



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 21ST DAY OF JULY, 2023
PRESENT
THE HON'BLE MR JUSTICE G.NARENDAR
AND
THE HON'BLE MR JUSTICE C.M. POONACHA
WRIT PETITION NO. 18208 OF 2012 (GM-RES)

BETWEEN:

1. SRI B S MANJUNATH, B.ED.,M.S.W
AGED 38 YEARS
S/O LATE SHIVALINGE GOWDA,
INSPECTOR OF POLICE,
OFFICE OF THE STATE INTELLIGENCE,
NRUPATHUNGA ROAD,
BANGALORE-560002.
2. SRI. ARUN KUMAR, P.C., 152
AGED 46 YEARS
S/O D. PANDU
THALAGHATTAPURA
POLICE STATION
KANAKAPURA MAIN ROAD,
BANGALORE SOUTH TALUK
BANGALORE-560062
3. SRI. ANNAIAH, P.C., 98
AGED 4 YEARS
S/O SANNAPPA
RAMANAGARA TRAFFIC
POLICE STATION
RAMANAGARA DISTRICT.

...PETITIONERS

(BY SRI. P.S.RAJAGOPAL, SR . ADV. FOR
SRI. K C SHANTAKUMAR., ADVOCATE)





AND:

1. SRI C MUNIKRISHNA,
MAJOR,
PRADHANA SANCHALAK,
KARNATAKA DALITHA
SANGHARSHA SAMITHI,
NO.1, 148 H & S BUILDING,
9TH CROSS ROAD,
LALBAGH FORT ROAD,
DODDAMAVALLI,
BANGALORE-560004.
2. SRI. MUJIB PASHA,
MAJOR,
S/O SRI. ABDUL SHUKURSAB,
KAGGALIPURA,
KANAKAPURA MAIN ROAD,
BANGALORE-560082
3. THE COMMISSIONER OF POLICE,
INFANTRY ROAD,
BANGALORE - 560001.
4. THE STATE OF KARNATAKA
REPRESENTED BY ITS
SECRETARY,
HOME DEPARTMENT,
M.S. BUILDING,
VIDHANA VEEDHI,
BANGALORE-560001.
5. THE CHIEF SECRETARY TO THE
GOVT. OF KARNATAKA,
VIDHANA SOUDHA,
BANGALORE-560001.
6. THE DIRECTOR GENERAL OF POLICE,
CENTRAL RANGE,
MILLERS ROAD,
BANGALORE-560001.



7. THE KARNATAKA STATE
HUMAN RIGHTS COMMISSION
4TH FLOOR, 5TH PHASE,
M.S.BUILDING,
DR. AMBEDKAR VEEDI,
BENGALURU-560001,
BY ITS REGISTRAR.

R7 Amended vide court
order dated: 24/06/2019.

...RESPONDENTS

(BY SMT. SHILPA S.GOGI, AGA FOR R3 TO R6,
SRI. SURESH DESAI, ADV. FOR R2,
SRI. GOPAL KRISHNA SOODHI, ADV. FOR R7.)
R1 SERVED AND UNREPRESENTED)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE RECORDS RELATING TO CONCERNING & CONNECTED WITH THE IMPUGNED ORDER BEARING NO.HRC/R.P NO.1/08 & ALSO HRC.NO.856/08 FROM THE KARNATAKA STATE HUMAN RIGHTS COMMISSION, BANGALORE, PERUSE THE SAME & DECLARE & QUASH THE IMPUGNED ORDERS DT.8.5.12, VIDE ANN-A & THE ORDER DT.3.7.08, VIDE ANN-F, BEARING NO.HRC.856/08 AS UNSUSTAINABLE IN LAW ETC.

THIS PETITION, COMING ON FOR HEARING ON INTERLOCUTORY APPLICATION, THIS DAY, G.NARENDAR J., MADE THE FOLLOWING:

ORDER

Heard the learned senior counsel Sri P.S. Rajgopal along with learned counsel Sri K.C. Shanta Kumar and learned Additional Government Advocate for respondents No.3 to 6 and learned counsel Sri Gopal Krishna Soodhi for respondent No.7. No representation for respondents No.1 and 2.



2. The instant writ petition is traceable to proceedings of the year 2008 more specifically dated 08.05.2012 whereby, the Karnataka State Human Rights Commission (hereinafter referred to as 'Commission') acting upon the complaint of respondents No.1 and 2 has proceeded to pass the following order:-

*"10. In the result and for the foregoing reasons and in exercise of the **powers conferred U/S 18(i)(a) and (e) of the Protection of Human Rights Act, 1993**, I direct the Commissioner of Police, Bangalore City:*

- (i) to initiate Departmental Enquiry against the Review Petitioners under the relevant Service Rules;*
- (ii) to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the complainant Sri Mujibpasha as compensation for violation of his human rights by the Review Petitioners, within a month from the date of receipt of this order.*
- (iii) The money so paid as compensation may be recovered from the salary of the Review Petitioners.*
- (iv) The Action Taken Report in pursuance of these directions be submitted to the Commission within two months from the date of receipt of this order.*



HRC/R.P.NO.1/08 in HRC.NO.856/08 is disposed of in the above terms."

3. The relevant background facts are that pursuant to a complaint dated 17.3.2008, the seventh Respondent - Commission took up the same for enquiry and passed the order dated 3.8.2008, whereunder the Inspector General of Police (for short 'IGP'), Central Range, Millers Road, Bangalore, was directed to initiate immediate disciplinary action against the Sub Inspector and police constables and the Chief Secretary, Karnataka State Government was directed to pay a compensation of Rs.25,000/- which was to be recovered from the Sub Inspector and the police constables.

4. Being aggrieved by the said order dated 3.7.2008, the Petitioners preferred WP.No.11051/2008 and a Co-ordinate Bench of this Court headed by Hon'ble the Chief Justice, vide its order dated 19.8.2008 permitted the Petitioners to file a Review Petition, consequent to which, the Petitioners filed a Review Petition. Subsequent



to the order of this Court, the Commission ordered a fresh enquiry to be conducted by the IGP of the Commission and a report dated 22.11.2008 was submitted and in that regard it is noticed that the allegations made in the complaint have not been established. Subsequently, the Commission passed the order dated 8.5.2012, which is impugned in the present Writ Petition. The orders/directions as contained in paragraph 10 of the impugned order are extracted at paragraph 2 hereinabove.

5. The learned senior counsel would take the Court through Sections 17 and 18 of the Protection of Human Rights Act, 1993 (for short 'the Act'), which read as under:-

"17. Inquiry into complaints.-*The Commission while inquiring into the complaints of violations of human rights may-*

- (i) call for information or report from the Central Government or any State Government or any other authority or organization subordinate thereto within such time as may be specified by it:*



Provided that-

- (a) if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own;*
- (b) if, on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly;*
- (ii) without prejudice to anything contained in clause (i), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.*

[18. Steps during and after inquiry.-*The Commission may take any of the following steps during or upon the completion of an inquiry held under this Act, namely:-*

- (a) where the inquiry discloses the commission of violation of human rights or negligence in the prevention of violation of human rights or abetment thereof by a public servant, it may recommend to the concerned Government or authority-*



- (i) *to make payment of compensation or damages to the complainant or to the victim or the members of his family as the Commission may consider necessary;*
- (ii) *to initiate proceedings for prosecution or such other suitable action as the Commission may deem fit against the concerned person or persons;*
- (iii) *to take such further action as it may think fit;*
- (b) *approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;*
- (c) *recommend to the concerned Government or authority at any stage of the inquiry for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;*
- (d) *subject to the provisions of clause (e), provide a copy of the inquiry report to the petitioner or his representative;*
- (e) *the Commission shall send a copy of its inquiry report together with its recommendations to the concerned*



Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;

- (f) *the Commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.]”*

6. The learned senior counsel would contend that the action impugned is clearly without jurisdiction and is ultra-vires the power conferred on the Commission. He would submit that the proceedings of the Commission being in the nature of direction, which jurisdiction is not vested with the Commission, the same mandates an interference by the Court. The learned senior counsel would elaborate further and would submit that pursuant to the directions issued by the Commission, the same could



result in action against the petitioners resulting in civil liabilities and even disciplinary proceedings.

7. Per contra, the learned counsel for 7th respondent would submit that the writ petition is premature and that this Court has consistently held that the results of an inquiry under Sections 17 and 18 of the Act are merely recommendatory in nature. Whether the report is actionable or not is a decision that the State is required to take and that the State, not having taken any action, the instant writ petition is misconceived.

8. The learned Additional Government Advocate would also reiterate the position that the proceedings of the Commission are merely recommendatory. In fact, learned counsel for the 7th respondent and the learned Additional Government Advocate placed reliance on the orders of the Co-ordinate Bench in the case of *C. Gopal v. Karnataka State Human Rights Commission*¹ and the

¹ **2015 SCC OnLine Kar 5674**



orders of another Co-ordinate Bench rendered in W.P. No.1404/2021. In the first noted ruling, the Co-ordinate Bench has been pleased to observe in para 6 as under:-

"6. Having heard the learned Counsel for the parties, we are of the view that the order passed by the Human Rights Commission is more in the nature of recommendation, since he found prima facie that persons were arrested without entering in the police register about the time of their arrest and when the Human Rights Commission inspected the Jayanagar Police Station, the arrest was not shown in the register. According to us, it is only the Commission found that there is prima facie case to hold an enquiry by the disciplinary authority. Therefore, at this length of time, it would be inappropriate to interfere with the recommendation made by the Human Rights Commission, as it is the domain of the disciplinary authority to conduct an enquiry and pass suitable orders by giving reasonable opportunity to the petitioners. It is also seen that it is for the Government to accept the recommendation or not by examining the legality and correctness of the same."



9. In the second noted writ petition also the writ petition directed against the proceedings of the Commission came to be rejected as being premature.

10. The learned senior counsel would contend that on an earlier occasion aggrieved by the orders of the Commission, the petitioners had approached this Court in W.P. No.11051/2008 and the Co-ordinate Bench headed by the then Chief Justice and companion judge permitted the petitioners herein to approach the Commission by way of a review petition, consequent to which, petitioners approached the Commission-7th respondent by way of a review petition resulting in the impugned order dated 08.05.2012.

11. In the above circumstances and background, the instant writ petition is required to be adjudicated. At the very outset, we would have rejected the writ petition at the threshold on the ground of maintainability but for



the fact of the direction issued in the W.P. No.11051/2008 wherein, concluding portion reads as under:-

"Under these circumstances, we are of the considered opinion that it is appropriate to direct the petitioner-delinquent to approach the Karnataka State Human Rights Commission within 30 days from the date of receipt of the order to review the order dated 3.7.2008 and bring to the notice of the Commission all the grievances stated above by the petitioner and seek appropriate relief. Until then, the order dated 3.7.2008 is kept in abeyance. Ordered accordingly."

12. On a reading of the scheme of the Act, the scope and extent of powers enjoyed by the Commission, more particularly, in terms of Section 18 of the Act is quite apparent. Section 17 of the Act empowers the Commission to inquire into complaints of violation of Human Rights. Section 17(i) of the Act empowers the Commission to call for any information with regard to the inquiry initiated by it and Clause-(a), (b) of Section 17 of the Act stipulate what are the consequences of non receipt of information summoned and consequences pursuant to



receipt of report. Clause (ii) of Section 17 of the Act in a sense vests suo-moto powers in the Commission to initiate an inquiry with or without report under Clause (i).

13. The consequences of holding an inquiry are enumerated in Section 18 of the Act i.e., the steps that may be taken by the Commission after the inquiry. Section 18(a) of the Act enables the Commission to adopt a particular course of action. The course of action is that the Commission is entitled to make a recommendation to the concerned Government or authority. We need not search far for support of our conclusion. The words "it may recommend" used in Section 18(a) of the Act leaves no scope for imagination. It also obviates a detailed discussion as to whether the Commission is empowered to pass any executable orders or direction that can be implemented by or under its own authority. Section 18(b) of the Act provides for the course of action or remedy which the Commission may adopt in the event of it being dissatisfied by the response to its



recommendation. That Section 18(b) of the Act only enables the Commission to approach the Hon'ble Supreme Court or this Court for such directions or orders it may deem necessary.

14. A reading of Section 18(a) & (b) does not leave much for imagination and conclusively demonstrate the scope of its authority under the statute. The option available for the Commission under Section 18(b) of the Act is, if it was dissatisfied with the Report submitted by the State Government vide Annexure-J, it could not have taken upon itself and adjudicated the correctness of the Report.

15. If the impugned order is examined in the backdrop of the discussion above, the only inescapable conclusion this Court can arrive at is that the order impugned is one passed without jurisdiction. We would have certainly followed the path led by our Co-ordinate Benches and could have held the writ petition is premature



or would have read down the orders as mere recommendation, but for the fact that the presence of the petitioners before the Commission is as a consequence of a direction issued by this Court in W.P. No.11051/2008.

16. In our considered opinion, the direction to prefer a review by this Court ought not to have been construed as conferment of jurisdiction to perform an act which otherwise, the statute did not confer upon it. In our considered opinion, the Commission could not have exercised the powers under Section 30 of the Act, which is not vested in the Human Rights Commission.

17. In that view, we are of the considered opinion that the order impugned has no legs to stand on and being one without jurisdiction, warrants interference at the hands of this Court.



18. Accordingly, the petition is allowed. The orders impugned dated 08.05.2012 at Annexure-A and 03.07.2008 at Annexure-F are set-aside.

In view of disposal of the petition, interlocutory applications if any, do not survive for consideration and is accordingly disposed off.

Sd/-
JUDGE

Sd/-
JUDGE

CHS/DN
List No.: 1 SI No.: 3