

Punjab State Civil Supplies Corporation Ltd. and another 503  
v. Punjab State Human Rights Commission  
and others (Rajive Bhalla, J.)

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*Before P. Sathasivam and Rajive Bhalla, JJ.*

PUNJAB STATE CIVIL SUPPLIES CORPORATION LTD. AND  
ANOTHER,—*Petitioners*

*versus*

PUNJAB STATE HUMAN RIGHTS COMMISSION AND  
OTHERS,—*Respondents*

C.W.P. NO. 200 OF 2005

31st May, 2007

*Constitution of India, 1950—Art. 226—Protection of Human Rights Act, 1993—S.12—Civil as well as criminal proceedings pending adjudication before Courts—An award also passed by Arbitrator—Human Rights Commission recommending cancellation of F.I.Rs. without issuing prior notice to Corporation—Order passed by Commission in flagrant disregard to statutory powers conferred upon it—Commission is not a substitute to Courts of law, therefore, cannot usurp powers of Courts and proceed to issue orders—Non-issuance of a notice to Corporation also renders order null and void—Petition allowed, order passed by Commission quashed.*

*Held*, that the Commission exceeded jurisdiction while recommending cancellation of the F.I.Rs. The impugned order was passed in flagrant disregard to the statutory powers, conferred upon the Commission. The Commission assumed jurisdiction of a High Court or that of the Supreme Court of India and proceeded to arrogate to itself powers under Section 482 of the Cr. P.C. or under Article 226 of the Constitution, without pausing for a moment to deliberate as to its inherent lack of jurisdiction. The Commission is not a substitute of Courts of law and, therefore, cannot usurp the powers of Courts and proceed to issue orders, assuming jurisdiction under Section 482 of the Cr. P.C. or Article 226 of the Constitution of India.

(Para 13)

*Further held*, that the Commission entertained the complaint filed by respondents No. 2 and 3 and forthwith sought a report from the police. After receipt of the report, and without taking into consideration the right of the petitioner—Corporation to be heard,

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proceeded to recommend cancellation of the F.I.Rs. The non-issuance of any notice to the petitioners, renders the impugned order null and void.

(Para 14)

HNS Gill, Advocate, *for the petitioners.*

O.P. Kamboj, Advocate, *for respondent No. 2.*

Swaran Sandhir, Advocate, *for respondent No. 3.*

N.D.S. Mann, Addl. A.G., Punjab *for respondent No. 4.*

### JUDGEMENT

**RAJIVE BHALLA, J.**

(1) By way of this writ petition, the petitioner, namely, the Punjab State Civil Supplies Corporation Ltd. prays for the issuance of a writ in the nature of certiorari for quashing the order, dated 17th November, 2004, passed by the Punjab State Human Rights Commission, Chandigarh, recommending cancellation of two F.I.Rs., registered against respondent Nos. 2 and 3.

(2) A brief narrative of the facts would be appropriate.

(3) The petitioner—PUNSUP entered into an agreement, dated 11th October, 2001 with respondents No. 2 and 3 for milling of paddy for the crop year 2001-2002. Respondents No. 2 and 3 were entrusted with 29100 kattas (bags) of 'A' Grade paddy, weighing 14,550.00 qtls. for custom milling and for onward delivery to the Food Corporation of India up to 30th June, 2002. Respondents No. 2 and 3 did not deliver the rice. The paddy, stocked at the premises of respondents No. 2 and 3, was forcibly and illegally lifted on 13th January, 2002 by respondents No. 2 and 3. The matter was reported to the police station, Guru har Sahai but no action was taken. It was thereafter brought to the notice of the Deputy Commissioner, Ferozepur. Eventually, with the intervention of the Senior Superintendent of Police, Ferozepur, F.I.R. No. 12, dated 16th January, 2002, was registered under Sections 409 of the I.P.C. and Section 7 of the Essential Commodities Act (later on converted into Sections 406 and 420 of the I.P.C.). Another F.I.R. No. 3, dated 10th January, 2003 was registered under Sections 457/380 of the I.P.C.

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(4) Respondents No. 2 and 3, partners of M/S Amir Chand and Company Rice Mill, filed an application for anticipatory bail, which was dismissed by the Sessions Judge, Ferozepur. CrI. Misc. No. 12688 M of 2002, filed for anticipatory bail, before this Court, was dismissed on 29th April 2004. Prior thereto, respondents No. 2 and 3 had filed CWP No. 18046 of 2001. Vide order, dated 25th July, 2002, a Division Bench of this Court relegated respondents No. 2 and 3 to avail the remedy of arbitration. However, while disposing of the writ petition, it was specifically observed that reference of the dispute to the Arbitrator would not affect the other proceedings including the criminal cases. The Arbitrator pronounced an award, dated 16th April, 2003, directing respondents No. 2 and 3 to pay a sum of Rs. 1,07,92,640.00 with 21% interest etc.

(5) After the order of this Court, as also the award, respondents Nos. 2 and 3 filed a complaint, dated 30th December, 2003, under Section 12 of the Protection of Human Rights Act (for short hereinafter referred to as "the Act"), before the Punjab State Human Rights Commission, Chandigarh (for short hereinafter referred to as "the Commission"). Vide order, dated 17th November, 2004, the Commission recommended to the State of Punjab that the F.I.Rs., registered against respondents Nos. 2 and 3, be cancelled. The Member-Secretary (Home), Punjab was directed to submit an action taken report to the Commission.

(6) Counsel for the petitioners contends that as the matter was pending adjudication before the criminal Courts, and an award had been passed by the Arbitrator, the Commission had no jurisdiction to entertain the complaint, under Section 12 of the Act, and thereafter proceed to recommend cancellation of the F.I.Rs. The Commission ignored the order, passed by this Court, in CWP No. 18046 of 2001, and by assuming jurisdiction, recommended the cancellation of the F.I.Rs. It is further contended that prior to the passing of the impugned order, no notice was ever issued to the petitioners. It is further argued that the Commission has no jurisdiction to interfere in pending proceedings, direct investigation, seek reports and recommend cancellation of the F.I.Rs. The Commission has not been constituted as a forum parallel to the Courts of law, as also the High Court.

(7) Reliance for the above proposition is placed upon a Division Bench judgment of this Court reported as **Jatt Ram versus Punjab State Human Rights Commission and another**, (1).

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(8) Counsel for the private respondents contends that the Commission, by virtue of the provisions of the Act, is empowered to call for and seek a report regarding any matter, which discloses a violation of human rights. It is contended that as the F.I.Rs. were a violation of respondents No. 2 and 3's rights, therefore, the Commission rightly recommended cancellation of the F.I.Rs. It is further argued that as the Arbitrator had already pronounced his award and the dispute was civil in nature, the petitioners had no authority to continue to prosecute the F.I.Rs. It is further contended that the Commission's report is merely recommendatory and, therefore, the present petition be dismissed.

(9) We have heard learned counsel for the parties and perused the paper book.

(10) We are of the considered opinion that the Commission had no jurisdiction to recommend cancellation of the F.I.Rs., as the matter fell within the exclusive domain of criminal Courts or the High Court. The controversy is squarely covered by a judgment of a Division Bench of this Court in **Jatt Ram's case** (*supra*). The Division Bench, after a detailed consideration of the statutory provisions, held as follows :—

“xx    xx    xx    xx    xx

The Commission was never intended to be a substitute for the regular Courts nor an alternative body for redressal of grievances which could be taken care of by the ordinary law. In these circumstances, Section 12 read with Section 17 of the Act clearly shows that the Commission is a body of experts created for the purposes of making recommendations to the State Government, in such matters which might not have been brought to the notice of the State Government otherwise. It is for that purpose that Section 17 of the Act has specifically provided that while enquiring into the complaints, the Commission is required to call for information or report from the appropriate Government with regard to the allegations of violation of human rights in the complaint. The intention of law is very clear. Primarily, it is for the State Government to take remedial action. The Commission is only a catalytic

body. If the contention raised on behalf of the State Commission were to be accepted then it would not only lead to providing of an approval to the holding of parallel proceedings but would also lead to an encroachment on the powers of regular Courts established under law. This cannot be accepted.”

(11) The Division Bench, thereafter, noticed the observations, made in CWP No. 20075 of 2003 **Jai Singh versus Punjab State Human Rights Commission and another**, decided on 2nd April, 2005, to the following effect :—

“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 thereupon 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 proper 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

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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 or inquire into the matter and obviously no direction (even in the shape of recommendations) can be issued.”

(12) After reproducing the aforementioned observations, the Division Bench concluded as under :—

“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 powers 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 motu* obviously cannot be inferred in favour of the Commission.”

(13) A perusal of the aforementioned judgment makes it apparent that the Commission exceeded jurisdiction, while recommending cancellation of the FIRs. The impugned order was

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passed in flagrant disregard to the statutory powers, conferred upon the Commission. The Commission assumed jurisdiction of a High Court or that of the Supreme Court of India and proceeded to arrogate to itself powers under Section 482 of the Cr. P.C. or under Article 226 of the Constitution, without pausing for a moment to deliberate as to its inherent lack of jurisdiction. The Commission, in our considered opinion, is not a substitute to Courts of law and, therefore, cannot usurp the powers of Courts and proceed to issue orders, assuming jurisdiction, under Section 482 of the Cr. P.C. or Article 226 of the Constitution of India.

(14) Another infirmity that pervades the impugned order is the failure of the Commission to issue any notice to the Punjab State Civil Supplies Corporation Ltd., (the petitioner herein). The Commission entertained the complaint, filed by respondents No. 2 and 3, and forthwith sought a report from the police. After receipt of the report, and without taking into consideration the right of the petitioner-Corporation to be heard, proceeded to recommend cancellation of the FIRs. The non issuance of any notice to the petitioners, renders the impugned order null and void. The Commission also failed to consider the observations of this Court, made in its order, dated 25th July, 2002, in CWP No. 18046 of 2001, wherein, while relegating respondents No. 2 and 3 to their remedy of arbitration, it was specifically ordered that the order would not affect any other pending proceedings, including criminal proceedings.

(15) In view of what has been noticed herein above, and taking into consideration the law, as set out in **Jatt Ram's** case (*supra*), we have no hesitation in holding that the impugned order is liable to be quashed. Consequently, the present petition is allowed and the order, dated 17th November, 2004, passed by the Commission, is quashed.

(16) There shall, however, be no order as to costs.

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**R.N.R.**