfillment of the conditions prescribed in the provisional order of allotment dated 21.05.2017.

3 Learned counsel for the petitioner contends that a controversy however emerged regarding the involvement of Cabinet Ministers of the Punjab Government in manipulating the e-auction process for their benefits through their frontmen. Consequently, the Government of Punjab vide its Notification dated 30.05.2017 constituted a Commission headed by a Retired Judge of the High Court of Punjab and Haryana, under Section 11 of the Commissions of Inquiry Act, 1952. The operative part of the above notification reads thus:-

> *"NOW, THEREFORE In exercise of the powers conferred by Section 11 of the said Act, the Government of Punjab hereby*

constitutes such Commission of Inquiry on the following terms of reference:-

1. The Commission would inquire as to:

a. Whether the terms and condition of the bid were adhered to qua these two Mines, while awarding the tender of these two mines to the H1 Bidders?

b. Whether the Minister has in any manner influenced the price bid at which these two Mines were awarded?

c. Whether the H1 Bidder were bidding on behalf of the Minister in question, for the said two Mines?

d. Whether the Minister has received any undue financial benefit or gain from the award of such two Mines to the H1 bidders?

e. Whether there has been any loss to the State revenue by the award of such two Mines to the H1 bidders at the price in question?"

4 A report was subsequently submitted by the 'one man Commission' dated 09.08.2017 in which the Cabinet Minister, against whom the reference had been made, was exonerated. The said report is attached with the present petition and is referred to in the subsequent part of the judgment.

5 Learned counsel for the petitioners contends that notwithstanding the exoneration of the Cabinet minister against whom the above said Commission had been notified, the Commission made certain remarks and recorded adverse finding, comments, inference, conclusion as well as recommendation against the petitioners, in utter violation of the mandate of Section 8-B and 8-C of the Commissions of Inquiry Act, 1952. The adverse finding, remarks, comments, inference, conclusion and recommendation, of which the petitioners are currently aggrieved of, are extracted as under:-

Sr. No.	*Relevant Extracts of Report*	Page No. of Report
1	*"A miserable effort had been made by Sarv/Sh. Sanjit Randhawa and Sahil Singla to project as if the bid was given by the partnership firm but such fact was never ever mentioned in the documents submitted with the Department of Mines."*	17
2	*"It is obvious that Amit Bahadur was the front man for participating in the bid for and on behalf of Sanjit Randhawa and Sahil Singla and the other depositors/investors, who had deposited money in the bank account of sole proprietary firm M/s Rajbir Enterprises. The*	18

	irresistible conclusion can be drawn in view of the admitted facts categorically stated by Amit Bahadur in his statement reproduced here above. Corroborative facts are also noticeable in the statement of Sanjit Randhawa made before the Commission of Inquiry, which is reproduced as under:"	
3	*"The status of Kulvinder Paul Singh is absolutely similar to that of Amit Bahadur. Both of them are consistent in one statement that none of them had deposited any money in support of their auction at any stage."* *"The irresistible conclusion is that both these persons were the front men of Sahil Singla and Sanjit Randhawa. The earnest money has been deposited for both the H, bidders, by Sahil Singla while 50% of the highest bid money has deposited by Sanjit Randhawa from the account of sole proprietary firm M/s. Rajbir Enterprises."*	36
4	*"The evident fact that the H1 bidders had not invested any kind of money for the business of mining*	74

	with sole proprietary firm Rajbir Enterprises and that they had been put up as front persons by Sahil Singla and Sanjit Randhawa stands established."	
5	*"A. Whether the terms and conditions of the bid were adhered to, qua these two Mines while awarding the tender of these two mines to the H1 bidders?"* *"Thus the Provisional acceptance and or final acceptance of the bids of Saidpur Khurd & Mehadipur mines is not sustainable in favour of H1 bidders Amit Bahadur and Kulvinder Paul Singh. They had been put Up as front men by Sanjit Randhawa and Sahil Singla."*	77
6	*"C. Whether the H1 bidders were bidding on behalf of the Minister in question, for the said two Mines? Ample evidence has come on record that H1 bidders Amit Bahadur and Kulvinder Paul Singh in fact were the front men of Sanjit Randhawa and Sahil Singla. The entire money has been deposited by Sahil Singla & Sanjit Randhawa from their accounts and that such monies, were not linked with the Minister in*	79

	any manner. Since, there is not even an iota of evidence pointing towards the Minister for any kind of financial link with the H1 bidders, the allegation to the effect that H1 bidders were bidding on behalf of Minister, is not sustainable and deserves to be rejected."	

6 There were certain allegations about blatant violations of condition No.5, 22 and 25 were recorded as established beyond any doubt by Amit Bahadur, Kulvinder Paul Singh, Sanjit Randhawa and Sahil Singla.

Sr. No.	*Relevant Extracts of Report*	Page No. of Report
1	*"Truth is truth, to the end of reckoning" stated William Shakespeare. The miserable attempts to cloud the facts cannot hide the violations of conditions No's.5, 22 & 25 of the tender conditions."*	44
2	*"It is a different story that the amount had not been deposited through the bank accounts of the H1 bidders 1.e. Amit Bahadur and Kulvinder Paul Singh, because of which the violation of the terms and conditions of the e-auction notice, has been established. The question*	73

	to be examined is whether Amit Bahadur and Kulvinder Paul Singh had given the bid on behalf of the Minister?"	
3	*"There is no evidence which has come on record that the H1 bidders i.e. Amit Bahadur and Kulvinder Paul Singh had given the bid on behalf of the Minister. In fact there is ample evidence that Amit Bahadur and Kulvinder Paul Singh were front persons of Sahil Singla and Sanjit Randhawa, who had deposited the money with controlling powers in their hands. They cannot be read to be the concerned persons of the Minister. There is no evidence that the Minister had invested money which could be termed as a benami act."*	74
4	*"As far as the investment of the investors and the depositors is concerned, it has become explicit that the money has come into their accounts from disclosed sources, supported by the documents. The money has come through the process of RTGS, NEFT and FT. No link has been shown with the accounts of the Minister, as nothing is mentioned in the bank entries or*	74

	the supportive documents. Thus, the cumulative effect of the possibility of the Minister haying influenced the price bid is not sustainable. The evident fact that the H1 bidders had not invested any kind of money for the business of mining with sole proprietary firm Rajbir Enterprises and that they had been put up as front persons by Sahil Singla and Sanjit Randhawa stands established."	
5	*"In view of the observations to all the queries above, from (a) to (d) cannot be said that any loss to the state revenue had been caused by award of the two mines to the H1 bidders, though not sustainable. The highest bid was given by Sahil Singla & Sanjit Randhawa of Rs.26.52 crores and Rs.9.21 crores, which is not sustainable for the reasons enumerated in the answer to query (a)."*	76 Query (a) starts from pg. no.6 and runs through till page no.44
6	*"In view of the ascertainment of the facts and figures from the record and the statements recorded of various persons, the opinion of the Commission of inquiry in respect of the queries raised is as under:- A. Whether the terms and conditions*	77

	of the bid were adhered to, qua these two Mines while awarding the tender of these two mines to the H1 bidders? *Inevitable conclusion is that the blatant violations of condition No.5, 22 and 25 stands established beyond any doubt."* *"Thus the Provisional acceptance and or final acceptance of the bids of Saidpur Khurd & Mehadipur mines is not sustainable in favour of H1 bidders Amit Bahadur and Kulvinder Paul Singh.. They had been put Up as front men by Sanjit Randhawa and Sahil Singla."*	
7	*"E. Whether there has been any loss to the State revenue by the award of such two Mines to the H1 bidders at the price in question?* *There is no question of any loss to the State revenue by the provisional acceptance of the bid for the two mines made by the H1 bidders i.e. Amit Bahadur and Kulvinder Paul Singh as the highest bids were given by them (though not sustainable in view of the*	80

	violations. of the conditions of e-auction notice). For argument sake, if the bids had been sustainable, the question of loss to the State revenue would not be acceptable as the bids given were the highest. Nothing has come on record to show that the bids given for Saidpur Khurd and Mehadipur Mines were lower than the previous year bids.	

7 Learned counsel for the petitioners contends that the said comments/conclusions as well as recommendations have been made against the petitioners without affording them any opportunity to put forth their defence or to cross-examine the witnesses and question the credibility of the evidence relied upon by the Commission for returning the adverse findings against the petitioners. He relies on the judgment of the Hon'ble Supreme Court in the matter of ***State of Bihar Vs. Lal Krishna Advani and others, reported as (2003) 8 Supreme Court Cases 361***, to contend that the mandate of Sections 8-B and 8-C of the Commissions of Inquiry Act, 1952 is binding. He contends that in similar circumstances, where findings were returned against respondent No.1-Lal Krishna Advani, without affording any opportunity of hearing to him, the Hon'ble Supreme Court upheld the decision of the Hon'ble Patna High Court expunging the remarks recorded in the report of the Commission constituted under the Commission of Inquiry Act, 1952. The relevant extract of the judgment reads thus:-

1 In this appeal, preferred by the State of Bihar, ultimately the question which falls for consideration is the effect of non-compliance of all time tested and ancient principles of natural justice. One cannot be condemned unheard is one of the attributes of the principles of natural justice, which operates even in absence of a written provision under the law. Though in the case in hand there is such a provision which, according to the appellant, was not necessary to be complied with, but the High Court of Patna has held to the contrary. It relates to applicability of Section 8B of the Commissions of Inquiry Act, 1952 (60 of 1952) (for short 'the Act').

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5. The High Court, in our view, has been rightly cautious in observing that it was not concerned about the merit on the question of appointment or the recommendations of the Commission but it confined its inquiry to the parts of the Report which, according to the respondent no.1, were objectionable and it was necessary that he was allowed an opportunity before making any comment on his alleged conduct. The High Court, after elaborate discussion on the point involved, partly allowed the writ petition, ordering that such parts of the report shall be inoperative and no action can be taken on the basis thereof.

6. The High Court, while referring to a decision Reported in ***AIR 1967 SC p. 122, The State of Jammu and Kashmir & Ors. Vs. Bakshi Gulam Mohammad & Anr.****, observed that when an authority takes a decision, which may have civil consequences and affects right of a person, the principles of natural justice would at once come into play. Reputation of an individual is an important part of one's life. The High Court then quoted a passage from a decision of this Court reported in*

***AIR 1989 SC p.714 Smt.Kiran Bedi Vs. Committee of Inquiry & Anr.**, which passage contains the observations from an American decision in **D.F.Marion V. Minnie Davis, 55 American LR 171**, reads as follows :*

> *"The right to enjoyment of a private reputation, unassailed by malicious slander is of ancient origin, and is necessary to human society. A good reputation is an element of personal security and is protected by the Constitution equally with the right to the enjoyment of life, liberty and property."*

*Some decisions, to which our attention has been drawn by Shri Harish N.Salve, learned senior counsel appearing for the respondent no.1, may be referred. **1983 (1) SCC p.124, Board of Trustees of the Port of Bombay Vs. Dilipkumar Raghavendranath Nadkarni & Ors.**, wherein it was observed that right to reputation is a facet of right to life of a citizen under Article 21 of the Constitution. He has also referred to the International Covenant on Civil and Political Rights, 1965 (ICCPR), recognizing right to have opinions and the right of freedom of expression subject to the right of reputation of others. The Covenant provides :*

> *"1. Everyone shall have the right to hold opinions without interference.*
> *2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*

> *3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary;*
>
> *(a) For respect of the rights or reputations of others;*
>
> *(b) For the protection of national security or of public order (order public), or of public health or morals."*

It is thus amply clear that one is entitled to have and preserve. one's reputation and one also has a right to protect it. In case any authority, in discharge of its duties fastened upon it under the law, traverses into the realm of personal reputation adversely affecting him, it must provide a chance to him to have his say in the matter. In such circumstances right of an individual to have the safeguard of principles of natural justice before being adversely commented upon by a Commission of Inquiry is statutorily recognised and violation of the same will have to bear the scrutiny of judicial review. A reference may be made to ***[1984] A.C. 808, Peter Thomas Mahon Vs Air New Zealand Ltd & Ors****.*

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8. It may be noticed that the amendment was brought about, about 20 years after passing of the main Act itself. The experience during past two decades must have made the legislature realize that it would but be necessary to notice a person whose conduct the Commission considers it necessary to inquire into during the course of the inquiry or whose reputation is likely to be prejudicially affected by the inquiry. It is further provided that such a person would have a reasonable *opportunity of being heard and to adduce evidence in his defence. Thus the principles of natural justice were got inducted in the shape of a statutory provision. It is thus incumbent upon the Commission to give an opportunity to a person, before any comment is made or opinion is expressed which is likely to prejudicially affect that person. Needless to emphasise that failure to comply with principles of natural justice renders the action non-est as well as the consequences thereof.*

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11. We have already observed that had it been only a question of any adverse action being taken against the person against whom some adverse finding has been recorded, the contention of the learned counsel for the appellant may perhaps would have been entertainable. The government actually takes action or it does not or the fact that the report is yet to be considered from that angle, cannot be a reason to submit that it won't be the appropriate stage to approach the Court. There may be occasions where after consideration of the report the government may not decide to take any action against the person concerned yet the observation and remarks may be such which may play upon the reputation of the person concerned and this aspect of the matter has been fully taken care of under clause (b) of Section 8B of the Act. It is not, therefore, necessary that one must wait till a decision is taken by the government to take action against the person after consideration of the report. We have already dealt with the point about the right to have and protect one's reputation. We, therefore, find no force in the submission that the respondent no.1 had approached the Court at pre-mature stage. No other point has been urged on behalf of the appellant. In our view, *the judgment of the High Court calls for no interference. In view of the discussion held above, the appeal is dismissed. There will, however, be no order as to costs."*

8 It is further submitted that there was no violation of any terms and conditions of the E-auction notice dated 03.05.2017 since there was no stipulation in the e-auction notice that payment of the EMD etc. should be from the bank account which is in the name of the bidder. Details of the Bank account numbers through which payments had been made was duly furnished. The Scrutiny Committee approved similar cases in its meeting dated 18.05.2019 pertaining to other bidders as well. Such a condition was introduced in the subsequent auction notice dated 13.06.2017. The bidders who deposited EMD from other accounts were not allowed to participate in the e-auction. Such a testing clause could not be applied retrospectively to the earlier auction notices.

9 It was also argued that even though it is stated in the report that the petitioners were the frontmen but there was no link or evidence to connect the same. So much so, even the partnership deeds submitted before the agencies have not been doubted, yet, no consideration thereof is reflected from the report.

10 He has vehemently argued that the Director, Mining made a statement before the Commission that all bids were verified by the Scrutiny Committee and the acceptance/rejection thereof was finalised only

thereafter. The bank account details of the bidders were sought under Clause 25 of the auction notice, not for the sake of restricting bidding but for ensuring refund of the EMD, in the account from where amount was deposited, in the case of an unsuccessful bidder.

11 The decisions of Scrutiny Committee were duly approved by the Additional Chief Secretary (Industries and Commerce). Hence, it was not a mandate to submit the EMD from the account of the bidder but only for a logistic convenience. The petitioners were allowed to participate in the auction process only because all documents were in order and prescribed to the tender conditions.

12 He further submits that the Commission has not returned any finding or recommendations against any officer involved in the auction and rather held that the officials followed and conducted the auction as per the tender conditions. Under the said circumstances, the recommendations against the petitioners are self-contradictory. If there is no violation or break in acceptance of the bid of the petitioners, by the officials, there could certainly have been no possibility of any violation on the part of the petitioners.

13 The Commission hence mis-interpreted the same Clause 25, while reading it in favour of the officials and in reading it against the petitioners. It is further submitted that the Commission having been constituted to look into any illegality on the part of the public officer, its

role came to an end once no foul play was noticed. It was never authorised to look into the business model of the petitioners. The findings are thus beyond jurisdiction and in violation of the mandatory procedure prescribed in the Statute, they are hence liable to be expunged.

14 Learned State counsel has made a reference to the reply filed on behalf of the respondents by the Additional Director, Department of Mines and Geology and contends that a notice was issued to the petitioner to participate in the inquiry proceedings and that there is also sufficient evidence on record to establish that the petitioners had appeared in the proceedings of the Commission along with their counsel. She thus contends that the petitioners were hence given sufficient opportunity and there was full compliance of Section 8-B of the Commissions of Inquiry Act, 1952. The judgment in the matter of ***<u>Lal Krishna Advani</u>*** (supra) would thus be not applicable to the facts of the present case as a fair opportunity was granted to the petitioners to put forth their defence. She also places reliance on certain notices that are claimed to have been sent to the petitioners and appended as Annexure R-1/2 with the reply filed on behalf of respondents No.1 to 4 by way of affidavit of Rahul Bhandari, the then Director, Department of Mines and Geology, Punjab. The content of one of such notices is extracted as under:-

"NOTICE ISSUED BY VIRTUE OF THE ORDER DATED 28.6.2017 PASSED BY COMMISSION OF INQUIRY

To

Sahil Singla

SCO 80-81, 4th Floor, Sector 17-C. Chandigarh,

Memo No. US/COI-2017/30

Date: 03-07-2017

Take notice that you are required to appear in person or through your authorized person, before the Commission of Inquiry on 12-7-2017 at 10:30 A.M., pursuant to order dated 28-06-2017 passed by Commission of Inquiry, for joining the proceedings before the Commission of Inquiry along with your account books w.e.f. April 01, 2016 up to June 2017.

Any other supporting document for any entry/entries which relate to depositing the money from your account in the account of sole proprietorship firm-M/s Rajbir Enterprises, be also brought in original.

It would be appreciated, if the copy of the accounts and any other photocopy of the document to be produced be duly certified by the competent person, with duly affixed seal of the firm/company/sole proprietary concern is brought before the Commission of Inquiry.

Proceeding of the Commission are held at First Floor, Udyog Bhawan, Sector-17, Himalaya Marg, Chandigarh."

15 She however does not dispute the law laid down by the Hon'be Supreme Court in the matter of ***Lal Krishna Advani (supra)*** and contends that the said judgment would not be applicable to the case in hand since the

Commission of Inquiry has already complied with the mandate of Section 8-B of the Commissions of Inquiry Act, 1952. She, however, does not cite any judgment to buttress her argument.

16 Responding to the above, learned counsel for the petitioners contends that reference to the aforesaid notices is misplaced. The said notices have already been appended by the petitioners. He submits that a perusal of the said notices shows that the same were issued to the petitioners to appear before the Commission of Inquiry in their capacity as a witness and not as a person who is a suspect/accused of any misconduct and against whom any report is to be submitted. He contends that as per Section 8-B of the Commissions of Inquiry Act, 1952, where the Commission at any stage of inquiry, considers it necessary to inquire into the conduct of any person, a reasonable opportunity of being heard has to be granted to such person and to produce evidence in his defence. Further Section 8-C also entitles such person a right to cross-examine the witnesses, to adduce the evidence and also to address the Commission. He contends that the notices issued to a person to appear as a witness cannot be equated to a person who is accused or against whom the inquiry is being conducted, by the Commission. He contends that the notices relied upon by the respondents thus do not comply with the mandate of Section 8-B as at no point of time, the Commission ever informed to the petitioners that their conduct is being inquired into and also that no opportunity of hearing to produce evidence in defence was granted to the petitioners by the Commission. Furthermore,

the petitioners were not even granted the opportunity to cross-examine the witnesses or to lead evidence after having put through the evidence that had been collected by the Commission during the course of said inquiry.

17 I have heard the learned counsel for the respective parties and have gone through the documents appended with the paper book.

18 Before proceeding further into the matter, it will be appropriate to refer to the relevant statutory provisions enshrined under Sections 8-B and 8-C of the Commissions of Inquiry Act, 1952. The same are extracted as under:-

> *"**8B. Persons likely to be prejudicially affected to be heard**.— If, at any stage of the inquiry, the Commission,—*
>
> *(a) considers it necessary to inquire into the conduct of any person; or*
>
> *(b) is of opinion that the reputation of any person is likely to be prejudicially affected by the inquiry,*
>
> *the Commission 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.*
>
> ***8C. Right of cross-examination and representation by legal practitioner**.—The appropriate Government, every person referred to in section 8B and, with the permission of the*

Commission, any other person whose evidence is recorded by the Commission,—

(a) may cross-examine a witness other than a witness produced by it or him;

(b) may address the Commission; and

(c) may be represented before the Commission by a legal practitioner or, with the permission of the Commission, by any other person."

19 It is evident from a plain reading of the above that the principles of natural justice have been specifically incorporated in the Commissions of Inquiry Act, 1952 by way of carrying out an amendment in the abovesaid Act. A plain reading of the said provisions clearly shows that where a Commission, at any stage of inquiry, is of the opinion to inquire into the conduct of any person, the Commission is required to provide that person a reasonable opportunity of being heard and to lead his defence. The proviso has to be read only to the extent whereby the credibility of a witness is being impeached. Hence, for compliance of the mandate of Section 8-B, a prima facie opinion has to be recorded first by the Commission about need for conducting an inquiry into the conduct of a person, against whom findings have been recorded and to thereafter afford a reasonable opportunity of hearing to the person to produce evidence in his defence. Evidently, the notices relied upon by the respondent and as extracted in the preceding part of the order, are in the nature of summoning the petitioners

to appear as a witness and to depose in an inquiry being conducted by the Commission against others. At no point of time, the petitioners were made aware that an inquiry was being conducted against them as well. The mandate of issuance of notice for compliance of Section 8-B would come into existence only after recording a *prima facie* finding and apprising the person, against whom an inquiry is being conducted, of such an act by the Commission. In the absence thereof there would have been no proper compliance of the principles of natural justice or lawful opportunity to lead his defence.

20 A special procedure having been contemplated under the Commissions of Inquiry Act, 1952, only with respect to the persons whose conduct comes under scanner during the course of proceedings of inquiry, would not be the same as conducting an inquiry against a person against whom the inquiry was being conducted under the terms of reference.

21 Learned counsel for the respondent-State has also failed to point out any part of the report as per which such a prima facie satisfaction was initially recorded by the Commission and the petitioners were apprised about its intentions to conduct an inquiry into their conduct and that any opportunity of producing evidence in defence was ever granted to them. State counsel has also not been able to refer to any part of the report as per which the material that was collected or that was available with the Commission during the course of inquiry was ever put to the petitioners or they were granted any opportunity of cross-examining the witnesses who

put forth said evidence as a mandatory compliance of Section 8-C of the Commissions of Inquiry Act, 1952. The aforesaid provision and procedure has already been held to be mandatory by the Hon'ble Supreme Court and as such, I am of the opinion that the case in hand is covered by the aforesaid judgment, wherein the expunction of the remarks recorded against respondent No.1, had been upheld by the Hon'ble Supreme Court.

22 The State has not been able to distinguish the ratio in the matter of ***Lal Krishna Advani*** (supra). The attempt to create a distinction is not based on a correct reading of the judgment. The principles of law, as mandated by the Statute having not been followed, would render the recommendation liable to be expunged.

23 Besides, a perusal of the remarks extracted in the judgment fail to show how the same were essential or integral to the submission of the report by the Commission. The merits are however not being minutely gone into at this stage since the said remarks fail to satisfy judicial conscience on the meticulous compliance of Sections 8 (B) and 8 (C) of the Commission of Inquiries Act, 1952.

24 Consequently, the present writ petition is allowed. The remarks recorded against the petitioners, as extracted above, are held to be bad being in violation of the mandatory procedure as prescribed under Section 8-B and 8-C of the Commissions of Inquiry Act, 1952. The same are accordingly set aside.

25 Needless to mention that the petitioners would be at liberty to make a reference to the setting aside of the above remarks so recorded or recommendations so made, in any other ancillary proceedings that may be initiated against them, on the strength of the said remarks.

26 All other pending misc. application(s), if any, shall also stand(s) disposed of accordingly.

October 15, 2024. **(VINOD S. BHARDWAJ)**
raj arora **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No