



2025:DHC:1182



\$~J

* IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Judgment pronounced on: 24.02.2025+ W.P.(C) 1753/2025

THE COMMISSIONER DELHI POLICE

.....Petitioner

Through: Mr. Nirvikar Verma, SPC and Mr.
Ramesh Chand, IO.
Inspector, Mr. Rajiv, PS Malviya
Nagar.

versus

NHRC THROUGH ITS CHAIRPERSON & ANR

.....Respondents

Through:

CORAM:**HON'BLE MR. JUSTICE SACHIN DATTA****JUDGMENT****CM APPL.8410/2025 (Exemption)**

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 1753/2025 and CM APPL.8409/2025 (Stay)

3. The petitioner has filed the present petition, inter alia, impugning an order dated 27.09.2023 passed by National Human Rights Commission (NHRC). The impugned order directs the petitioner to pay compensation of ₹50,000 to respondent no. 2 for non-registration of FIR in Case no. 7405/30/8/2021.



2025:DHC:1182



4. Additionally, the petitioner challenges a show cause notice (SCN) dated 13.05.2023, issued under Section 18 of the Protection of Human Rights Act, 1993, to the Deputy Commissioner of Police, South District, Delhi.

5. The facts of the case as disclosed from the petition are that on 24.11.2021, a PCR call (DD No. 87A) was received at P.S. Malviya Nagar, informing that “*kuch log yahan par jhagra kar rahe hai*”. The said call was marked to ASI Ramesh Chand Meena (investigating officer), who proceeded to the spot.

6. Upon reaching the scene, investigating officer (IO) met with respondent no. 2, Dr. Neeraj Kumar, and inquired about the incident. It is submitted by the petitioner that the respondent no. 2 declined medical examination and refrained from providing any written complaint. It is further submitted that the staff members present at the location also refused to submit any written statement as a result of which the IO could not file an FIR.

7. On the following day, i.e., on 25.11.2021, respondent no. 2, submitted a complaint to the NHRC, alleging that certain miscreants had illegally trespassed into his clinic and outraged the modesty of his female staff. He further contended that despite making a PCR call, the police officials / investigating officer failed to take action.

8. Upon receiving the complaint, NHRC took cognizance and directed the Deputy Commissioner of Police (DCP), South District, Delhi, to submit an Action Taken Report (ATR) within four weeks.

9. Thereafter, a report dated 10.01.2023 was submitted from the office of DCP, vigilance Delhi as mentioned in the impugned SCN dated 13.05.2023. The relevant portion of the impugned SCN is reproduced as under –



“Pursuant to the reminder, a report dtd. 10.01.2023 is submitted from the office of the DCP, Vigilance, Delhi. It is stated in the report that enquiry in the matter was conducted through ACP/ Hauz Khas. During the course of enquiry, it was revealed that the complainant had taken a loan from a NBFC. Because of Covid, he was late in repaying the loan on time, due to which five men from NBFC came for recovery. In this regard, on 25.11.2021, the complainant gave his complaint to NHRC and elsewhere. Now his loan related settlement is done and he does not want any action on his complaint.”

10. Subsequently, the NHRC issued a SCN dated 19.02.2023, directing the petitioner to explain why it should not be held liable to pay ₹50,000 /- as compensation to respondent no. 2, Dr. Neeraj Kumar, for the non-registration of the FIR. The petitioner has not placed the said SCN on record.

11. As the petitioner failed to respond to the aforementioned Show Cause Notice, the NHRC issued a subsequent SCN dated 13.05.2023, granting the petitioner a final opportunity to provide an explanation as to why it should not be held liable to pay ₹50,000/- as compensation to respondent no. 2.

12. The SCN dated 13.05.2023 is reproduced asunder –

“The case no. 7405/30.08.2021 in respect of DR. NEERAJ KUMAR, was placed before the Commission on 13.05.2023. Upon perusing the same, the commission directed as follows:

The complainant, a senior Doctor, alleged that while he was handling his patient on 24.11.2021, 5 persons came from IIFL NBFC miscreants illegally trespassed into his clinic and outraged the modesty of female staff. The complainant further alleged that he called PCR but no action was taken by the Police.

Pursuant to the reminder, a report dtd 10.01.2023 is submitted from the office of the DCP, Vigilance, Delhi. It is stated in the report that enquiry in the matter was conducted through ACP/Hauz Khas. During the course of enquiry, it was revealed that the complainant had taken a loan from a NBFC. Because of Covid, he was late in repaying the loan on time, due to which five men from NBFC came for recovery. In this regard, on 25.11.2021, the complainant gave his complaint to NHRC and elsewhere. Now his loan related settlement is done and he does not want any action on his complaint.



Vide proceedings dated 19.02.2023 the Commission issued show cause notice while directing as under: - "The report is taken on record. The report submitted by the police is cursory and falls to inspire the confidence of the Commission. The report is entirely silent on veracity of allegations in the complaint about criminal incidents raised by the complainant in the matter. The allegations leveled are not just serious and cognizable but also violates his fundamental rights. The perusal of the record tabled before the commission in this matter delineates that the complainant/ victim took certain amount of loan from a Non-Banking Financial Company (NBFC). There was delay in repayment of the said loan. On dtd 24.11.2021, 05 number of "Loan Recovery Agents of the NBFC visited the clinic of the victim for recovery. Complainant stated in his complaint that, the Recovery agents criminally action, Police supported the agents. Police grossly failed to register an FIR because all the allegations of criminally trespass, outraging of modesty of female staff and criminal intimidation are Cognizable offences under IPC Moreover, violence against medical personnel is also a cognizable offence under The Delhi Medicare Service Personnel and Medicare Service Institutions (Prevention of Violence and Damage to Property) Act, 2008. Non-repayment of loan within due time does not give any absolute right to the Banks or Its Recovery Agents to use Criminal force or oppressive pressure on debtor. Recovery of the debt shall be well regulated within the established lawful procedures and parameters. Even the RBI has Issued guidelines to all NBFC vide Notification no. RBI/2017-18/87DNBR.PD.CC.No.090/ 03.10.001 /2017-18, wherein it is explicitly mentioned that, "the NBFC and their agents shall not resort to Intimidation or harassment of any kind, either verbal or physical, against any person in their debt collection efforts, including acts intended to humiliate publicly or intrude the privacy of the debtor's family members, referees and friends, making threatening and anonymous calls or making false and misleading representations". The supreme Court too in Its various judgments reiterated the restriction of use of criminal force by Recovery agents on debtors. In this case, the fact that police was approached by the complainant is not disputed. He called the PCR. But police took no action despite reporting of occurrence of cognizable offences; instead, police declared the complainant/ victim to be on wrong side. The report forwarded by the DCP, vigilance, Delhi, is entirely silent on the enquiry made into offences referred by the complainant/ victim. The report justified the occurrence merely on the cover up story of loan settlement. They should have first registered an FIR and then conducted an Investigation before reaching a conclusion. This clearly depicts neglectful attitude of the public servant to abide by the statutory provisions of the law. Thus, the Police not just drastically neglected the mandatory procedure established by law u/s 154 Cr PC but also blatantly violated the



directions of the Hon 'ble Supreme Court delivered by the Constitution Bench in Lalita Kumari v. Govt. of U.P [W.P.(Crl) No. 68/2008] wherein it was held that, "registration of First Information Report is mandatory under Section 154 of the Code if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible In such a situation. The police officer cannot avoid his duty of registering offence If cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR If information received by him discloses a cognizable offence."

Therefore, let a show cause notice u/s 18 of PHR Act 1993 be issued to Commissioner of Police, Delhi, to show cause as to why compensation of Rs. 50,000/(Fifty Thousand), be not recommended to be paid to the complainant/victim Dr. Neeraj Kumar, for non registration of FIR in this case, wherein the information given by him to the Police, clearly exposed occurrence of cognizable offences. Additionally, the Commissioner of Police, Delhi is directed to conduct an enquiry against the Police officials responsible for not filing the FIR on time and submit the report on action taken against erring officials. He should also consider issuing a Circular asking its officials to immediately register an FIR in all such incidents where information received by them discloses occurrence of cognizable

Meanwhile the Commission received emails dated 25.02.2023 wherein the complainant submitted that statement of Delhi Police that complainant did not want to take action is completely false and frivolous.

Further, the Commission received a copy of communication dated 16.03.2023 from DCP, NorthWest Dist., addressed to the Dy. Commissioner of Police, South District, Delhi forwarding thereby the present complaint for taking action as the matter pertains to South District, Delhi.

The Commission has considered the material placed on record. Vide proceedings dated 19.02.2023 the commission issued show cause notice u/s 18 of PHRA, as quoted in preceding paragraph, however, the Commission has not received any response till date. Therefore, let final opportunity be given along with direction to Commissioner of police, Delhi, to show cause as to why compensation of Rs. 50,000/(Rs. Fifty Thousand Only), be not recommended to be paid to the Complainant/ Victim Dr. Neeraj Kumar, for non -registration of FIR in this case, wherein the information given by him to the police, clearly exposed occurrence of cognizable offences. Response within four weeks, falling which it shall be presumed that the concerned authority has nothing to



urge in the matter and the Commission shall proceed further on the basis of material placed on record.

2. This is for your information and further necessary action

13. As per the documents brought on record the Commissioner of Police, through DCP/Vigilance, Delhi, responded to the complaint filed by the respondent no. 2 on 02.01.2023 and 23.03.2023 and a reply to the SCN was filed by the petitioner on 11.08.2023.

14. Thereafter, through an order dated 27.09.2023, the NHRC confirmed its earlier notices and recommended that the Commissioner of Police release ₹50,000 in compensation to the respondent no. 2. The order dated 27.09.2023 is reproduced as under:-

“Sir/Madam,

I am directed to say that the matter was considered by the Commission on 27.09.2023 and the commission has directed as follows:

The complainant, a senior Doctor, alleged that, while he was handling his patient on 24.11.2021, 5 persons came from IIFL NBFC miscreants illegally trespassed into his clinic and outraged the modesty of female staff. The complainant further alleged that he called PCR but no action was taken by the police

Pursuant to the reminder, a report dtd. 10.01.2023 was submitted from the office of the DCP, Vigilance, Delhi. It was stated in the report that an enquiry was conducted through ACP /Hauz Khas and it was revealed that the complainant had taken a loan from a NBFC. Because of Covid, he was late in repaying the loan due to which five men from NBFC came for recovery. In this regard, on 25.11.2021, the complainant gave his complaint to NHRC and elsewhere. Now his loan related settlement was done and he did not want any action on his complaint.

Vide proceedings dated 19.02.2023 the commission issued show cause notice while directing as under: -

“The report is taken on record. The report submitted by the police is cursory and falls to inspire the confidence of the Commission. The report is entirely silent on veracity of allegations in the complaint about criminal incidents raised by the complainant in the matter. The allegations leveled



are not just serious and cognizable but also violates his fundamental rights. The perusal of the record tabled before the commission in this matter delineates that the complainant/ victim took certain amount of loan from a Non-Banking Financial Company (NBFC). There was delay in repayment of the said loan. On dtd 24.11.2021, 05 number of "Loan Recovery Agents of the NBFC visited the clinic of the victim for recovery. Complainant stated In his complaint that, the Recovery agents criminally trespassed his property; outraged modesty of the female staff present in the clinic and intimidated them. He called PCR but Instead of taking lawful action, Police supported the agents. Police grossly failed to register an FIR because all the allegations of criminally trespass, outraging of modesty of female staff and criminal intimidation are Cognizable offences under IPC Moreover, violence against medical personnel is also a cognizable offence under The Delhi Medicare Service Personnel and Medicare Service Institutions (Prevention of Violence and Damage to Property) Act, 2008. Non-repayment of loan within due time does not give any absolute right to the Banks or its Recovery Agents to use Criminal force or oppressive pressure on debtor. Recovery of the debt shall be well regulated within the established lawful procedures and parameters. Even the RBI has Issued guidelines to all NBFC vide Notification no. RBI/2017-18J87DNBR.PD.CC.No.090/ 03.10.001 /2017-18, wherein it is explicitly mentioned that, "the NBFC and their agents shall not resort to intimidation or harassment of any kind, either verbal or physical, against any person in their debt collection efforts, including acts intended to humiliate publicly or intrude the privacy of the debtor's family members, referees and friends, making threatening and anonymous calls or making false and misleading representations". The Supreme Court too in Its various judgments reiterated the restriction of use of criminal force by Recovery agents on debtors. In this case, the fact that police was approached by the complainant is not disputed. He called the PCR. But police took no action despite reporting of occurrence of cognizable offences; instead, police declared the complainant/ victim to be on wrong side. The report forwarded by the DCP, vigilance, Delhi, is entirely silent on the enquiry made into offences referred by the complainant/ victim. The report justified the occurrence merely on the cover up story of loan settlement. They should have first registered an FIR and then conducted an Investigation before reaching a conclusion. This clearly depicts neglectful attitude of the public servant to abide by the statutory provisions of the law. Thus, the Police not just drastically neglected the mandatory procedure established by law u/s 154 Cr PC but also blatantly violated the directions of the Hon'ble Supreme Court delivered by the Constitution Bench in Lalita Kumari v. Govt. of U.P [W.P.(Crl) No. 68/2008] wherein it was held that, "registration of First Information Report Is mandatory under Section 154 of the Code if the information discloses commission of a cognizable offence and no preliminary inquiry



is permissible In such a situation. The police officer cannot avoid his duty of registering offence If cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR If information received by him discloses a cognizable offence.

Therefore, let a show cause notice u/s 18 of PHR Act 1993 be issued to Commissioner of Police, Delhi, to show cause as to why compensation of Rs. 50,000/(Fifty Thousand), be not recommended to be paid to the complainant/victim Dr. Neeraj Kumar, for nonregistration of FIR in this case, wherein the information given by him to the Police, dearly exposed occurrence of cognizable offences. Additionally, the Commissioner of Police, Delhi is directed to conduct an enquiry against the Police officials responsible for not filing the FIR on time and submit the report on action taken against erring officials. He should also consider issuing a Circular asking its officials to immediately register an FIR in all such incidents where information received by them discloses occurrence of cognizable offence committed by Loan Recovery Agents associated either with nationalized/private Banks or NBFC's. Positive response to be submitted before the Commission within 06 weeks"

Meanwhile the Commission received emails dated 25.02.2023 wherein the complainant submitted that statement of Delhi Police that complainant did not want to take action was completely false and frivolous.

Vide proceeding dated 13.05.2023 the Commission observed that no response had been received to the Commission's show cause notice and issued a reminder to the Commissioner of Police, Delhi, to submit response to the Show cause Notice.

In response, the Dy. Commissioner of Police, South District New Delhi, submitted his report dated 11.08.2023 to the Commission's show cause notice. It was submitted that an " ... enquiry was conducted through ACP Hauz Khas and It was revealed that a PCR Call vide DD No. 87A dated 24.11.2021, PS Malviya Nagar was received that "kuch log yahan par shagra kar rahe hai" and the same was marked to ASI Ramesh Chand Meena (the then Head Constable). On receiving the PC Call he visited the spot and met caller Mr Neeraj Kumar and his staff. He asked him to give written statement. He also asked to get his medical examination and to provide any CCTV footage of the incident. The staff members of clinic refused to give their statement and stated that they did not want to pursue the matter as the issue was regarding nonpayment of loan dues of Mr. Neeraj Kumar. Further, Mr. Neeraj Kumar Himself submitted that he does not wish to file any complaint and the dispute was with regard to the non-payment of his dues towards a NBFC from whom he has taken a loan. The statement of Dr. Neenaj was recorded after the receipt of the reference of



the Hon 'ble Commission in which he had again submitted that he does not want action on his complaint, as he has already settled his loan with the NBC (Copy of statement is attached herewith) Further, the office staff of the complainant did not give any statement/ complaint so in absence of any written statement or any formal complaint no FIR was registered. if Mr. Neeraj or other office staff give any complaint legal action will be taken accordingly. During enquiry no lapses was found on the part of IO ASI Ramesh Chand. Further a reply in the same matter has already sent to your office through DCP/Vigilance vide No. 17 /SDC/SC dated 02.01.23 and again on 1461/SDC/SC dated 23.03.23. Hence, in view of above facts and circumstances it is requested to vacate the present SCN."

In addition to above response, the Commission received another response dated 11.05.2023 from the Dy. Commissioner of Police, Vigilance, Delhi, wherein it was submitted that, as directed by the Commission, circular had been issued to all DCP of all districts to follow mandatory procedure established by law U/S 154 Cr PC if the complainant discloses commission of any cognizable offence by the "Loan Recovery Agents" of an NBFC.

The Commission has considered the material placed on record. The reply submitted by the DCP, South District revealed that no complaint was received and complainant did not want to take any action on the present complaint. The reply seemed to mere reiteration of the earlier action taken report. Upon perusal of records of the case, it was evident that the complainant informed Vide email dated 25.02.2023 that the statement of Delhi Police (that the complainant did not want to take action) was completely false and frivolous. Again, the Commission received an email dated 01.04.2023 from the complainant forwarding thereby an email dated 31.03.2023 addressed to the Special CP, Law & order, South Range, for taking lawful action against accused. Therefore, it cannot be said the complainant did not want to take action and also did not submit any complaint. It is evident that Police had failed to take action on the complaint of the complainant as per procedure established by law

In view of the above, the Commission confirms its show cause notice and recommends to the Commissioner of Police, Delhi to release compensation of Rs. 50,000/-(Rs. fifty Thousand) to the complainant/victim Dr. Neeraj Kumar, and submit compliance report of payment along with of proof of payment, within 06 weeks

It is therefore, requested that the compliance report in the matter be sent to the Commission latest by 18/11/2023 so that the same could be placed before the Commission. Any communication by public authorities in this matter may please be sent to the Commission through the HRC Net Portal



2025:DHC:1182



(<https://hrcnet.nic.in>) by using id and password already provided to the public authorities (click Authority Login). Any Audio/ Video CDs /pen drives etc. may be sent through Speed Post/ Per bearer. The reports/ responses sent through email may not be entertained.

(emphasis supplied)

15. The present petition is the second round of litigation initiated by the petitioner. Previously, the petitioner had filed W.P.(C) 12796/2024, titled *The Commissioner, Delhi Police vs. NHRC Through Its Chairperson and Anr.* The said petition was, however, withdrawn since the final order passed by the NHRC was not assailed therein. Consequently, the present petition has been filed by the petitioner assailing the order dated 27.09.2023 passed by the respondent no.1/NHRC as also assailing the show cause notice bearing No. 7405/30/8/2021 dated 13.05.2023 issued by the NHRC.

16. It has been submitted on behalf of the petitioner as under:-

- i. It is stated that Dr. Neeraj Kumar, and his staff never mentioned any misbehaviour, intimidation, or trespass in the initial PCR call or through any written statement to the investigating officer (IO). Since no written complaint, statement, or evidence was provided, an FIR could not be registered.
- ii. Reliance is placed on the statement of the complainant Dr. Neeraj Kumar (respondent no.2 herein) wherein the complainant has allegedly stated that he no longer wishes to pursue the matter. The said statement which has been filed as Annexure P-3 to the present petition reads as under:-

“The Statement of Dr. Neeraj S/o S.P. Singh E-1/6, Malviya Nagar, N.D.-110017

Stated that I run a clinic at the above-mentioned address. I have got finance for the operation of Clinic from the NBFC. In regard of this



finance, 5 persons had entered into my clinic for the recovery purpose.

Thereafter, I gave a complaint in this regard to the NHRC and other Department, the said complaint was given long time ago. Now our settlement regarding the finance have been arrived at a compromise. So, I do not want any action to be initiated upon my report/complaint. You have recorded my statement which I have read and understood O.K.”

- iii. It is submitted that the NHRC has passed the order without appreciating the reply dated 02.01.2023 and 23.03.2023 submitted through the Additional Deputy Commissioner of Police, South District, again emphasizing that the complainant itself was not desirous of pursuing the matter. Further, it was sought to be contended that there were factual inconsistencies/discrepancies in the version of the complainant as presented to the Commission.
- iv. The writ petition strongly places reliance on an inquiry allegedly prepared in the aftermath of the visit (on 09.11.2023) at the address of the complainant. The enquiry report records as under:-

“On 09.11.23, Insp. Manish Kumar alongwith IO/SI Tinku Shokeen and beat staff visited at the address of Dr. Neeraj Kumar clinic i.e. E 1/6, Malviya Nagar, New Delhi again where the therapist namely Alish D/o Irshad R/O H.No. 526, Vaishali, Indrapuram, Ghaziabad, UP Age 20 years Mb. No. 8130013126 met in person. She stated that Dr. Neeraj Kumar only arrives during the weekend. Thereafter, she provided the mobile number i.e. 8860721926 of Dr. Neeraj Kumar, IO contacted Dr. Neeraj Kumar on his mobile number and asked him to provide his written complaint on what's app or in physical form on which Dr. Neeraj Kumar replied that currently he is in Gurugram, Haryana. Thereafter IO requested him to provide the address of Gurugram, so that he can take his written statement/complaint. On which Dr. Neeraj Kumar replied that neither he wants to register any FIR against the NBFC nor he provided his current address. Further he stated that he wants only the compensation and didn't give any written submission even on what's app.



In view of the above facts and circumstances, it is submitted that Dr. Neeraj Kumar had neither on the day of incident nor again when EO approached him during enquiry into the complaint of NHRC, narrated the allegations of outraging of modesty of his female staff or other. Therefore, in absence of any written statement or any formal written complaint, no legal action could be taken in the present matter. On enquiry no lapse has been bound in the part of EO or other police officials. As it does not seem to be a fit case for compensation, after approval of senior officers it has been decided that the order passed by Hon'ble NHRC to compensate the complainant will be challenged/appeal before the Hon'ble High Court.

This has the approval of worthy Spl.CP/L&DO Division (Zone-II)."

- v. It is submitted that the aforesaid inquiry report was placed before the NHRC, however, the same has been disregarded by the NHRC while passing the impugned order.
 - vi. Reliance is placed on the judgment of the Supreme Court in ***State of Punjab v. Sukhwinder Singh*** (2005) 5 SCC 569, to contend that the recommendations of the NHRC can be reviewed by this Court.
17. Having considered the aforesaid submissions on behalf of the petitioner, this Court finds no merit therein. The reasons are enumerated hereunder :-
- i. A perusal of the impugned order passed by the NHRC reveals that it deals with the contention of the petitioner that the concerned IO was unable to register an FIR due to the unwillingness of the respondent no.2/complainant to pursue the complaint.
 - ii. It has been noticed in the impugned order that the version of the petitioner is cursory and fails to inspire confidence. It was noticed that the violence against the medical personnel is a serious matter and is a cognizable offence under the Delhi Medicare Service Personnel and



Medicare Service Institutions (Prevention of Violence and Damage to Property) Act, 2008. The NHRC also took note of the relevant guidelines of the RBI which explicitly mentions that “the NBFC and their agents shall not resort to intimidation or harassment of any kind, either verbal or physical, against any person in their debt collection efforts, including acts intended to humiliate publicly or intrude the privacy of the debtor’s family members, referees and friends, making threatening and anonymous calls or making false and misleading representations”.

- iii. Importantly, the impugned order takes note of the email/communication of the complainant/respondent no.2 sent to the NHRC vide email dated 25.02.2023, stating that the version of the petitioner to the effect that the complainant was not desirous of pursuing the matter was wrong. In this regard, reference may be made to the following portion of the impugned order :-

“The Commission has considered the material placed on record. The reply submitted by the DCP, South District, revealed that no complaint was received and complainant did not want to take any action on the present complaint. The reply seemed to mere reiteration of the earlier action taken report Upon perusal of records of the case, it was evident that the complainant informed vide email dated 25.02.2023 that the statement of Delhi Police (that the complainant did not want to take action) was completely false and frivolous. Again, the Commission received an email dated 01.04.2023 from the complainant forwarding thereby an email dated 31.03.2023 addressed to the Special CP, Law & Order, South Range, for taking lawful action against accused. Therefore, it cannot be said the complainant did not want to take action and also did not submit any complaint It is evident that Police had failed to take action on the complaint of the complainant as per procedure established by law.”



2025:DHC:1182



- iv. Reliance placed on the alleged statement of the complainant/respondent no.2 to the effect that the complainant was not desirous of pursuing the matter appears to be misplaced. It is quite incongruous that the statement of the complainant (Annexure P-3), would be recorded by the very same officer against whom the complainant has lodged the complaint. There was no occasion for the very same officer to approach the complainant and question the complainant as to whether the latter was desirous of pursuing his complaint before the NHRC. The action of the concerned delinquent officer, to record the statement of the complainant/respondent no.2 with regard to the latter's complaint in the NHRC, is nothing short of an attempt to obtain a self serving exculpatory statement to circumvent / avoid the consequences of the complaint submitted to the NHRC.
- v. Quite apart from this, the statement on the face of it does not inspire confidence inasmuch as it is undated and even the contents thereof does not give any inkling as to the date and time of recordal thereof.
- vi. Strangely, the writ petition avers that *"the enquiry report was submitted before the Hon'ble NHRC and after perusal of the report, Hon'ble NHRC issued the impugned Show Cause Notice u/s 18 of PHR. Act, 1993 to Commissioner of Police Delhi vide letter/email dated 19.02.2023 to show cause as "why compensation of Rs. 50,000/- (Fifty thousand). be not recommended to be paid to complainant/victim Dr. Neeraj Kumar for non-registration of FIR in his case." A copy of the enquiry report submitted before the Hon'ble NHRC is Annexed herewith as Annexure P4"*.



- vii. However, the above averment is clearly misleading inasmuch as the impugned order passed by the NHRC on 27.09.2023 and the alleged inquiry was evidently conducted thereafter. The same could not have possibly been submitted to the NHRC prior to passing of the impugned order, as suggested in the writ petition. Even otherwise, the inquiry report only reiterates the same contention of the petitioner viz. that the respondent no.2/complainant was not desirous of pursuing the matter and hence, the omission on the part of the petitioner to take requisite action pursuant to PCR Call *vide* DD No.87A dated 24.11.2021. The impugned order passed by the NHRC dwells at length as to why the said version does not inspire confidence.
- viii. The prayer of the petitioner in the present case is in effect to seek writ in the nature of certiorari. The Apex Court in ***Central Council For Research In Ayurvedic Sciences &Anr. v. Bikartan Das & Ors.,*** 2023INSC733, while explaining the scope of Court's jurisdiction under the writ of certiorari, highlighted two fundamental principles that govern the issuance of a writ of certiorari. First, when exercising this power, the High Court does not function as an appellate tribunal. This means it cannot reassess or re-evaluate the evidence upon which a tribunal/statutory authority has based its decision. The scope of judicial review in such cases is limited to examining the legality of the decision. Second, a writ of certiorari can only be issued if there is an error of law that is apparent on the face of the record. The writ is a high prerogative remedy and cannot be granted as a matter of right. The power conferred under Article 226 of the Constitution is discretionary, and the High Court has the flexibility to pass orders in the interest of justice, equity,



and public good. While the law must be upheld, it should also be tempered with equity. The relevant portion of the judgment is reproduced as under -

“50. The first cardinal principle of law that governs the exercise of extraordinary jurisdiction under Article 226 of the Constitution, more particularly when it comes to the issue of a writ of certiorari is that in granting such a writ, the High Court does not exercise the powers of Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record. A writ of certiorari, being a high prerogative writ, should not be issued on mere asking.

51. The second cardinal principle of exercise of extraordinary jurisdiction under Article 226 of the Constitution is that in a given case, even if some action or order challenged in the writ petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties. Article 226 of the Constitution grants an extraordinary remedy, which is essentially discretionary, although founded on legal injury. It is perfectly open for the writ court, exercising this flexible power to pass such orders as public interest dictates & equity projects. The legal formulations cannot be enforced divorced from the realities of the fact situation of the case. While administering law, it is to be tempered with equity and if the equitable situation demands after setting right the legal formulations, not to take it to the logical end, the High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal court of appeal which it is not.

xxx

xxx

xxx

63. However, we may clarify that findings of fact based on ‘no evidence’ or purely on surmises and conjectures or which are perverse points could be challenged by way of a certiorari as such findings could be regarded as an error of law.



64. Thus, from the various decisions referred to above, we have no hesitation in reaching to the conclusion that a writ of certiorari is a high prerogative writ and should not be issued on mere asking. For the issue of a writ of certiorari, the party concerned has to make out a definite case for the same and is not a matter of course. To put it pithily, certiorari shall issue to correct errors of jurisdiction, that is to say, absence, excess or failure to exercise and also when in the exercise of undoubted jurisdiction, there has been illegality. It shall also issue to correct an error in the decision or determination itself, if it is an error manifest on the face of the proceedings. By its exercise, only a patent error can be corrected but not also a wrong decision. It should be well remembered at the cost of repetition that certiorari is not appellate but only supervisory.

65. A writ of certiorari, being a high prerogative writ, is issued by a superior court in respect of the exercise of judicial or quasi-judicial functions by another authority when the contention is that the exercising authority had no jurisdiction or exceeded the jurisdiction. It cannot be denied that the tribunals or the authorities concerned in this batch of appeals had the jurisdiction to deal with the matter. However, the argument would be that the tribunals had acted arbitrarily and illegally and that they had failed to give proper findings on the facts and circumstances of the case. We may only say that while adjudicating a writ-application for a writ of certiorari, the court is not sitting as a court of appeal against the order of the tribunals to test the legality thereof with a view to reach a different conclusion. If there is any evidence, the court will not examine whether the right conclusion is drawn from it or not. It is a well-established principle of law that a writ of certiorari will not lie where the order or decision of a tribunal or authority is wrong in matter of facts or on merits. (See: King v. Nat Bell Liquors Ltd., (1922) 2 AC 128 (PC))

(emphasis supplied)

- ix. Furthermore, the recommendations of the NHRC are not merely advisory but are binding in nature.
- x. A Division bench of this Court in **Kiran Singh v. National Human Rights Commission & Ors.** 2025:DHC:456-DB has observed as under—

“59. After having considered the reasoning in both the Allahabad High Court and Madras High Court judgments, this Court fully



agrees with the reasoning in the said two decisions - whether in the case of compensation or in the case of inquiry being directed. The purpose of the Human Rights Act and the reasons for its enactment would be nullified if the Commissions are rendered powerless and are held to be mere recommendatory bodies. The recommendations are binding in nature. The concerned authority/government, however, is not without remedy and can always seek judicial review of the recommendations. Any view to the contrary, that the Human Rights Commissions can only make recommendations, which are not binding, would render the said Commissions completely toothless and nullify the object of India ratifying the Universal Declaration of Human Rights. The Court does not agree with the stand of the Delhi Police that in each and every case, the NHRC ought to be forced to approach the Court for implementation of its own decisions. The NHRC is not meant to become a litigant before Courts.

60. In the opinion of this Court, human rights are not ordinary rights. These rights are integral to Article 21 which recognizes the Right to Life. Commissions under the Human rights Act are meant to look into any infractions and exercise powers under the Act. Reports and Recommendations of Human Rights Commissions need to be treated with seriousness and not rendered edentulous or pointless. If Governments are aggrieved, they are free to challenge the orders of State Commissions and NHRC. But such inquiries and reports cannot be simply ignored. Human Rights Commissions are not to be 'toothless tigers' but have to be 'fierce defenders' safeguarding the most basic right of humans i.e., the right to live without fear and to live with dignity"

xi. In the impugned order the NHRC has categorically, observed as under–

*"In view of the above, the Commission confirms its show cause notice and recommends to the Commissioner of Police, Delhi, to release compensation of Rs. 50,000/- (Rs. Fifty Thousand) to the complainant/victim Dr. NeerajKumar, and submit compliance report of payment along with of proof of payment within 06 weeks
It is therefore, requested that the compliance report in the matter be sent to the Commission latest by 18/11/2023, so that the same could be placed before the Commission."*

xii. Considering the settled position, as stated by a Division Bench of this Court in **Kiran Singh v. National Human Rights Commission & Ors.**



2025:DHC:1182



(supra) of this Court, the petitioner is bound by the said directions of NHRC, unless the impugned order is set aside by the Court.

- xiii. Instead of complying with the directions of the NHRC, the petitioner resorted to taking refuge behind an inquiry conducted after the impugned order was passed by the NHRC which again seeks to attribute the inaction of the petitioner/police authorities to the reluctance of the complainant to pursue any complaint pursuant to the incident on 24.11.2021. As noticed above, the same is wholly misconceived.
- xiv. Reliance placed by the petitioner on the judgment of the Supreme Court in *State of Punjab v. Sukhwinder Singh* (supra), has no application in the facts and context of the present case. The said case does not involve any determination/recommendation of the NHRC. The said case is concerned with the validity of the discharge of a constable under the Punjab Police Rule 12.21 for unauthorized absence. The same has no relevance at all in the facts and circumstances of the present case.
18. For all the above reasons, this Court finds no merit in the present petition; the same is accordingly dismissed. Pending application also stands disposed of.

SACHIN DATTA, J

FEBRUARY 24, 2025/sv, r