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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5395/2022 & CM APPL. 16104/2022**

SHARAT KOHLI

.....Petitioner

Through: Mr. Kush Sharma, Advocate along
with Petitioner in person

versus

NATIONAL HUMAN RIGHTS COMMISSION & ORS.

.....Respondents

Through: Mr. Amartya Ashish Sharan, Mr.
Akash Kishore, Advocates for R-1
Mr. Satya Ranjan Swain, SPC for R-2
with Mr. Kautilya Birat, Advocate for
Delhi Police
Insp. Vikram Singh, DIU/Outer
District

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

03.12.2024

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1. The Petitioner, an Inspector with the Delhi Police, has filed the instant petition impugning interim recommendations/directions dated 28th January, 2021 as well as recommendations dated 22nd February, 2022 issued by the National Human Right Commission,¹ along with the subsequent action taken by the Delhi Police based on these directions. Consequent to the aforementioned recommendations, the Petitioner has been directed to pay an interim compensation of INR 50,000/- out of a total of INR 1,00,000/- to Respondent No. 3, for allegedly violating his human rights.

¹ "NHRC"



2. The Petitioner contends that the aforesaid interim compensation was awarded, without affording the Petitioner an opportunity to present his case. The failure to afford a hearing before the impugned action, he contends, constitutes a violation of the Principles of Natural Justice. Therefore, he contends that the NHRC has acted arbitrarily, by taking a decision without proper adjudication, in accordance with the law.

3. Taking note of the said contentions, this Court, on 31st March, 2022, issued the following interim directions:

“1. Notice shall issue to respondent No.2. Since that respondent is duly represented by learned counsel, let a counter affidavit be filed within a period of eight weeks from today.

2. Presently and for the purposes of considering the prayer for interim protection, the Court takes note of the fact that the challenge is essentially to the order pursuant to which deductions have been directed to be made from the salary of the petitioner. Learned counsel contends that no procedure as prescribed in law for the purposes of adjudication of guilt or complicity has been undertaken and that the petitioner has been arbitrarily subjected to an order directing deduction from salary. Matter requires consideration.

3. Till the next date of listing, there shall be stay of the order of 03 March 2022 insofar as it pertains to the present petitioner and directs for deductions to be made from the salary of the petitioner.

4. List on 06.09.2022.”

4. During the course of proceedings, in response to a specific query from the Court regarding the current status of the proceedings before the NHRC, both the Petitioner’s counsel and the counsel for the NHRC were unable to provide any confirmation.

5. Be that as it may, the issue before this Court concerns the impugned directions issued by the NHRC, which include a recommendation for the payment of INR 1 lakh as interim compensation to the victim. This, necessarily means that there has to be final adjudication. In this regard, it is noted that on 28th January 2021, the NHRC issued a show cause notice to the



Commissioner of Police, seeking an explanation as to why the interim compensation of INR 1,00,000/- should not be paid to the victim for the alleged harassment and torture by a Delhi Police official.

6. Thereafter, on 01st July, 2021, the NHRC took note of the DCP vigilance report dated 15th December 2020, which indicated that, following an inquiry, a case had been registered against the Petitioner under the Prevention of Corruption Act, 1988. Additionally, departmental action had also been initiated against the Petitioner.

7. As regards the direction for payment of interim compensation, the NHRC noted that since no reply had been received from the Commissioner of Police to the show cause notice, it was presumed that the Commissioner had no objections/ submissions to make on the matter. As a result, the recommendation made on 28th January, 2021 was confirmed. The observation to this effect, recorded in the order dated 22nd February 2022, are as follows:

“In response no reply to the show cause notice issued by the Commission has been submitted by the Commissioner of Police, Delhi, which means that the Commissioner of Police, Delhi has nothing to submit in the matter, therefore, the Commission confirms its recommendation of Rs.1,00,000/- as compensation to be paid to the victim, who has been harassed and tortured by the delinquent police official thereby violating the human rights of complainant. The Commission directs the Commissioner of Police, Delhi to submit the compliance report along with the proof of payment within six weeks. The Commission further directs Commissioner of Police, Delhi to send the details of departmental action taken against the delinquent police official Insp. Sharad Kohli within six weeks.”

8. Subsequently, based on the NHRC's recommendations, the Lt. Governor of Delhi directed that the compensation be recovered from the concerned erring police officials after due process. As a result, through order



dated 3rd March, 2022, it was directed that an amount of INR 50,000/- shall be recovered from the salary of the Petitioner.

9. As for the departmental action against the Petitioner, the same has been kept in abeyance. The proceedings under the Prevention of Corruption Act are ongoing before the CBI Special Court and as of now, only the complainant has been examined.

10. In the opinion of the Court, the impugned order directing award of interim compensation is premised on the presumption that the Delhi Police had no objections in response to the show cause notice. In this regard, the Petitioner has contended that since a part of the compensation amount is being recovered from his salary, he is the aggrieved party and therefore, ought to have been afforded an opportunity of hearing. However, he asserts that the entire proceedings before the NHRC have been conducted without affording him this opportunity, which is in violation of the Principles of Natural Justice.

11. He argues that since the Commissioner of Police was issued a show cause notice, the Police should have either taken a position in the interest of the Petitioner or, at the very least, should have given him an opportunity to present his case before the NHRC, prior to the confirmation of such recommendations.

12. The Court has considered the aforementioned contentions and is of the opinion that since the interim compensation amount was directed to be recovered from the salary of the Petitioner, his contention seeking an opportunity of being heard has merit.

13. Considering the above, the instant petition is disposed of with a direction that the order dated 03rd March, 2022, along with any other



proceedings emanating therefrom, in so far as they pertain to the Petitioner and direct deductions from his salary, shall be kept in abeyance, till such time the NHRC finally concludes the proceedings.

14. The Petitioner is permitted to furnish his response to the averments made in the complaint before the NHRC. The NHRC shall consider the said reply before issuing the final directions in the case.

15. With the above directions, the present petition is disposed of along with pending application.

SANJEEV NARULA, J

DECEMBER 3, 2024/ab