



\$~30

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

% **Date of decision: 11.12.2025**

+ **W.P.(C) 985/2022 & CM APPL. 2788/202220**

INSTITUTE OF COST ACCOUNTS OF INDIA Petitioner

**Through: Mr. G.S Chaturvedi, Mr. Ashok
Kr. Choudhary and Mr. Virat
Singh, Advs.**

versus

NATIONAL COMMISSION FOR SCHEDULE CASTES AND

ANRRespondents

**Through: Mr. T.P Singh, Sr. Central
Counsel for R-1.**

**Mr. Afroz Khan, Mr. Piyush
Pathak, Adv for R-2 along with
R-2 in person.**

CORAM:

HON'BLE MR. JUSTICE AVNEESH JHINGAN

AVNEESH JHINGAN, J. (ORAL)

1. This petition is filed seeking quashing of communication dated 22.12.2021 of the National Commission for Schedule Castes (in short 'Commission') and minutes of the meeting held on 17.12.2021.

2. The brief facts are that Sh. Akashdeep Beniwal (hereinafter referred to as 'respondent') was working as a part-time contractual Sweeper with the petitioner-institute. After the closure of one of the centers of the petitioner-institute the services of the respondent were dispensed with after making a full and final payment. Aggrieved, the respondent approached the Commission and the operational part of



2025:CHC:11227



minutes of the meeting dated 22.12.2021 are reproduced below:-

“ Minutes of Hearing

XXXXXX

2. The authority present in the hearing informed the Commission that the petitioner contract has expired and his service no longer required R.K. Ashram Centre, Where he was posted, has been closed.

3. After hearing both the party in detail the Commission observed that the petitioner has been working for NIRC from 2012 to 2021 and in accordance with the rule a contractual employee cannot be removed from the service without providing Notice. The commission recommends the authority to reinstate the petitioner and make him permanent employee of the organization. Also the arrears remaining from the date of removal from services till date shall also be cleared by the concerned authority.

4. Action Taken Report (ATR) to be submitted to the Commission within 30 days from the date of hearing i.e. on 17.12.21.”

3. Aggrieved of the direction by the Commission present petition is filed.

4. Learned counsel for the petitioner submits that in the garb of recommendations Commission issued directions and the petitioner is required to submit an Action Taken Report (in short ‘ATR’). The contention is that the impugned minutes are beyond jurisdiction.

5. Per contra Commission made recommendations and no directions were issued. Submission is that the Commission is empowered to take follow-up actions of the recommendations by seeking ATR.



2025:CHC:11227



6. Heard learned counsels for the parties at length.
7. The Supreme Court in **All India Indian Overseas Bank SC & ST Employees Welfare Association & Ors. vs. UOI & Ors. 1996 (6) SCC 606**, considered the powers of Commission, when the directions issued by the Commission to stop the promotion process till the investigation by the Commission and passing of the final verdict were challenged. It was held that no such power rest with the Commission:

“10. Interestingly, here, in clause (8) of Article 338, the words used are “the Commission shall ... have all the powers of the Civil Court trying a suit”. But the words “all the powers of a Civil Court” have to be exercised “while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause 5”. All the procedural powers of a civil court are given to the Commission for the purpose of investigating and inquiring into these matters and that too for that limited purpose only. The powers of a civil court of granting injunctions, temporary or permanent, do not inhere in the Commission nor can such a power be inferred or derived from a reading of clause (8) of Article 338 of the Constitution.

11. The Commission having not been specifically granted any power to issue interim injunctions lacks the authority to issue an order of the type found in the letter dated 4-3-1993. The order itself being bad for want of jurisdiction, all other questions and considerations raised in the appeal are redundant. The High Court was justified in taking the view it did. The appeal is dismissed. No costs.”

- 7.1 In **Collector v. Ajit Jogi, (2011) 10 SCC 357**, the Supreme



2025:CHC:11227



Court held:

“23. The contention that there was sufficient material to reach such a conclusion is not relevant. The scope of the duties of the Commission as noticed above, did not involve inquiry or adjudication in regard to the rights of parties or caste status of the parties. The same is the position even under Article 338-A (which was subsequently inserted) providing for a separate Commission for Scheduled Tribes with identical duties. The order of the Commission cannot therefore be sustained. The High Court was justified in setting aside the said order dated 16-10-2001.”

(emphasis supplied)

7.2 The Division Bench of the Uttarakhand High Court in **Pankaj Kumar vs. State of Uttarakhand and Ors. MANU/UC/0713/2019**, held as under:

“27. Clause (f) of Article 338-A(5), (which is what is specified in clause (f) of Paragraph 3 of the Rules of Procedure of the National Commission for Scheduled Tribes), prescribes, as the functions and responsibilities of the Commission, the duty to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify. The power conferred on the President to specify by way of Rules is made subject to the provisions of any law made by Parliament. No Rule made by the President, or any law made by Parliament, conferring power on the National Commission for the Scheduled Tribes to pass orders of injunction, temporary or permanent, have been brought to our notice. In the absence of any such Rule or Law having been made,



2025:CHC:11227



reliance placed on clause (f) of Article 338-A(5) of the Constitution, or on clause (f) of Paragraph 3 of the Rules of Procedure, is misplaced.”

7.3 The Division Bench of the Bombay High Court in **Union of India thr. Secretary Ministry vs. National Commission for Scheduled Castes, 2022 SCC OnLine Bom 1588**, held that the Commission had no jurisdiction to interfere with the decision compulsorily retiring the employee.

8. The stand taken by the learned counsel for the Commission that the recommendations were made on a complaint of caste abuse and discrimination lacks merit. In minutes, albeit word ‘recommends’ is used but in fact these are positive directions, holding dispensing of the services to be bad, directing reinstatement and payment of back wages. The command to file an ATR within the stipulated period is an action to ensure implementation of the decision. A follow-up of recommendation would have been on a distinct pedestal and the report sought would have been as to whether the recommendations are being accepted or not.

9. It is apposite to note that in the impugned minutes there is no mention that the respondent was discriminated and abused on caste basis. Case in hand is of dispensing with the services of a part-time contractual employee upon closure of one of the centers of the petitioner-institute and the Commission acted beyond jurisdiction to decide a service matter and concluding that the termination was bad and the respondent was entitled to reinstatement, regularization along with back wages.



2025:CHC:11227



10. The impugned minutes are beyond jurisdiction consequently are quashed. The writ petition is allowed.

11. Needless to say that the respondent no. 2 shall be at liberty to avail remedies in accordance with law for redressal of the case.

AVNEESH JHINGAN, J.

DECEMBER 11, 2025/Pa

Reportable:- Yes