



\$~14

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

+ **W.P.(C) 12272/2021**

SEKH MOHD UMAR

.....Petitioner

Through: Mr. Sanjay Gupta and Mr. Prashant
Malik, Advocates.

versus

COMMISSIONER OF POLICE AND ORS.

.....Respondents

Through: Mr. Rajkumar Yadav, Advocate for
UOI.

Mr. Jawahar Raja, ASC with Ms.
Puhumi Aditya, Advocate with Mr.
Arun Kumar, SI, PS: Nizamuddin.

Mr. Amit Sharma, Mr. Dipesh Sinha
and Ms. Aparna Singh, Advocates for
R-4/ NHRC.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

12.11.2024

%

1. The present petition has a checkered history which needs to be briefly noted. Petitioner had filed a complaint alleging that he and his son were brutally assaulted by anti-social elements at petrol pump in Nizamuddin, West Delhi, New Delhi. He further submits that despite the complaint to the police, no action was taken, rather the Complainant was detained in lock-up and was tortured. Thereafter a complaint was registered with the National Human Rights Commission¹ who, on 07th December, 2020, issued a show cause notice to the Delhi Police to put forth their stand. The said order reads

¹ "NHRC"



as follows:

“PROCEEDING

The complainant alleges that he and his sons were brutally assaulted by anti-social elements at petrol pump at Nizamuddin West New Delhi. Despite complaint to police no action has been taken rather he was detained in lock up & was tortured.

The matter rest when the Addl. Commissioner of Police Vigilance Delhi has earlier informed the Commission that as per directions of the Commission in the matter, ACP from Vigilance Branch has been nominated to conduct an enquiry and to submit the report to the Commission. However no enquiry report has been received in the Commission till date. Hence Commissioner of Police Delhi is again directed to submit the detail enquiry report in the matter within four weeks four weeks positively.

Vide proceedings dated 17.08.2020, The Commission held that matter is 3 years old and no requisite report has been received in the Commission till date. Therefore Commissioner of Police Delhi is once again directed to send the requisite enquiry report in the matter within four weeks positively; failing which coercive process u/s 13 of PHRA may be initiated against him.

In response, DCP Vigilance Delhi vide report dated 22.09.2020 has informed that then SHO/Insp PS Hazarat Nizammudin i.e. Ajay Kumar Singh and IO/ASI Gopal Prasad founds to be guilty of registering the false FIR of robbery against the complainant. Despite of medical report, no FIR against the accused persons have been registered or causing grievous hurt to the complainant son. An enquiry has been initiated against the delinquent police officials.

The Commission has considered the material placed on record. The analysis of the record and report submitted by Vigilance Branch Delhi clearly reveals that then SHO/Insp PS Hazarat Nizammudin i.e. Ajay Kumar Singh and IO/ASI Gopal Prasad founds to be guilty of registering the false FIR of robbery against the complainant, further non-registration of FIR against the accused persons despite of causing grievous hurt to the complainant son which is also confirmed in MLC. These delinquent police officials have totally misused their power & position and have not performed their bounden duty. Despite of all this still Commissioner of Police Delhi have not taken any strict action against these delinquent police officials. As these police officials should not be allowed to be public servants anymore with immediate effect.

Let the Show Cause Notice u/s 18 of PHRA be issued to Commissioner of Police Delhi, and he is directed to explain that why not a interim compensation of Rs. 1,00,000/- (rupees one lakh only) Each be paid to the complainant & his son, as their human rights have been violated by the delinquent police officials, response within four weeks. He is further directed to send along with the details of disciplinary action taken against these delinquent police officials namely then SHO/Insp PS Hazarat



Nizammudin i.e. Ajay Kumar Singh and IO/ASI Gopal Prasad.”

2. Subsequently, an interim order was passed on 22nd March, 2021 to the following effect:

“PROCEEDING

The complainant alleges that he and his sons were brutally assaulted by anti-social elements at petrol pump at Nizamuddin West New Delhi. Despite complaint to police no action has been taken rather he was detained in lock up & was tortured.

The matter rest when the Addl. Commissioner of Police Vigilance Delhi has earlier informed the Commission that as per directions of the Commission in the matter, ACP from Vigilance Branch has been nominated to conduct an enquiry and to submit the report to the Commission. However no enquiry report has been received in the Commission till date. Hence Commissioner of Police Delhi is again directed to submit the detail enquiry report in the matter within four weeks positively.

Vide proceedings dated 17.08.2020, The Commission held that matter is 3 years old and no requisite report has been received in the Commission till date. Therefore Commissioner of Police Delhi was once again directed to send the requisite enquiry report in the matter within four weeks positively; failing which coercive process u/s 13 of PHRA may be initiated against him. In response, DCP Vigilance Delhi vide report dated 22.09.2020 has informed that then SHO/Insp PS Hazarat Nizammudin i.e. Ajay Kumar Singh and IO/ASI Gopal Prasad founds to be guilty of registering the false FIR of robbery against the complainant. Despite of medical report, no FIR against the accused persons have been registered for causing grievous hurt to the complainant son. An enquiry has been initiated against the delinquent police officials.

The Commission has considered the material placed on record. The analysis of the record and report submitted by Vigilance Branch Delhi clearly reveals that then SHO/Insp. PS Hazarat Nizammudin i.e. Ajay Kumar Singh and IO/ASI Gopal Prasad founds to be guilty of registering the false FIR of robbery against the complainant, further non-registration of FIR against the accused persons despite of causing grievous hurt to the complainant son which is also confirmed in MLC. These delinquent police officials have totally misused their power & position and have not performed their bounden duty. Despite of all this still Commissioner of Police Delhi have not taken any strict action against these delinquent police officials. As these police officials should not be allowed to be public servants anymore with immediate effect.

The Show Cause Notice u/s 18 of PHRA was issued to Commissioner of Police Delhi, and he was directed to explain that why not a interim compensation of Rs. 1,00,000/- (rupees one lakh only) Each be paid to the



complainant & his son, as their human rights have been violated by the delinquent police officials, response within four weeks. He was further directed to send along with the details of disciplinary action taken against these delinquent police officials namely then SHO/Insp PS Hazarat Nizammudin i.e. Ajay Kumar Singh and IO/ASI Gopal Prasad.

In response, DCP Vigilance Delhi has submitted its report dated 16.12.2020 along with the order of ACP PG North-West District Delhi dated 24.11.2020. The report order reveals that an explanation was issued to Inspector Ajay Kumar Singh dated 05.10.2020 by DCP NWID. In response to ECN, he submitted his written reply. DCP NWD has found the written reply and available record as convincing and satisfactory.

The report is taken on record.

The Commission observed that the report is neither complete nor satisfactory therefore the Commission reaffirms and reiterates its stand and directs Commissioner of Police Delhi to submit the compliance report along with proof of payment within 6 weeks.”

3. Subsequently, the National Human Rights Commission² issued a reminder to the Commissioner to pay compensation of INR 1 lakh each to the Complainant and his son and submit the compliance report along with a proof of payment within four weeks. It was further directed that in case the report is not received within the stipulated time, NHRC shall be constrained to invoke coercive process under Section 13 of the Protection of Human Rights Act, 1993³.
4. In this background, Petitioner filed the instant petition seeking the following reliefs:

- a. *issue a Writ in the nature of MANDAMUS and or any other appropriate order or direction of like nature directing the Respondents No.1 forthwith to enforce the order/ direction of the National Human Right Commission, order dated 22.03.2021, which is binding in nature in terms of the section 18 of the NHRC Act. 1993.*
- b. *That the direct the Respondent No.1 to take strict action against the delinquent officer as per the order of the commission.*
- c. *It is further requested to direct the respondent no. 2 to 5 to*

² “NHRC”

³ “the Act”



established, an effective mechanism through which commission order may be enforce forthwith effectively.”

5. According to Petitioner, the aforementioned orders when read in conjunction, clearly indicate that the NHRC issued a direction for payment of interim compensation.

6. Meanwhile, proceedings before NHRC continued and on 14th October, 2021, the NHRC noted that no response had been received and sent a final reminder. Further, the Registry was directed to issue conditional summons to the Commissioner under Section 13 of the Act with a direction to appear before the Commission.

7. In the meantime, the Delhi Police also *vide* communication dated 05th January, 2022 forwarded the enquiry report dated 29th December, 2021 to the NHRC and sought reconsideration of order dated 22nd March, 2021.

8. Furthermore, the Delhi Police, in the present proceedings took a stand that there was no direction for the interim compensation and only a show cause notice had been issued. Accordingly, this Court through order dated 29th January, 2024, called upon NHRC to clarify its stand as to whether indeed there is a direction by NHRC to pay the interim compensation. In compliance, NHRC has filed an affidavit confirming that the NHRC has directed for the payment of interim compensation.

9. Be that as it may, it is also concerning to note that, the proceedings before NHRC have been concluded through final order dated 01st June, 2022. The said order reads as follows:

“PROCEEDING

The complainant alleged that he and his sons were brutally assaulted by anti-social elements at petrol pump at Nizamuddin West New Delhi. Despite complaint to police no action has been taken rather he was detained in lock up & was tortured.



In response to Commission directions and reminder, the DCP, Vigilance Delhi vide report dated 22.09.2020 informed that then SHO/Insp PS. Hazarat Nizammudin i.e. Ajay Kumar Singh and IO/ASI Gopal Prasad founds to be guilty of registering the false FIR of robbery against the complainant. Despite of medical report, no FIR against the accused persons have been registered for causing grievous hurt to the complainant son. An enquiry has been initiated against the delinquent police officials.

The Commission considered the material placed on record. The analysis of the record and report submitted by Vigilance Branch Delhi clearly reveals that then SHO/Insp PS Hazarat Nizammudin i.e. Ajay Kumar Singh and IO/ASI Gopal Prasad founds to be guilty of registering the false FIR of robbery against the complainant, further non-registration of FIR against the accused persons despite of causing grievous hurt to the complainant son which is also confirmed in MLC. These delinquent police officials have totally misused their power & position and have not performed their bounden duty. Despite of all this still Commissioner of Police Delhi have not taken any strict action against these delinquent police officials. As these police officials should not be allowed to be public servants anymore with immediate effect. The Show Cause Notice u/s 18 of PHRA was issued to Commissioner of Police Delhi, and he was directed to explain that why not a interim compensation of Rs. 1,00,000/- (rupees one lakh only) Each be paid to the complainant & his son, as their human rights have been violated by the delinquent police officials, response within four weeks. He was further directed to send along with the details of disciplinary action taken against these delinquent police officials namely then SHO/Insp PS Hazarat Nizammudin i.e. Ajay Kumar Singh and IO/ASI Gopal Prasad.

Vide proceedings dated 22.03.2021 Commission confirmed its recommendation and directed the Commissioner of Police Delhi to submit the compliance report along with proof of payment within 6 weeks.

The complainant being unsatisfied by the action taken, moved an application u/s 156(3) CPC before the Saket Court, however, the complainant was requested to provide original X-Ray report, he did not provide the original treatment papers post MLC. Hence, the court dismissed the application u/s 156(3) and its appeal before the Sessions Court also has been dismissed. Then the complainant has moved a petition before Delhi High Court and same is listed before court for 13.02.2022.

Pursuant to the directions issued by the Commission dated 2.2.2022 comments were called from the complainant and it was also directed to the authority to submit the updated status report on the application u/s 156(3) CrPC and its appeal/petition before High Court.

The complainant has submitted its comments reiterating his allegations. Thus, after perusal of the report, it is clear that the matter is pending before the Hon'ble Delhi High Court, therefore, no further interference is required. The case is closed."



10. It is thus noticed that the NHRC closed proceedings considering that no further interference is required as the issue relating to the registration of FIR under Section 156(3) Cr.P.C. is pending before this Court.

11. As a result of the aforementioned order, the following position emerges: Even if the Court were to read the order dated 22nd March, 2021 as a direction for interim compensation, there is no final order of the NHRC. In as much as there is no finding that the Delhi Police is guilty of any contravention of the Act, and only *prima facie* observations have been made for award of interim compensation. Moreover, there are certain concerning facts which have transpired during the pendency of the present proceedings relating to the application under Section 156(3) of Code of Criminal Procedure, 1973.⁴ The Court is informed that pursuant to orders passed by this Court in Crl. MC. 922/2021, directions were issued to Delhi Police to register the FIR. In the chargesheet, none of the officers of Delhi Police have been named. Counsel for Petitioner states that they are intending to file a protest petition.

12. In light of the above facts, since there has been no enquiry conducted by NHRC under the framework of the Act, particularly under Sections 16 and 17 of the Act, in the opinion of the Court, at this stage, rather than directing the enforcement of the order of interim compensation as urged by Petitioner, a direction should be issued to NHRC to complete the proceedings and give a final decision as per Sections 16 and 17 of the Act after taking into consideration, all the reports of the Delhi Police as well as the directions issued by the Court and the proceedings pending before the concerned Metropolitan Magistrate.



13. According, reserving all the rights of the parties, the present petition is disposed of with a direction to Respondent No. 4 to revive and conclude the proceedings, in a time bound manner, in accordance with law.

14. It is clarified that this court has not expressed any views on the merits of the complaint of the Petitioner.

SANJEEV NARULA, J

NOVEMBER 12, 2024

d.negi

⁴ “CrPC”