IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-6147-2023
Reserved on: April 09, 2025
Pronounced on: July 08, 2025

DEEPAK BANSAL **-PETITIONER**

V/S

STATE OF PUNJAB AND OTHERS **-RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Alok Mittal, Advocate
for the petitioner.

Mr. Pardeep Bajaj, D.A.G., Punjab.

Ms./Mrs. Gurmeet Kaur, Advocate
for the respondent(s)-U.O.I.

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KULDEEP TIWARI, J.

1. The hereinafter extracted directions, as embodied respectively in the orders dated 18.10.2022 and 06.03.2023 drawn by the National Commission for Scheduled Castes (hereinafter referred to as the 'National Commission'), caused pain to the petitioner and consequently propelled him to institute thereagainst the instant writ petition.

> "***Directions issued through order dated 18.10.2022***
>
> *2. The Superintendent of Police submitted a copy of his report dated 08.10.2022 before the Commission which was taken on record.*
>
> *3. The Superintendent of Police has informed that the accused have been proceeded against for offences under Sections 379-B, 323, 324, 120-B and 34 of IPC.*
>
> ***4. Upon consideration the Commission is of the view that the***

> ***applicant has been attacked with a sword and the police does not appear to have proceeded against the accused under the aforesaid provisions of law. The Commission is of the view that the police should reinvestigate the matter of attack by sword and relevant sections (307 and others) be added.***
>
> *5. That the investigation report be presented before the Commission within a period of 7 days."*
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> ***
>
> ***"Directions issued through order dated 06.03.2023***
>
> *5. On 21.02.2023, during the course of hearing, it was noted that the Punjab Police is yet not affected the arrest of any accused/s in the present case and neither has got recovered the weapon used in the alleged occurrence. Apart from the above said, despite their been cognizance under the SC/ST (Prevention of Atrocities) Act, 1989, the investigation has not been carried out by an official of the level of Deputy Superintendent of Police. The official of the level of Superintendent of Police came present before this Court but did not present the correct facts and circumstances of the case.* ***Hence, this Commission holds that the police should affect immediate arrest of the accused/s and also proceed against the concerned Police Officials under Section 4 of the SC/ST (Prevention of Atrocities) Act, 1989……."***

2. It is apposite to record here that, post the drawing of the impugned directions on 18.10.2022, offence under Section 307 IPC was also added in the FIR No.135 dated 12.09.2022, which was initially registered under Sections 379-B, 323, 324, 120-B, 34 of the IPC, at P.S. Dhanaula, District Barnala.

3. What emerges from perusal of the record available before this Court is that, the Co-ordinate Bench of this Court had, while issuing notice upon this writ petition on 24.03.2023, ordered the further

proceedings to remain stayed.

4. Before proceeding to gauge the validity of the impugned directions, it is deemed imperative to initially make a concise and compendious survey of the facts.

FACTUAL MATRIX

5. Initially, based on an application dated 20.01.2021, as moved by the respondent No.7, FIR No.16 dated 21.01.2021, under Section 3(1)(x) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'SC/ST Act'), was registered against the petitioner at P.S. Tripri, District Patiala. In this FIR, the petitioner was granted interim bail by this Court, vide the order dated 13.02.2023, recorded in CRA-S-451-2023.

6. Subsequently, the respondent No.7 again moved an application dated 07.02.2021 against the petitioner and two other persons, seeking action under Sections 307, 392, 201, 323, 324, 325, 326 IPC, and Sections 3, 14, 15 of the SC/ST Act. Upon receiving this application, the S.H.O., P.S. Dhanaula, conducted a thorough inquiry and, as a result, stated in his fact-finding report dated 02.04.2022 that there is no truth in the application and no further action is required.

7. Thereafter, the respondent No.7 moved a complaint against the petitioner before the National Commission, seeking action under Sections 307, 392, 201, 323, 324, 325, 326 IPC, and Sections 3, 14, 15 of the SC/ST Act. Upon receiving this complaint, the National Commission issued notice to the respondents No.3 to 6 for taking cognizance of the

case. As a result, during the hearing before the National Commission on 18.10.2022, the respondent No.6 submitted his report, informing that FIR No.135 dated 12.09.2022 has been registered against the petitioner under Sections 379-B, 323, 324, 120-B, 34 of the IPC, at P.S. Dhanaula, District Barnala. However, the National Commission, by its order dated 18.10.2022, issued the impugned directions to reinvestigate the matter on the aspect of attack by sword and to add relevant sections (307 and others). The outcome of these directions was the incorporation of offence under Section 307 IPC in the FIR No.135.

8. Thereafter, during the hearing before the National Commission on 06.03.2023, the Inspector General of Police, Patiala Range, submitted his report dated 06.03.2023 and the investigation report of the Superintendent of Police, dated 04.03.2023. However, both the reports were found dis-satisfactory by the National Commission. Apart from the above, the National Commission noted that the Commissioner (Division), Patiala Division, Inspector General of Police, Patiala Range and Senior Superintendent of Police, Barnala were called for the hearing, however, the concerned officials absented themselves. Hence, the National Commission requested the Chief Secretary, Government of Punjab and Director General of Police, Punjab to ensure the presence of the aforesaid officials for the next hearing.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER

9. While referring to the mandate clothed in Article 338 of the

Constitution of India, the learned counsel for the petitioner submits that, the National Commission is not bestowed with the power to issue directions in the nature of interim injunction or mandatory injunction. Although the National Commission has been equipped with the procedural powers of Civil Court, but, only for the limited purpose of conducting inquiry/investigation and making recommendations to the Union or State Governments. Therefore, once the impugned directions themselves are illegal on account of theirs being passed by an authority lacking the subject jurisdiction, hence the natural corollary thereof is that, the consequent proceedings arising therefrom are also illegal and deserve to be quashed.

10. To lend vigour to his above made argument, the learned counsel for the petitioner places reliance upon ***"All India Indian Overseas Bank Scheduled Castes and Scheduled Tribes Employees Welfare Association and Others versus Union of India and Others"*** reported as 1196(6) SCC 606 and ***"Jatt Ram versus Punjab State Human Rights Commission and another"*** reported as 2005 (3) RCR (Criminal) 716.

11. The learned counsel for the petitioner further submits that, the impugned directions suffer from the vice of illegality even on account of infraction of principles of natural justice inasmuch as no effective opportunity of hearing was granted. Moreover, by placing reliance upon various precedent laws, which would be discussed in the latter part of this verdict, he submits that, the National Commission does not have any

power to interfere into ongoing investigations and to issue directions for invoking specific provisions of the IPC and/or the SC/ST Act.

COLLECTIVE SUBMISSIONS BY THE LEARNED COUNSELS FOR THE RESPONDENTS

12. In their endeavour to defend the legality of the impugned directions, the learned counsels for the respondents collectively submit that, in view of the powers conferred by the Constitution of India, it is the obligatory duty of the National Commission to protect and safeguard the rights of members belonging to the scheduled castes. Clause (5) of Article 338 confers ample powers upon the National Commission to investigate and monitor, besides inquiring into specific complaints in the matters relating to the scheduled castes. Clause (8) gives the status of Civil Court to the National Commission while carrying out investigation. Moreover, Rule 7 of the Rules of Procedure of the National Commission for Scheduled Castes (hereinafter referred to as the 'Rules of Procedure') provides for investigation and inquiry by the National Commission. A conjoint reading of Article 338 and Rule 7 makes it abundantly clear that, the National Commission is well empowered to issue the directions under challenge.

13. Marching forth, it is submitted that, Rule 7.5.1 of the Rules of Procedure empowers the National Commission to get in touch with the law enforcing and administrative machinery of the State and the district to ascertain the details of incident and the action taken by the district administration. If after detailed inquiry/investigation, the National

Commission finds substance in the allegation/complaint regarding atrocity, it may recommend to file an FIR against the accused with the concerned law enforcing agency of the State/District. This Rule also empowers the National Commission to call the State Government/District Administration/Police Personnel within three days through summons. On the anvil of the above powers, it is vehemently submitted that, the impugned directions fall strictly within the scope of Rule 7.5.1 and the same cannot be termed to be beyond the jurisdiction of the National Commission. In case, the arguments advanced by the petitioner's counsel are accepted, the National Commission would be rendered completely ineffective and this would defeat the basic object of Article 338 of the Constitution of India.

14. Furthermore, it is submitted that, the States/UTs are bound to register FIR on the directions of the National Commission, specifically in view of the letter dated 10.05.2013 issued by the Government of India, Ministry of Home Affairs, to all the States/UTs.

ANALYSIS OF SOME SIGNIFICANT LEGAL PROVISIONS AND JUDICIAL PRECEDENTS GERMANE TO DISPOSAL OF THIS WRIT PETITION

15. Article 338 of the Constitution of India mandates the creation of the National Commission. Clause (5) of the Article 338 embodies the duty of the National Commission. Clause (6) imposes an obligation upon the President of India to cause all reports of the National Commission to be laid before each House of Parliament, along with a memorandum

explaining the action taken or proposed to be taken on the recommendations relating to the Union and reasons for the non-acceptance, if any, of any of such recommendations. Clause (7) stipulates that, where any report of the National Commission, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State, whereupon, the latter shall cause it to be laid before the Legislature of the State, along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any such recommendations. Clause (8) equips the National Commission with all the powers of a civil court trying a suit, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of Clause (5).

16. Article 338 of the Constitution of India is reproduced hereunder:-

> *"**338. National Commission for Scheduled Castes***
> *(1) There shall be a Commission for the Scheduled Castes to be known as the National Commission for the Scheduled Castes.*
> *(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.*
> *(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.*
> *(4) The Commission shall have the power to regulate its own*

procedure.

(5) It shall be the duty of the Commission--

(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes;

(c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes and to evaluate the progress of their development under the Union and any State;

(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes as the President may, subject to the provisions of any law made by Parliament, by the rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of

such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents;

(f) any other matter which the President may, by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Castes.

(10) In this article, references to the Scheduled Castes shall be construed as including references to such other backward classes as the President may, on receipt of the report of a Commission appointed under clause (1) of article 340, by order specify and also to the Anglo-Indian community."

17. The Government of India, vide notification dated 25.03.2009 published in the official gazette, notified the Rules of Procedure. To address the issue at hand, Rule 7 of the Rules of Procedure assumes

significant importance.

18. Rule 7.1 lays down that, the National Commission shall function by holding ‘sittings’ and ‘meetings’ at any place within the country and also through its officers at the Headquarters and in the State Offices. The members of the National Commission including the Chairperson and the Vice-Chairperson shall function in accordance with the procedure prescribed under these Rules.

19. Rule 7.2.1 prescribes the methods for investigating or inquiring into the matters falling within the authority of the National Commission. Rule 7.2.(a) deals with the investigation and inquiry by the National Commission directly.

20. Rule 7.4.1 illustrates the aspects, which are to be kept in mind while filing complaints before the National Commission. Rule 7.4.1.(e) clearly spells out that, no action will be taken on matters, which are subjudice. Therefore, subjudice matter need not be referred to the National Commission as complaint(s). Moreover, Rule 7.4.1.(f) dictates that, cases pending in courts or cases wherein court has already given its final verdict may not be taken up afresh with the National Commission.

21. Rule 7.5 deals with inquiry into cases of atrocities. According to Rule 7.5.1, whenever information is received about any incident of atrocity against a person belonging to scheduled castes, the National Commission would immediately get in touch with the law enforcing and administrative machinery of the State and the district to ascertain the details of incident and the action taken by the district

administration. If after detailed inquiry/investigation, the National Commission finds substance in the allegation/complaint regarding atrocity, it may recommend to file an FIR against the accused with the concerned law enforcing agency of the State/District. **(emphasis supplied)** Rule 7.5.2 requires the National Commission to ensure compliance of certain parameters while monitoring and issuing instructions to the concerned authorities.

22. The relevant portions of Rule 7 of the Rules of Procedure are reproduced hereunder:-

> ***"7.0 INVESTIGATION AND INQUIRY BY THE COMMISSION***
>
> ***7.1*** *The Commission shall function by holding 'sittings' and 'meetings' at any place within the country and also through its officers at the Headquarters and in the State Offices. The Members of the Commission including the Chairperson and the Vice-Chairperson shall function in accordance with the procedure prescribed under these rules.*
>
> ***7.2.1*** *The Commission may adopt any one or more of the following methods for investigating or inquiring into the matters falling within its authority:*
>
> *(a) by the Commission directly;*
>
> *(b) by an Investigating Team constituted at the Headquarters of the Commission; and*
>
> *(c) through its State Offices;*
>
> *(d) by the State Agencies;*
>
> *(e) by any other institution/Deptt. funded by Central Government and its statutory bodies.*
>
> ***7.2 (a) Investigation and Inquiry by the Commission directly***
>
> *7.2(a) (i) The Commission may hold sittings for investigation into matters relating to safeguards, protection, welfare and*

development of the Scheduled Castes for inquiry into specific complaints for which the Commission decided to take up investigation or inquiry directly. Such sittings may be held either at the Headquarters of the Commission or at any other place within the country.

7.2(a) (ii) The sitting(s) of the Commission would be held after giving due notice to the parties intended to be heard and also due publicity/notice to the general public. Care will be taken to see that the members of the Scheduled Castes who are affected in the matter under investigation or inquiry are given due information through notice or publicity.

7.2(a) (iii) When a decision for direct investigation is taken, an officer not below the rank of Investigator/Research Officer/Section Officer along with necessary staff may be attached to the Member(s) entrusted with such investigation or enquiry and they shall take all steps to arrange such sittings.

7.2(a) (iv) The Commission shall convene meeting of all the Chief Secretaries, Secy. (Home), Secy. (Social Welfare), DGPs of the State and Secretaries of the Government of India, who may be considered accountable for the implementation of the programme of the safeguards as enumerated under Article 338(5)(a) once in a year for monitoring the safeguards and development.

7.2(a) (v) In accordance with Clause (8) of Article 338 of the Constitution, while investigating in a matter referred to in sub-clause (a) or in inquiring into any complaint referred to in sub-clause (b) of clause (5) of Article 338, the Commission shall have all the powers of civil court trying a suit and in particular in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents;

(f) any other matter which the President may, by rule, determine.

7.2(a) (vi) The Commission for the purpose of taking evidence in the investigation or inquiry requires the presence of any person and when considered necessary may issue summons to him/her with the approval of the Chairman. The summons for enforcing attendance of any person from any part of India and examining him/her during the course of investigation and inquiry by the Commission shall provide at least 15 days' notice to the person directed to be present before the Commission from the date of receipt of the summons. In serious cases of atrocities, three days' notice will be given to the person directed to be present before the Commission from the date of receipt of the summons by him/her.

7.2(a) (vii) Where the property, service/employment of Scheduled Castes and other related matters are under immediate threat and prompt attention of the Commission is required, the matter shall be taken cognizance by issue of telex/fax to the concerned authority for making it known to them that the Commission is seized of the issue and that authority will be prohibited to take any action till the completion of the enquiry in the matter by the NCSC. Urgent reply by telegram or fax shall be called from the concerned authority. In case no reply is received within three working days, the authority concerned may be required to appear before the Commission at a three days' notice for enquiry.

7.2(a) (viii) The Commission may issue commission/under Clause 8(e) of Article 338 of the Constitution to take evidence in any matter under investigation or inquiry and for this purpose appoint any person by an order in writing. The Commission may make further rules for payment of fee and travelling and other allowances to persons appointed to take evidence on commission.

7.2(a) (ix) After holding the required sittings, the Member(s) who conducted the investigation shall make a report, which shall be

sent to the enquiry officer appointed under Rule 34 or any other officer authorized by the Commission to receive the report. The report received in the Commission shall be submitted within 3 days to the Chairperson for inspections. After examination, action may be initiated on the report with the approval of the Chairperson.

7.4.1 The following aspect may be kept in mind while filing complaints before the Commission-

XX XX XX

(e) No action will be taken on matters, which are subjudice. Hence subjudice matter need not be referred to the Commission as complaint(s).

(f) Cases pending in courts or cases in which a court has already given its final verdict may not be taken up afresh with the Commission.

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7.5 Inquiry into cases of atrocities

7.5.1 Whenever information is received in the Commission about any incident of atrocity against a person belonging to Scheduled Castes, the Commission would immediately get in touch with the law enforcing and administrative machinery of the State and the district to ascertain the details of incident and the action taken by the district administration. If after detailed inquiry/investigation; the Commission finds substance in the allegation/complaint regarding atrocity, the Commission may recommend to file an FIR against the accused with the concerned law-enforcing agency of the State/District. In such cases, the State Government/District Administration/Police Personnel may be called within three days through the summons.

7.5.2 The Commission ensures the following while by monitoring and issuing instruction to the concerned authorities-

> *(i) Whether the scene of occurrence of the crime has been visited immediately by Collector and Supdt. of Police of the district on receipt of information.*
> *(ii) Whether proper FIR is registered in local Police Station.*
> *(iii) Whether names of all the persons involved/cited by the complainant has been included in the FIR.*
> *(iv) Whether investigation has been taken up by a Senior Police Officer as per provisions of the SCs & STs (POA) Act, 1989.*
> *(v) Whether culprits have been apprehended and booked without loss of time.*
> *(vi) Whether proper charge sheet has been filed mentioning the relevant sections of IPC together with the PCR Act, 1955 and SCs & STs (POA) Act, 1989 in Court.*
> *(vii) Whether the cases are tried by the Special Courts.*
> *(viii) Whether special Public Prosecutors are appointed to handle these cases.*
> *(ix) Whether Police assists the courts in bringing forward witnesses and see that the culprits are suitably punished by the courts."*

23. The Rules of Procedure of the National Commission cannot be read in isolation, rather they are required to be read with Article 338 of the Constitution of India. The powers of the National Commission have already been examined by Hon'ble the Supreme Court and various High Courts, including this High Court.

24. In ***"All India Indian Overseas Bank SC and ST Employees' Welfare Association and Ors. Vs. Union of India and Ors.", (1996) 6 SCC 606***, Hon'ble the Supreme Court examined the issue *"Whether the National Commission for Scheduled Castes and Scheduled Tribes has the power to issue directions in the nature of interim injunction ?"*. While answering this issue in negative, it was held that, sub-clauses (a) to (f) of

Clause (3) clearly indicate the area in which the Commission may use the powers of a Civil Court. However, such powers do not convert the Commission into Civil Court. The powers of Civil Court of granting injunctions, temporary or permanent, do not inhere in the Commission nor can such powers be inferred or derived from a reading of Clause 8 of Article 338 of the Constitution of India. The relevant paragraphs of the verdict rendered in *supra* case are reproduced hereunder:-

> "*4. The short question that arises for consideration in this matter is whether the Commission had the power to issue a direction in the nature of an interim injunction? The appellant supports the letter dated March 4, 1993 of the Commission on the facts of the case which supposedly justify the passing of an interim direction of the type contained in the letter dated March 4, 1993. The appellant refers to Article 338, clauses (5) and (8), of the Constitution introduced by the Constitution (Sixty Fifth Amendment) Act, 1990 to argue that the Commission had power to requisition public record and hence it could issue directions as if it enjoyed powers like a civil court for all purposes. Further the appellant contends that even a single member of the Commission has every authority to pass a direction on behalf of the entire Commission and hence the High Court was wrong in expressing the view that a single member of the Commission could not have issued the direction contained in the letter dated March 4, 1993. The appellant further contends that no writ would lie against an interim order of the Commission.*
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> *6. It can be seen from a plain reading of clause 8 that the Commission has the power of the Civil Court for the purpose of conducting an investigation contemplated in sub-clause (a) and an inquiry into a complaint referred to in sub-clause (b) of Clause 5 of Article 338 of the Constitution.*
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> *7. Sub-clauses (a) to (f) of clause (3) clearly indicate the area in*

> *which the Commission may use the powers of a Civil Court. The Commission has the power to summon and enforce attendance of any person from any part of India and examine him on oath; it can require the discovery and production of documents, so on and so forth. All these powers are essential to facilitate an investigation or an inquiry. Such powers do not convert the Commission into Civil Court.*
>
> *11. Interestingly, here, in clause 8 of Article 138, 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."*

25. The Division Bench of this Court, in case titled as "***Jatt Ram versus Punjab State Human Rights Commission and another",*** examined the issue appertaining to powers of the Human Rights Commission. While relying upon various judicial precedents of Hon'ble the Supreme Court, it was held that the Commission, in exercise of the power under the apposite Act, has no power to issue directions for ordering re-investigation in a matter or for ordering cancellation of FIR or for entertaining a complaint on the allegations that an FIR against a complainant has been wrongly recorded. It was further held that, even the High Courts and the Supreme Court, in exercise of their inherent powers, have to act under certain restraints. Therefore, when the Commission does

not even have the inherent powers, the power to interfere in investigation either on the asking of the complainant or the accused in the FIR or suo-moto obviously cannot be inferred in favour of the Commission. The relevant paragraphs of the verdict drawn in ***Jatt Ram's*** case are reproduced hereunder:-

> *"28. Thus, the view taken by us with regard to meaning of the word "recommendations" in Jai Singh's case (supra) stands fully fortified. We reiterate that the word "recommendation" used in Section 18 of the Act necessarily means "to suggest". Such a suggestion cannot be treated to be a decision capable of execution or enforcement.*
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> *29. There are various instances when this court as well as the Commission is called upon to intervene in criminal matters at the instance of either party. Some times the allegations are levelled against the investigating agency with regard to the investigation being conducted not in fair and proper manner and some times a grievance is made that the criminal proceedings have been launched with a mala fide intention or with ulterior motive. Invariably this court is called upon to interfere in the matter by exercising its inherent powers under Section 482 of the Code of Criminal Procedure (hereinafter referred to as the "Code"). The Apex Court has settled the matter by laying down that the inherent powers of the High Court under Section 482 of the Code are to be used sparingly, it has been repeatedly held by the Supreme Court that inherent powers of this court cannot be used either to scuttle the investigation, interfere with the same or to prematurely abort it. It has also been held that in exercise of the powers under Section 482 of the Code neither any comments should be offered nor any remarks be made by the Court when an investigation is pending as the same would prejudice the investigation. It has also been laid down that this court while exercising the powers under Section 482 of the Code cannot take*

into consideration statements of some persons whose evidence is yet to be recorded during trial. The law laid down by the Apex Court in some of the cases covering the inherent jurisdiction of the High Court under Section 482 of the Code may be noticed as follows:

30. In case of Om Parkash Chugh v. State of Haryana, it has been held:

> *"...We have come across from the judgment of the learned Single Judge of the High Court that remarks have been made on the averments contained in the complaint as well as the case involved in F.I.R. No. 452 of 1997. We are of the considered view that the High Court should not have made such comments on the averments contained in the complaint as the same remains only in the embryo stage because the complaint has not yet been forwarded by the Magistrate to the police as contemplated in Section 156(3) of the Code. Even that apart, any findings on the merits of the case at a stage when investigation is pending would cause prejudice to the investigating agency as well as the accused concerned. Those observations and remarks made by the learned Single Judge in the impugned judgment are not warranted, particularly since the stage was too premature. We make it clear that we have not gone into the allegations made in the complaint or the materials collected by the investigating agency in respect of FIR No. 452 of 1997. We refrain from expressing any opinion at this stage as the investigation into them must be held in the fairest manner possible. We, therefore, set aside the impugned judgment of the High Court."*

31. In the case of T.T. Antony v. State of Kerala and Ors., , the Apex Court appreciates the law laid down by the Privy Council in the case of Emperor v. Khwaja Nazir Ahmad, A.I.R. 1945 P.C. 18 wherein it was observed as follows:

> *"In India, as has been shown, there is a statutory right on*

> *the part of the police to investigate the circumstances of an alleged cognizable crime without requiring any authority from the judicial authorities, and it would, as their Lordships think, be an unfortunate result if it should be held possible to interfere with those statutory rights by an exercise of the inherent jurisdiction of the Court."*

32. It was observed by the Supreme Court in the aforesaid case that the right of the police to investigate into a cognizable offence is a statutory right in which the court does not possess any supervisory jurisdiction under Cr.P.C. However, the Supreme Court held that the aforesaid power of the police was not unlimited but was subject to some well recognised limitations and in some of the situations the High Court possessed inherent powers to interdict the investigation to prevent abuse of the process of the court. The well settled principles of law on the subject have been reiterated a number of times and also in the case of State of Haryana v. Bhajan Lal, 1992 Supp(1) S.C. 335. The aforesaid considerations for exercise of inherent powers "by this court may be noticed as follows:

> *"In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of, illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbably on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fides and or where the proceeding is maliciously

instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

33. In the case of State of Orissa v. Bansidhar Singh, 1996(2) Supreme Court Cases 194, it was held by the Supreme Court that High Court, while exercising powers under Section 482 of the Code could not have taken into account the statement of certain persons whose evidence was yet to be recorded at the time since the case was at the investigation stage itself.

34. In the case of State of Bihar and Anr. v. Md. Khalique and Anr., , the Apex Court observed as under:

"Law is well settled regarding interference by the High Court with an investigation of a case. The extraordinary power under Article 226 or inherent power under Section 482 Cr.P.C. can be exercised by the High Court either to prevent abuse of process of any court or otherwise to secure the ends of justice. The power of quashing a criminal proceeding should be exercised sparingly and with circumspection and that too in the rarest of the rare cases."

35. The law laid down by the Supreme Court was again reiterated in the case of M. Narayandas v. State of Karnataka and Ors.

36. In a recent case i.e. State of A.P. v. Colconda Linga Swamy and Anr., after reiterating the law laid down in Bhajan Lal's case (supra), the Supreme Court held that it would not be proper for the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises arrive at a conclusion that the proceedings are to be quashed. It was further held that it would be erroneous to assess the material before it and conclude that the complaint Cannot be proceeded with. With regard to the allegations of mala fide in lodging the criminal proceedings, the following observations made by the Apex Court may be noticed:

"... When an information is lodged at the police station and

an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceeding."

37. Taking into consideration the aforesaid law laid down by the Apex Court in various judgments, as noticed above, we made the following observations in Jai Singh's case (supra):

"In the light of the settled law by the Apex Court with regard to the inherent powers of the High Court in interfering with the powers of the investigation by the investigating agency and making further comments or remarks on the veracity or authenticity of the prosecution version, it has been repeatedly held by the Supreme Court that High Court has no such power to scuttle the investigation at the initial stages and that the investigating agency has a statutory right of investigation. Even when there are inherent powers with the High Court to interfere at the stage of investigation, it has been held that the aforesaid powers shall be sparingly used in the rarest of the rare cases.

What is true about the powers of the High Court and the limitation put there upon is obviously true for the Commission. In addition, from the perusal of the provisions of the Act, we notice that there are no inherent powers which have been conferred upon the Commission. As noticed above, the Commission is merely a creation of the statute. There are no general or plenary powers enjoyed by the Commission. In contrast to the Court of law which enjoys inherent and plenary powers, the Commission does not have any such powers.

On the same analogy it would be proposer for us to hold

that even in civil disputes, which are governed essentially by the Code of Civil Procedure or some other statutory provisions, the Commission has no role to play. We have already noticed above, that under Section 12 of the Act, it is only the violation of human rights or abetment thereof by a public servant, or negligence in the prevention of such violation by a public servant that would give a cause of concern to the Commission to initiate an enquiry into the matter. It would, therefore, necessarily follow that unless and until a case falls within the four corners under the provisions of the Act, the Commission have neither any authority nor any power even to initiate proceedings as or inquire into the matter and obviously no direction (even in the shape of recommendations) can be issued."

38. As a result of the aforesaid discussion and keeping in view the law laid down by the Apex Court in various judgments noticed above, and the provisions of the Act and the Regulations, we have no hesitation. in holding that the Commission, or the State Commission, in exercise of the power under the Act have no power to issue directions, for ordering reinvestigation in a matter, which is being investigated and or has been investigated by the investigating agency nor have any powers to order the cancellation of FIRs nor can entertain the complaints on the allegations that an FIR against a complainant had been wrongly recorded. As noticed above, entertainment of the aforesaid complaints on the said allegations and issuance of any such directions, by the Commission would not only amount to thwarting the investigation at the initial stages or interference with the same but shall also not be permissible in view of the fact that even in exercise of inherent powers of the High Court, the Apex Court has laid down certain restraints. In these circumstances, when the Commission does not even have the inherent powers, the power to interfere in investigation either on the asking of the complainant or on the asking of the accused in

the FIR or suo-moto obviously cannot be inferred in favour of the Commission."

26. Similarly, in case titled as ***"Jesamal s/o Arjundas Motwani and Anr. Vs. State of Maharashtra and Ors.", 2008(16) R.C.R. (Criminal) 285,*** the Bombay High Court also examined as to whether the National Commission has powers to issue directions for re-investigation and invoking the provisions of the SC/ST Act. Recording a dis-affirmative answer, it was held that the National Commission cannot issue such directions inasmuch as it has not specifically been granted any power to direct the State Police Officers to re-investigate any matter. Moreover, it was also held that, the State Office of the National Commission exercised jurisdiction not vested in it by law. The relevant observations are reproduced hereunder:-

"2. By this petition under Article 226 of the Constitution of India, the petitioners inter alia seek to quash communication dated 11.4.2008 (Annexure P-4 to the petition) issued by the Director, National Commission for Scheduled Castes, State Office (Maharashtra and Goa), Pune (R-3) to the Superintendent of Police, Gadchiroli (R-2) to re-investigate and to invoke the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 in the event of prima facie case against the petitioners.

18. It was further urged by Shri Kapgate, the learned counsel for the intervener that State Office of the National Commission has the authority and jurisdiction to direct reinvestigation. In this respect he invited our attention to Article 338 (5) of the Constitution of India. It would be proper to refer to the said provision. Article 338 (5) provides that it shall be the duty of the Commission:-

(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes;

(c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes and to evaluate the progress of their development under the Union and any State;

(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes as the President may, subject to the provisions of any law made by Parliament, by the rule specify.

20. The fallacy of the submission made on behalf of the complainant can be seen from the judgment of the Apex Court in All India Indian Overseas Bank SC and ST Employees' Welfare Association and others vs. Union of India others (1996) 6 SCC 606, in which the direction of the National Commission to the Executive Director of Indian Overseas Bank to stop the promotion process pending further investigation and final verdict in the matter was held to be bad for want of jurisdiction. The Apex Court observed that the Commission having not been specifically

granted any power to issue interim injunctions, lacks the authority to issue an order impugned. In this respect the Apex Court observed that the powers of a Civil Court in 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. The above observations of the Apex Court are also relevant and applicable to the present case where it has not been shown that the Commission has been specifically granted any power to direct the State Police Officers to reinvestigate any matter. We are satisfied that the State Office of the National Commission has exercised jurisdiction not vested in it by law. As such, in our view, the State Office of the National Commission lacks the authority of issuing communication dated 11.4.2008 and, therefore, the same is held bad for want of jurisdiction."

27. Hon'ble the Supreme Court, while rendering its verdict in case titled as ***"Collector, Bilaspur Vs. Ajit P.K. Jogi and Ors.", 2011(4) SCT 740 (SC),*** specifically held that authorities shall not pass any orders that go beyond the scope of its statutory jurisdiction. The principal question, which cropped up for consideration in the *supra* case was, *"Whether the Commission had the jurisdiction to entertain complaints about the genuineness of caste certificate of a particular individual and pronounce upon the validity of the caste certificate and the caste status of such person?"*

28. While answering the above question in negative, Hon'ble the Supreme Court held that, the Commission has not been entrusted with the power to take up the role of a court or an adjudicatory tribunal and determine the rights of the parties. The power under Clause 5(b) of Article

338 does not entitle the Commission to hold an inquiry in regard to the caste status of any particular individual and record a finding upon the validity of the caste certificate. In case, any such complaint is received regarding deprivation of the rights and safeguards of the scheduled castes, the Commission will have to refer the matter to the State Government or the authority concerned with verification of caste/tribal status, to take necessary action. The Commission can also follow up the matter with the State Government or such authority dealing with the matter to ensure that the complaint is enquired into and appropriate decision is taken. If the State Government or the authority concerned does not take action, the Commission could either itself or through the affected persons initiate legal action to ensure that there is a proper adjudication of the matter.

29. To reach at the *supra* conclusion, reliance was placed upon the verdict drawn in ***"State Bank of Patiala V. Vinesh Kumar Bhasin", 2010 (4) SCC 368,*** wherein, it was held that, the Disabilities Act clothes the Chief Commissioner/Commissioner functioning thereunder with certain powers of a civil court for discharge of their functions, however, it does not enable them to assume the other powers of a civil court, which are not vested in them by the provisions of the Disabilities Act. Similarly, reliance was also placed upon the verdict penned down in ***"Bhabani Prasad Jena V. Orissa State Commission for Women", 2010 (8) SCC 633,*** wherein became enclosed the observations that, the 1993 Act has not entrusted the State Commission with the power to take up the role of a court or an adjudicatory tribunal and determine the rights of the parties.

30. The relevant observations of Hon'ble the Supreme Court, as recorded in ***"Collector, Bilaspur Vs. Ajit P.K. Jogi and Ors.",*** are extracted hereunder:-

> "*11. Dealing with the powers of a similar (State) Commission for Women, this Court in Bhabani Prasad Jena vs. Orissa State Commission for Women [2010 (8) SCC 633], held as under :*
>
> > *"Mr. Ranjan Mukherjee, learned Counsel for Respondent 2 submitted that once a power has been given to the State Commission to receive complaints including the matter concerning deprivation of women of their rights, it is implied that the State Commission is authorized to decide these complaints. We are afraid, no such implied power can be read into Section 10(1)(d) as suggested by the learned Counsel. The provision contained in Section 10(1)(d) is expressly clear that the State Commission may receive complaints in relation to the matters specified therein and on receipt of such complaints take up the matter with the authorities concerned for appropriate remedial measures. The 1993 Act has not entrusted the State Commission with the power to take up the role of a court or an adjudicatory tribunal and determine the rights of the parties. The State Commission is not a tribunal discharging the functions of a judicial character or a court."*
>
> *12. Dealing with the powers of the Chief Commissioner and Commissioners under the persons with Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act and the Rules thereunder, this Court in State Bank of Patiala vs. Vinesh Kumar Bhasin- 2010 (4) SCC 368, held as follows:*
>
> > *"It is evident from the said provisions, that neither the Chief Commissioner nor any Commissioner functioning under the Disabilities Act has power to issue any mandatory or prohibitory injunction or other interim*

directions. The fact that the Disabilities Act clothes them with certain powers of a civil court for discharge of their functions (which include power to look into complaints), does not enable them to assume the other powers of a civil court which are not vested in them by the provisions of the Disabilities Act."

13. It is evident from Article 338 as it originally stood, that the Commission was constituted to protect and safeguard the persons belonging to scheduled castes and scheduled tribes by ensuring : (i) anti- discrimination, (ii) affirmative action by way reservation and empowerment, and (iii) redressal of grievances. The duties under clause 5(b) of Article 338 did not extend to either issue of caste/tribe certificate or to revoke or cancel a caste/tribe certificate or to decide upon the validity of the caste certificate. Having regard to the sub-clause (b) of clause (5) of Article 338, the Commission could no doubt entertain and enquire into any specific complaint about deprivation of any rights and safeguards of Scheduled Tribes. When such a complaint was received, the Commission could enquire into such complaint and give a report to the Central Government or State Government requiring effective implementation of the safeguards and measures for the protection and welfare and socio-economic development of scheduled tribes. This power to enquire into `deprivation of rights and safeguards of the scheduled castes and scheduled tribes' did not include the power to enquire into and decide the caste/tribe status of any particular individual. In fact, as there was no effective mechanism to verify the caste/tribe certificates issued to individuals, this Court in Madhuri Patil vs. Addl. Commissioner (Tribal Development) - 1994 (6) SCC 241 directed constitution of scrutiny committees.

16. It is only after recording the said findings, the Commission directed the State government to verify the genuineness of the ST certificate obtained by first respondent and initiate action for cancellation of the certificate and also initiate criminal action. All

> *these were unwarranted. As noticed above, the power under clause 5(b) of Article 338 (or under any of the other sub-clauses of clause 5 of Article 338) did not entitle the Commission to hold an inquiry in regard to the caste status of any particular individual, summon documents, and record a finding that his caste certificate is bogus or false. If such a complaint was received about the deprivation of the rights and safeguards, it will have to refer the matter to the State Government or the authority concerned with verification of caste/tribal status, to take necessary action. It can certainly follow up the matter with the State Government or such authority dealing with the matter to ensure that the complaint is inquired into and appropriate decision is taken. If the State Government or the authorities did not take action, the Commission could either itself or through the affected persons, initiate legal action to ensure that there is a proper verification of the caste certificate, but it cannot undertake the exercise itself, as has been done in this case. 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 338A (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."*

31. A similar issue inhering the case at hand also cropped up before the High Court of Judicature at Madras in ***Crl. O.P. No.15329 of 2020, titled as "M. Nandhini Vs. The Director, National Commission for Schedule Caste and Ors.", Decided on: 29.09.2020***. The petitioner-M. Nandhini approached the High Court for issuance of directions upon the official respondent(s) to forthwith file an altered FIR in view of the

specific directions issued by the National Commission, however, her petition was dismissed. It was held by the Madras High Court that, though the National Commission has power to enquire the complaint lodged before it, it cannot direct any police authority to do anything in respect of registration of FIR or the offences. The relevant portion of the verdict rendered in ***M. Nandhini's*** case is reproduced hereinafter:-

> *"This petition has been filed seeking to direct the 2nd respondent to instruct the 3rd respondent to forthwith file an altered FIR in Crime No.08 of 2019 on the file of 3rd respondent to include the relevant provisions of law under the provisions of SC and ST (Prevention of Atrocities) Act and Women Harassment Act along with Section 498A, 506(ii) of IPC against the 4th respondent and his relatives and complete the same within a time frame as may be fixed by this Hon'ble High Court.*
>
> *6. The learned Senior counsel would contended that though the National Commission for Schedule Caste directed the third respondent to include the offences under the provisions of SC and ST Act and also Women Harassment Act, the third respondent did not include those offences. The National Commission for Schedule Caste cannot direct the third respondent, who is the police authority, to include any offences under the SC and ST Act. Though the National Commission for Schedule Caste has power to enquire the complaint lodged before the commission, they cannot direct any police authority to do anything in respect of registration of FIR or the offences. Further, the third respondent has now completed the investigation and also filed the final report before the Court concerned. Therefore, the prayer sought for in this petition is devoid of merits and the same is liable to be dismissed.*
>
> *7. With the above observations, this Criminal Original Petition is dismissed. However, the petitioner is at liberty to workout his remedies under Sections 216 and 319 of Cr.P.C., before the trial*

Court during the trial by let in evidence."

32. In ***"K.G. Subramanian Vs. The Deputy Superintendent of Police, Erode Sub Division and Ors.", Neutral Citation: 2023-2-LW(Crl)202,*** the High Court of Madras again dealt with an alike issue as to whether the National Commission has power to direct the investigating officer to re-investigate the case and finally penned down a negative answer. The relevant observations of the Madras High Court are reproduced hereunder:-

> *"8. In this case, the following questions arise:*
>
> *(i) Whether the National Commission for Scheduled Castes has power to direct the Investigating Officer to re-investigate the case?*
>
> *(ii) Even if such a direction is issued, whether the Investigating Officer can re-investigate the case without approaching the Superior Courts for permission to re-investigate.*
>
> *9. As regards the 1st question, it is seen that the National Commission for Scheduled Castes derives its power from Article 338 of the Constitution of India and the Commissions of Inquiry Act, 1952. The Hon'ble Supreme Court in the Judgement reported in 1996 (6) SCC 606 –All India Indian Overseas Bank SC and ST Employees Welfare Association and others Vs. Union of India and others., had an occasion to consider the power of the National Commission for Scheduled Castes, which is traceable to Article 338 of the Constitution of India. The Hon'ble Supreme Court held that though the National Commission for Scheduled Castes had the power of Civil Courts for the purpose of conducting investigation or enquiry, they cannot be termed as Civil Court.*
>
> *12. The above Rule 7.4.1 (e) and (f) would show that the Commission shall not take up matters which are subjudice or where final orders have been passed by the Courts. Admittedly, in*

this case, the final report, closing the case, was filed before the Court. Thus, the Act does not confer any power on the National Commission for Scheduled Castes to order re-investigation. The Kerala High Court on the basis of similar provisions had held that, even further investigation cannot be directed by the Commission."

33. A similar view was also taken by the High Court of Karnataka at Bengaluru in ***"M.B. Siddalingaswamy Vs. The State of Karnataka and Ors.", Neutral Citation: 2021(2) KarLJ 108.*** The relevant paragraphs are extracted hereunder:-

"13. …….A reading of the afore-extracted Sections 8 and 10 of the said Act, makes it abundantly clear that the Commission is not empowered to adjudicate upon the rights of parties. The power vested with the Commission of Inquiry and submission of a report cannot be extended to adjudicate all disputes between individual and a State or a statutory authority. The powers conferred do not contemplate that the Commission can examine matters like a civil Court and adjudicate dispute and pronounce its decision either interim or final or issue a direction of the kind that is issued in the case on hand.

14. The Commission cannot be construed to be a Tribunal or a forum discharging the functions of a judicial character or Court. Article 338 of the Constitution itself does not entrust the Commission with the power to take up the role of a Court or an adjudicatory Tribunal and determine the rights of parties inter se.

15. Clause (8) of Article 338 gives all the powers of a civil Court trying a suit but the said powers are to be exercised while investigating any matter referred to it in the clauses aforementioned which would make it clear that the powers bestowed upon the Commission by the Constitution are procedural powers of the civil Court for the purpose of investigating and enquiring into matters and are limited only for

that purpose. The procedure that is conferred under Article 338 cannot be confused to be conferring a substantive power akin to that of a civil Court or a Tribunal which are adjudicating bodies of disputes of citizens."

CONCLUSION OF THIS COURT

34. Although much emphasis has been thrust on Rules 7.5.1 and 7.5.2 of the Rules of Procedure in order to defend the legality of the impugned directions, as already observed by this Court in the preceding paragraphs, the Rules of Procedure cannot be read in isolation from Article 338 of the Constitution of India wherefrom the National Commission owes its origin.

35. Therefore, the final conclusion spurring from the hereinabove discussed legal propositions is that, the National Commission is not bestowed with any power to issue any directions in the nature of temporary or permanent injunction, rather its power is purely recommendatory in nature. The term "recommendation" has been explained by the Division Bench of this Court in ***Jatt Ram's case,*** which is deemed imperative at this stage to be extracted hereinafter:-

"25. With regard to the argument that the recommendations of the Commission cannot be treated to be a mere suggestion, we may notice that the words "recommend" and "recommendations" have been defined in Webster's Encyclopedic Unabridged Dictionary of the English Language (New Revised Edition) as follows:

"Recommend" means 1. to present as worthy of confidence, acceptance use etc; commend; mention favourably to recommend an applicant for a job to recommend a book, 2. to represent or urged as advisable or expedient; to

recommend caution, 3. to advise as an alternative; suggest (a choice, course of action etc.) as appropriate, beneficial, or the like; He recommended the blue plate special. The doctor recommended special exercises for her. 4. to make desirable or attractive; a plan that has very little to recommend it.

"Recommendation" has been described to mean an act of recommending, 2. a letter or the like recommending a person or thing, 3. representation in favour of a person or thing. 4. anything that serves to recommend a person or thing or induce acceptance or favour.

26. Similarly in Corpus Juris Secundum, the word "recommend" and "recommendation" have been ascribed the following meaning:

"RECOMMEND", to advise or counsel, to counsel as to a course of action, to commend, to commend to the favourable, notice of another, to bestow commendation on, to praise as desirable advantageous, trustworthy, or advisable, to put in a favourable light before any one, to speak in behalf of, to present as one's advice or choice or as having one's approval, to commit to, to commit to another's care, confidence, or acceptance, with favouring representations, to consign, to give in charge, to offer with favourable representations.

Ordinarily it involves the idea that another has the final decision although it is sometimes used in an a imperative sense.

"Recommend" has been held synonymous with, or equivalent to, "desire".

"Recommendation": The act of one person in giving to another a favourable account of the character, responsibility, or skill of a third, the act of recommending or commending a person or thing to notice, use, confidence, or civility of another, favourable

> *representation, mere suggestion as to the desirability of a certain course of action to be pursued, that word is also defined as meaning a note commending a person to favour. "Recommendation": has been held equivalent to, or synonymous with, "certificate" and "reference", and has been compared with, or distinguished form, "decision" and "instruction".*
>
> *27. In Chambers 21st Century Dictionary (Revised Edition) also, Recommend has been described to mean to suggest as being suitable to be accepted, chosen etc. to commend."*

36. After observing the above, the Division Bench of this Court finally concluded that the word “recommendation” necessarily means “to suggest” and such suggestion cannot be treated to be a decision capable of execution or enforcement.

FINAL ORDER

37. On the anvil of the above legal propositions and judicial precedents, this Court finds that the Commission has exceeded its jurisdiction while issuing the impugned directions. The National Commission did not have any jurisdiction either to interfere with the ongoing investigation, or to direct the police to reinvestigate the matter regarding the aspect of attack by sword and to add relevant Sections (307 and others) in the FIR No.135 (supra). The Commission can only make recommendation to the State, in case it finds any lapse in the investigation. Therefore, this direction, could at best, be considered only as a recommendation.

38. Insofar as the direction appertaining to arrest of the accused is concerned, this direction is also beyond the jurisdiction of the National

Commission, hence the same is not sustainable.

39. Needless to say, the investigating officer shall complete the investigation of the FIR in question strictly in accordance with law.

40. Disposed of accordingly.

(KULDEEP TIWARI)
JUDGE

July 08, 2025
devinder

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No