HC-KAR

NC: 2026:KHC:61510
WP No. 10474 of 2024

CNR: KAHC010209142024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

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BEFORE

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

WRIT PETITION NO. 10474 OF 2024 (GM-RES)

BETWEEN:

SRI. LAXMAN K. PAWAR,
S/O.KESU,
AGED ABOUT 42 YEARS,
R/AT NO.293,
1ST MAIN, 1ST BLOCK,
JAKKASANDRA EXT,
A-2 KORAMANGALA,
BANGALORE - 560 034.

...PETITIONER

(BY SRI. GOWTHAMDEV C ULLAL., ADVOCATE)

AND:

1. THE KARNATAKA STATE
HUMAN RIGHTS COMMISSION,
4TH FLOOR, 5TH PHASE,
MULTI STORED BUILDING,
DR. AMBEDKAR VEEDHI,
BANGALORE - 560 001.
REP BY ITS ASSISTANT REGISTRAR.

2. SHRI. ASHISH KOHLI,
S/O LATE VIJAY KUMAR KOHLI,
NO.410, 3RD FLOOR,
4TH MAIN ROAD, 2ND CROSS,
WEST WING AMARJYOTHI LAYOUT,
BENGALURU - 560 017.

...RESPONDENTS

(BY SRI. RAJASHEKHAR K., ADVOCATE FOR R1,
SRI. AMANDA CHAKRAVARTHI, ADVOCATE FOR R2)

Digitally signed by
PREMCHANDRA M R
Location: HIGH
COURT OF
KARNATAKA

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED:29/11/2022 IN HRC 2431/10/31/2021 (SB-3) PASSED BY THE R1 VIDE ANNEXURE-A AND QUASH AN ORDER DATED:26/02/2024/ TO 02/03/2024 PASSED BY R1 VIDE ANNEXURE-B. VIDE NO. HRC NO. R-11 IN HRC 2431/10/31/2021 (B-3) DTD:26.02.2024 AND ETC.,

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE T.P.VIVEKANANDA

ORAL ORDER

The petitioner is before this Court, calling in question the order dated 29.11.2022 produced at Annexure-A, passed by the respondent No.1-Commission, whereby a recommendation for initiation of Disciplinary proceedings against the petitioner has been made to the employer of the petitioner in terms of the provisions of Karnataka State Police (Disciplinary Proceedings) Rules, 1965. The petitioner has also challenged the order passed on the review petition filed by him at Annexure-B dated 26.02.2024.

2. The submission of the learned counsel for the petitioner is that respondent No.2 had filed a complaint before respondent No.1 at Annexure-C, alleging that he was harassed and illegally detained in the police station by respondent No.2, which amounts to violation of human rights. Based on the complaint submitted by respondent No.2, an inquiry was directed to be conducted by the Deputy Superintendent of Police. The said officer, has filed his report on 18.10.2021 vide Annexure-D, reporting that the allegations made by respondent No.2 in his complaint has no substance and the complaint made by respondent No.2 is false. Having not accepted the said report, one more inquiry was directed to be conducted by different officers of the same ranking. The said officer has submitted his report on 09.11.2022 at Annexure-G, confirming the allegations made by respondent No.2 in his complaint and reporting that in the course of investigation it is proved that respondent No.1 has taken the respondent No.2 to the police station without there being

any written complaint or FIR and detained him in the police station. It is based on the said report, respondent No.1-Commission conducted the enquiry and passed the order at Annexure-A dated 29.11.2022, holding that the allegations made against respondent No.2 are proved and receipt of Rs.40,000/- from respondent No.2 is also proved. Consequently, the Commission recommended initiation of departmental proceedings against the petitioner in accordance with the provisions of the Karnataka State Police (Disciplinary Proceedings) Rules, 1965.

3. In terms of the provisions of Rule 22 of Karnataka State Human Rights Commission (Procedure) Regulations, 2020, the petitioner had preferred a review petition before the Commission, which also came to be dismissed holding that there are no grounds to review the order. The aforesaid two orders are challenged in the present writ petition.

4. The solitary contention raised by the learned counsel for the petitioner is that a complaint of the nature which respondent No.2 has filed, should have been placed before the Division Bench of the respondent-Commission. On the contrary, the same has been placed before the Single Bench and the Single Bench has decided the complaint by the impugned order, only on the ground of lack of jurisdiction both the impugned orders are liable to be set at naught.

5. In support of the said contention, learned counsel for the petitioner has placed reliance on the provisions of sub-regulation (4) of Regulation 11 of the Karnataka State Human Rights Commission (Procedure) Regulations, 2007, which reads as follows:

> *(4) "All complaints relating to custodial death, custodial torture, custodial rape, illegal detention **shall** be **normally** heard by a Division Bench of the Commission, while the cases of other types shall go before a Single Bench unless otherwise directed by the Chairperson keeping in view the nature of a particular case. A Single or Division Bench, as the case may be refer a case pending before it to Division Bench of Full Bench respectively for the reasons to be recorded by it."*

6. Learned counsel for the petitioner would further submit that, without entering into the merits of the dispute, the impugned orders requires to be quashed and the matter be remanded to the respondent-Commission for fresh adjudication in terms of sub-regulation (4) of Regulation 11 of the Karnataka State Human Rights Commission (Procedure) Regulations, 2007.

7. Per contra, learned counsel appearing for respondent No.1-Commission submits that the Regulation 2007, has been repealed by Karnataka State Human Rights Commission (Procedure) Regulations, 2020 and in terms of sub-regulation (4) of Regulation 11, the hearing of the complaint of the present nature can be considered either by the Single Bench or by the Division Bench and provisions of sub-regulation (4) of Regulation 11, is not mandatory and it is directory in nature. Therefore, the order of the Single Bench is perfectly in terms of the aforesaid provision, which require no interference at the hands of this Court.

8. The learned counsel appearing for respondent No.2, however, submits that, in the event of this Court finding that the order passed by the Single Bench of respondent No.1-Commission is without jurisdiction, the matter may be remanded to the Commission for fresh adjudication by a Division Bench or Full Bench, in terms of the aforesaid Regulations.

9. Having heard the learned counsel for the parties and upon perusal of the impugned orders as well as the relevant Regulations referred to supra, this Court is of the considered opinion that the complaint filed by respondent No.2, alleging illegal detention and custodial torture is required to be adjudicated only by the Division Bench of the Commission, in the light of the specific provisions contained in sub-regulation (4) of Regulation 11 of the Karnataka State Human Rights Commission (Procedure) Regulations, 2007, unless otherwise directed by the chairperson of the Commission.

10. On a plain reading of the said Regulation, it is evident that the complaint of the present nature shall always be considered by the Division Bench, unless otherwise directed by the Chairperson to be placed before the Single Bench. If the complaint of the present nature were to be decided by the Single Bench, it goes without saying that there should have been a special order by the Chairperson of the Commission. The word normally depicted in regulation (4) of Regulation 11, will have to be understood as in usual course. If there has been an exception to the normal course, then special order at the hands of the Chairperson was necessary.

11. Under the administrative law principles, the word "shall" indicates mandatory intent and the word "normally" qualified directory. In the provision in question both the aforesaid expressions are used. Therefore, any administrative or quasi judicial authority departs from the normal rule the exception cannot be arbitrary.

12. In the light of the aforesaid consideration and taking note of the submissions made by the learned counsel for the respective parties, this Court is of the view that the impugned orders at Annexures-A and B are unsustainable only on the ground of lack of jurisdiction and the matter requires re-consideration by the Hon'ble Division Bench of the Karnataka State Human Rights Commission. Hence, the following:

ORDER

(i) The writ petition is ***allowed***.

(ii) The impugned orders dated 29.11.2022 and 26.02.2024, produced at Annexures-A and B, respectively are hereby quashed.

(iii) The matter is remitted to respondent No.1-Commission for fresh adjudication strictly in terms of provisions of sub-regulation (4) of Regulation 11 of the Karnataka State

Human Rights Commission (Procedure) Regulations, 2007.

(iv) All contentions of the petitioner so also respondent No.2 are kept open to be considered by respondent No.1-Commission.

Sd/-
(T.P.VIVEKANANDA)
JUDGE

PK
List No.: 1 Sl No.: 14