



Reserved on : 14.08.2025
Pronounced on : 19.09.2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF SEPTEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.8427 OF 2024 (GM - RES)

BETWEEN:

KARNATAKA POWER CORPORATION LIMITED
A GOVERNMENT OF INDIA UNDERTAKING
HAVING ITS OFFICE AT SHAKTI BHAVAN
NO.82, RACE COURSE ROAD
BENGALURU – 560 001

... PETITIONER

(BY SRI K.SHASHIKIRAN SHETTY, ADVOCATE GENERAL A/W.,
SRI YASHODHAR HEGDE, ADVOCATE)

AND:

- 1 . NATIONAL COMMISSION FOR
BACKWARD CLASSES
HAVING ITS ADDRESS AT
TRIKOOT - 1, BHIKAJI CAMA PLACE
NEW DELHI – 110 066.
- 2 . DIVISIONAL COMMISSIONER NAGPUR
HAVING ITS ADDRESS AT OLD SECRETARY
BUILDING, SAMAJ KALYAN OFFICE ROAD
CIVIL LINES, NAGPUR,

MAHARASHTRA – 440 001.

3 . DISTRICT COLLECTOR CHANDRAPUR
HAVING ADDRESS AT OPP. BUS STAND
RAILWAY STATION ROAD
CHANDRAPUR PIN – 442 401.

... RESPONDENTS

(BY SRI K.ARVIND KAMATH, ADDITIONAL SOLICITOR GENERAL OF
INDIA A/W.,
SRI M.N.KUMAR, CGSPC FOR R1; R2 AND R3 ARE SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE NOTICES DATED 28/02/2024 BEARING F NO. NCBC/KARNATAKA/2023/RU/02 PRODUCED AS VIDE ANNEXURE A, 04/03/2024 PRODUCED AS VIDE ANNEXURE-B, BEARING F NO. NCBC/KARNATAKA/2023/RU/02 AND 13/03/2024 BEARING NO. F. NO. NCBC/KARNATAKA/2023/RU/02 PRODUCED AS VIDE ANNEXURE-C, ISSUED BY R1 AS IT IS WHOLLY WITHOUT JURISDICTION AND IS NOT BINDING ON PETITIONER TO ACT UPON.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 14.08.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner/Karnataka Power Corporation Limited (hereinafter referred to as 'the Corporation' for short) is before this Court calling in question notices dated 28-02-2024, 04-03-2024 and 13-03-2024 issued by the 1st respondent/National Commission for Backward Classes (hereinafter referred to as 'the Commission' for short).

2. Heard Sri K. Shashikiran Shetty, learned Advocate General appearing for the petitioner and Sri K. Arvind Kamath, learned Additional Solicitor General of India appearing for the respondents.

3. Facts, in brief, germane are as follows: -

3.1. The Corporation, a Government of Karnataka undertaking has coal based thermal power plants in Raichur and Bellary for the purpose of generation of power. Since these plants require supply of coal, the petitioner is allotted coal blocks in

Chandrapur District by the Ministry of Coal, Government of India for coal requirements i.e., allotment from Baranj I-IV, Manoradeep and Kiloni coal blocks. In terms of the allotment of coal blocks, the petitioner is supposed to carry out rehabilitation and resettlement in respect of occupants of the villages and persons affected by mining activities. In furtherance of the allotment, an agreement is entered into for rehabilitation and resettlement (hereinafter referred to as 'the agreement' for short) with the Government of Maharashtra for providing rehabilitation and resettlement packages in terms of Maharashtra Project Affected Persons Rehabilitation Act, 1999 and the National Rehabilitation and Resettlement Policy, 2007. All the activities of rehabilitation and resettlement are with reference to the agreement that would be executed by the mine operator.

3.2. The averment in the petition is that during his tenure, the Minister of State, Chemicals and Fertilizers, Government of India had requested certain modifications in the National Rehabilitation and Resettlement Policy, 2007. Therefore, a meeting is said to have been convened with the Energy Minister of the Government of Karnataka with the Union Minister. In terms of

what was agreed, Clause 4.4 of the agreement stood amended with reference to compensation in lieu of employment to be enhanced from ₹3/- lakhs to ₹5/- lakhs. It is the further averment that it was also agreed to add a clause for 50% return of land upon mine closure certificate being issued or cash compensation of ₹4/- lakhs if the land was not returned. The revised agreement was entered into on 15-12-2016. The signatory to the agreement was then appointed as a Chairperson of National Commission for Backward Classes. The Chair Person is said to have summoned the Managing Director of the Corporation by issuance of notice on 14-02-2024 to be present on 21-02-2024 regarding review meeting and all other compliances in terms of the agreement that was entered into between the parties. Further notices were also issued on the subject. The notices were replied and appearances were made by the officers of the Corporation. After about 3 notices, the petitioner has approached this Court in the subject petition contending that the Commission has no jurisdiction to summon officers and abuse the designation of Chairperson.

SUBMISSIONS:

PETITIONER:

4. **The learned Advocate General Sri K.Shashikiran Shetty appearing for the petitioner** would vehemently contend that the issue is plain and simple. The Chairperson or the Commission has no power to summon officers or coerce compliance with an agreement, which is completely complied with by the State of Karnataka. The learned Advocate General further submits that the agreement would envisage a separate procedure for review mechanism and the person who has signed the agreement is now wanting compliance with the agreement. The Commission, he argued, has no jurisdiction to entertain the plea of any person or any member who has lost the land after having taken compensation. The return of the land is on two conditions viz., (1) on closure of mining activity and (2) payment of ₹4/- compensation in lieu of return of land which is yet to come about as allotment of mining is up to 2035.

THE COMMISSION:

5.1. **Contrariwise, the learned Additional Solicitor General of India Sri K. Arvind Kamath,** appearing for the Commission, would take this Court through the documents appended to the petition and the objections threadbare, and contend that mining lease was signed between Government of Maharashtra and the Corporation. The agreement was for rehabilitation and resettlement of persons who would lose their land. The agreement signed between the States was for the purpose of rehabilitation of project affected persons in Baranj Open Cast Project in Chandrapur District. Therefore, the matter concerns a poor man who lost his land, and therefore, his rehabilitation and resettlement is imperative.

5.2. It is his submission that up to 11-08-2018 the National Commission for Backward Classes was only a statutory body. It is given a Constitutional status in terms of 102nd amendment by insertion of Articles 338B, 342A and 366 [26C] of the Constitution. The National Commission for Backward Classes Act stood repealed

with effect from 14-08-2018 in terms of a repeal Act. With the Constitutional status, it is the duty of the Commission to protect the interest of backward classes. The Commission receives plethora of representations from workers that their demands have not been met, from contractors that their bills are not paid and further representations regarding rehabilitation of affected villages and other incidental issues. It is, therefore, the Chairperson summoned signatory to the agreement and officers of the Corporation. He would submit that, the submission made that it is without jurisdiction is wholly misconceived. If the Commission does not have jurisdiction, who else, is the question, that has to be answered by the learned Advocate General.

5.3. The learned Additional Solicitor General would contend that the State is projecting a Constitutional body having no jurisdiction, is a submission that should be rejected. All that the Commission has done is directing compliance with the agreement that is entered into and is monitoring rehabilitation and resettlement of workers or land losers as the case would be, as mining activity in the said District has taken away the normal living

of plethora of villagers, workers and their families. He would seek dismissal of the petition.

6. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

CONSIDERATION:

7. The afore-narrated facts though not in dispute would require elaborate iteration. The issue springs from an agreement between the petitioner and the Government of Maharashtra. The agreement was on account of coal blocks allotment for the purpose of generation of thermal energy. The allotment is not in dispute. The entire genesis is on the agreement entered into between the parties. The first agreement is on 09-11-2015 between the Corporation and the Government of Maharashtra. The agreement is called as 'Rehabilitation of Project Affected Persons of Integrated Barang Open Cast Project, Tah.Bhadravathi, District Chandrapur'. After the agreement, amendments were sought to the agreement by the Government of Maharashtra and, therefore, a second

agreement comes about on 15-12-2016. It is this agreement that governs the issue in the *lis*. Therefore, it becomes necessary to notice certain clauses of the agreement. They read as follows:

- "2.1 As referred to in the notification dated November 1, 2012 issued by the Divisional Commissioner, Nagpur and under Section 13(3) of the Maharashtra Act, 1999, Gaothan land has been acquired in relation to the Project, from 2 villages in Tahsil Bhadrawati, Chandrapur District, Maharashtra, being (a) ChekBaranj; and (b) Baranj Mokasa.

As the land of these villages will be acquired, the villagers will lose their source of income, therefore, KPCL will provide civic amenities as per the provisions of Maharashtra Project Affected Persons Rehabilitation Act, 1999 and the National Rehabilitation and Resettlement Policy/2007 whichever is more beneficial.

- 2.2 An annual provision of ₹25,00,000 (Rupees Twenty-Five Lakhs only) shall be provided for maintenance and upgradation of civic amenities for project affected area for the resettlement and rehabilitation of PAPs in Chek Baranj and Baranj Mokasa. The said budget of ₹25,00,000 (Rupees Twenty-Five Lakhs only) shall be increased by 10% (ten percent) after every year.**
- 2.3 Part lands will be acquired from the remaining 5 (five) villages in Tahsil Bhadrawati, Chandrapur District, Maharashtra, being (a) Somnala; (b) Bonthala; (c) Kadholi; (d) Kesurli; and (e) Chichordi, as referred to in the notification dated November 1, 2012 issued by the Divisional Commissioner, Nagpur under Section 13(3) of the Maharashtra Act, 1999.**
- 2.4 The KPCL shall provide the civic amenities as per the provisions of the Maharashtra Project Affected Persons

Rehabilitation Act, 1999 and the National Rehabilitation and Resettlement Policy, 2007 and for the maintenance and up gradation thereof on regular basis on the same line as it specified under Clause 2.2 above.

- 2.5 Subject to applicable laws and the Approved Mining Plan and Approved Mine Closure Plan, upon completion of all mining activities (including Mine closure activities) and upon receiving a 'completion certificate' from the relevant statutory authority, KPCL shall return 50% (fifty per cent) of the land acquired (as per recital C) to the original land loser.**
- 2.6 In the event KPCL is unable to/does not return the said 50% (fifty percent) of the land acquired (as per recital C) to the original land losers, then KPCL shall pay a one-time-compensation of ₹4,00,000 (Rupees Four Lakhs) per acre, to each such original land losers for the returnable land (50% of land acquired) and not the entire land.**
- 2.7. The District Collector shall initiate the entire process of return of acquired land, and shall provide KPCL with a clear and comprehensive list of the original land losers who shall be entitled to the return of land/compensation, along with a clear demarcation of the land to be returned to each land-loser.

The obligations of KPCL to return the land as per Clause 2.5 or pay compensation as per Clause 2.6, shall only arise after a final list of land losers is provided by the District Collector, along with a clear demarcation of the land to be returned to each land loser.”

(Emphasis added)

The aforesaid clauses indicate that the land of these villages will be acquired and the villagers will lose their source of income. Therefore, the Corporation would provide civic amenities, as per the

provisions of Maharashtra Project Affected Persons Rehabilitation Act, 1999 and the National Rehabilitation and Resettlement Policy 2007, whichever is more beneficial. An annual provision of ₹25,00,000/- should be provided for maintenance and upgradation of civic amenities. Clause 2.5 indicates that, subject to applicable laws and approved mining plan and approved mine closure plan, upon completion of all mining activities, the Corporation would return 50% of the land acquired, to its land-loser. In the event the Corporation does not return the land to the land loser, it shall pay ₹4,00,000/- for the returnable land which is 50% of the land acquired and not the entire land acquired. This is the agreement that is entered into between the two States.

8. The agreement, as observed, is of the year 2016. Plethora of representations spring to the Commission by several persons, land losers, contractors or others. All the representations are appended to a memo filed by the 1st respondent/Commission and reference to each of the representation would only bulk this order. Therefore, one such representation is quoted herein reading:

"Dated: 13th January 2023.

To
Honorable District Collector,
District Collector Office, Chandrapur.

Applicant: Geetha Satish Dethe At Post Kondha, Tehsil
Bhadravati District, Chandrapur.

Subject: Payment of my husband's balance amount of
invoices with Karnatak Emta company and
employment in the company thereof.

Sir,

It is humbly submitted that my husband by name Satish Tatyaji Dethe worked as security in name and style Karishma Security Force with Emta Company during the period 2011 to 2017. However, situation turned very difficult during the year 2015 since the company did not pay the bill amount for the security work done for the company. The company was temporarily closed, but the security work was regularly got done.

My husband Satish Tatyaji Dethe corresponded a lot with the company and also contacted the company officials over telephone for payment of his bill amount. In all this episode, he paid less attention to his house hold needs. His security employees demanded their payments every now and then and the creditors demanded refund of monies borrowed to meet the daily needs of our family. He squared off the liabilities payable to his employees by borrowing amounts from relatives and friends anticipating that the company will pay his amounts one day or the other. Every passing day he avoided everything.

His health deteriorated due to such pressures and tensions. He could not pay attention to his family as was expected of him. IT was not possible for him to bear the public taunting. Hence, he slipped into depression and ultimately he ended his life on date 20th November, 2019 by hanging himself to death. My children are in sordid

state due to the demise of my husband. It has become very difficult to manage the day to-day expenses, education, health issues and other family requirement. I am forced to work as hand labour to meet my daily needs. Considering the pathetic condition of our family, I request for cooperation from your side by seeking payment of ₹566913 being the amount payable to my husband. If I do not receive the said amount of arrears and the employment offer from you, I will also be forced to end my life as my husband. Please note that you will be responsible for the situation and circumstances that may crop up thereafter. Hence, humbly submitted seeking your cooperation in the matter.

Place: Kodha

Yours faithfully,
Sd/- Geeta Satish Dethe

Copy to:

1. Honorable Shri Sudhirbhai Mungantiwar, Guardian Minister, Chandrapur District.
2. Honorable Shri Hansraj Ji Ahir, National Commission for Backward Classes, Government of India.
3. The Honourable Sub-Divisional Officer, Varora.
4. M/s KPCL Company Baranj MOKasa
5. M/s Emta Coal Mines, Baranj MOKasa."

(Emphasis added)

The wife of a person who was working as security in the Company was facing several difficulties due to non-implementation of clauses in the agreement. A perusal at the representation would indicate sordid affairs as due to debts and non-implementation of the agreement the husband of the person who represented, commits suicide. She further indicates that she is forced to work as menial

labour to meet her needs. Payment of ₹5,66,913/- is asked from the District Collector, Chandrapur as arrears of employment due to which the husband committed suicide as that would not be paid. This is the story of every person who has represented to the District Collector and in turn, the District Collector refers the matter to the Commission.

9. The Commission then calls upon the Corporation by issuing impugned notices. The notices dated 28-02-2024, 04-03-2024 and 13-03-2024 so issued read as follows:

"GOVERNMENT OF INDIA
NATIONAL COMMISSION FOR BACKWARD CLASSES
(A Constitutional Body exercising powers of Civil
Court under Article 338B of the Constitution of India)

F.No.NCBC/Karnataka/2023/RU/02

Date:28-02-2024

To

Dr.Rajneesh Goel, IAS,
Chief Secretary,
Government of Karnataka,
Room No.320, 3rd Floor,
VidhanaSoudha, Bengaluru-01
Email:cs@karnataka.gov.in

Sub: (i) Regarding Review Meeting held on 21-02-2024 on the subject of welfare measures undertaken to secure representation of OBCs for the purposes of Articles 15(4) and 16(4) of the Constitution of India for admission in seat in educational institutions and for appointments or

posts in the public services under the control of State Government excluding creamy-layer amongst them.

(ii) Copy of Minutes of Meeting held on 21-12-2023 is appended as Annexure-I.

(iii) Copy of Minutes of Meeting held on 24-07-2023 appended as Annexure-II

(iv) Copy of Affidavit filed by the appearing officer on behalf of Managing Director, Karnataka Power Corporation Limited (KPCL) and Additional Chief Secretary to Energy Department, Government of Karnataka is appended as Annexure-III.

Sir,

In reference of the above cited subject w.r.t. Minutes of Meeting dated 24-07-2023 and Affidavit filed during the review meeting held on 21-02-2024 by the appearing Officer on behalf of Managing Director, Karnataka Power Corporation Limited (KPCL) and Additional Chief Secretary to Energy Department, Government of Karnataka, the undersigned is directed to say that;

- (i) That as per Minutes of Meeting held on 24-07-2023 and in Minutes on 31-10-2023 asking the reply from KPCL, letter has been written on 28-12-2023 to the principal Secretary, Revenue and Forest Department, Government of Maharashtra for meeting. In this connection, Hon'ble Chairperson, National Commission for Backward Classes has directed to conduct the meeting within fifteen (15) days and from sixteenth (16) day, KPCL shall have to start distributing ₹4 lakh (four lakh) per acre as compensation.**
- (ii) That in accordance with the HPC, the minimum wages shall be paid from August, 2023 onwards. The same shall be kept before the next Board of Directors (BoDs) Meeting.**
- (iii) That misleading information submitted by KPCL to NCBC shall be brought to the notice of the Board of Directors (BoDs) Meeting.**
- (iv) Payment of small contractors for which list is given, shall be finalized and paid within 10 (ten) days.**

- (v) **The payment of cheques shall be paid from 26-02-2024 and every 10(ten) days, payment in lieu of appointments shall be paid.**

2. With reference to review meeting held on 21-12-2023 on the subject welfare measures undertaken to secure representation of OBCs for the purposes of Articles 15(4) and 16(4) of the Constitution of India for admission in seat in educational institutions and for appointments or posts in the public services under the control of State Governments excluding creamy-layer amongst them, the observations of the Commission are as follows:

- (i) Hon'ble Chairperson, National Commission for Backward Classes raised various queries with respect to welfare measures for which were well noted by the appearing officers on behalf of Managing Director, Karnataka Power Corporation Limited (KPCL) and Additional Chief Secretary to Energy Department, Government of Karnataka Chief Secretary. During the review meeting, Hon'ble Chairperson directed to set off remedial action on the queries and concerns raised by the Hon'ble Commission. However, the replies to the questions and concerns of the National Commission for Backward Classes which remained unanswered be furnished under sub-clause (c) of Clause 8 of Article 338B of the Constitution of India on affidavit duly authorized by Chief Secretary, Government of Karnataka and be submitted in person on 1-03-2024 to the Hon'ble Commission without fail.
- (ii) Hon'ble Chairperson, National Commission for Backward Classes noted that action taken (ATR) w.r.t. review meeting held on 21-12-2023 on the subject of welfare measures undertaken to secure representation of OBCs for the purposes of Article 15(4) and 16(4) of the Constitution of India for admission in seat in educational institutions and for appointments or posts in the public services under the control of State Government excluding creamy-layer amongst them is still remained unanswered.

- (iii) Appearing officers on behalf of Managing Director, Karnataka Power Corporation Limited (KPCL) and Additional Chief Secretary to Energy Department, Government of Karnataka Chief Secretary was not aware about action taken (ATR) w.r.t. review meeting held on 21-12-2023 on the subject of welfare measures undertaken to secure representation of OBCs for the purposes of Articles 15(4) and 16(4) of the Constitution of India for admission in seat in educational institutions and for appointments or posts in the public services under the control of State Government excluding creamy layer amongst them.
- (iv) The National Commission for Backward Classes is a Constitutional Body. Under Article 338B of the Constitution of India, the National Commission for Backward Classes is empowered for summoning and enforcing the attendance of any person from any part of India and examining him on oath as well as receiving evidence on affidavits.
- (v) The Commission surprised to note that no representative of State Government appeared before the Commission to depose before the Commission in the matter of welfare measures undertaken to secure representation of OBCs for the purposes of Articles 15(4) and 16(4) of the Constitution of India for admission in seat in educational institutions and for appointments or posts in the public services under the control of State Government excluding creamy-layer amongst them.
- (vi) The Commission noted that officers of State Government have deliberately disobeyed the summons issued. Hon'ble Chairperson, National Commission for Backward Classes expressed deepest dissatisfaction and displeasure for non-attendance of Chief Secretary, Government of Karnataka before the Hon'ble Commission despite of providing plenty opportunities for personal appearance. However, it is primary duty of officers holding high positions to adherence to the value and ethics enshrined in the Constitution of India. The Hon'ble Commission found that State Government of Karnataka did not

maintain the sanctity of the Constitution and the sanctity of the sacred text.

- (vii) Hon'ble Chairperson, National Commission for Backward Classes directs State Government to furnish action taken report (ATR) w.r.t. review meeting held on 21-12-2023 under sub-clause (c) of Clause 8 of Article 338B of the Constitution of India on affidavit and be submitted in person on 4.03.2024 to the Hon'ble Commission without fail.

3. It is also directed that for the sake of convenience of reference of the Hon'ble Chairperson without fail. It is also requested that for the sake of convenience of reference of the Hon'ble Chairperson, the said replies along with substantiation bearing signature of competent authority on each page may be paginated, neatly stitched/bound and with a distinct cover page.

4. This issues with the approval of Hon'ble Chairperson, National Commission for Backward Classes.

Sd/- Y.P. Yadav,
Deputy Secretary (Admin)."

(Emphasis supplied)

-- -- --

"GOVERNMENT OF INDIA
NATIONAL COMMISSION FOR BACKWARD CLASSES
(A Constitutional Body exercising powers of Civil
Court under Article 338B of the Constitution of India)

F.No.NCBC/Karnataka/2023/RU/02

Date:04-03-2024

To

1. Shri Gaurav Gupta,
Managing Director, Karnataka Power Corporation
Limited (KPCL), & Additional Chief Secretary to
Energy Department, Government of Karnataka,
Room No.236, 2nd Floor, Vikasa Soudha,
Dr.B.R. Ambedkar Street, Bengaluru-560 001
Email: prs-energy@karnataka.gov.in, mdkpcl@gmail.com
2. Divisional Commissioner, Nagpur.

Sub: Affidavit filed by the appearing officer on behalf of Managing Director, Karnataka Power Corporation Limited (KPCL), and Additional Chief Secretary to Energy Department, Government of Karnataka is appended as Annexure-I.

Ref: Letter vide File No.NCBC/Karnataka/2023/01 dated 28.02.2024 is appended as Annexure-II.

Sir,

In reference of the above cited subject w.r.t. Minutes of Meeting dated 24-07-2023 and Affidavit filed during the review meeting held on 21-02-2024 by the appearing Officer on behalf of Managing Director, Karnataka Power Corporation Limited (KPCL) and Additional Chief Secretary to Energy Department, Government of Karnataka in presence Divisional Commissioner, Nagpur and District Collector, Chandrapur, the undersigned is directed to say that;

- (i) That as per Minutes of Meeting held on 24-07-2023 and in Minutes on 31-10-2023 asking the reply from KPCL, letter has been written on 28-12-2023 to the principal Secretary, Revenue and Forest Department, Government of Maharashtra for meeting. In this connection, Hon'ble Chairperson, National Commission for Backward Classes has directed to conduct the meeting within fifteen (15) days and from sixteenth (16) day, KPCL shall have to start distributing ₹4 lakh (four lakh) per acre as compensation.
- (ii) The payment of cheques shall be paid from 26.02.2024 and every 10 (ten) days, payment in lieu of appointments shall be paid.

Keeping in view of the above para (ii), the undersigned is directed to say that the payment of cheques should be paid on 06-03-2024 at 11.00. a.m. at Office of Divisional Commissioner, Nagpur in presence of Divisional Commissioner. Compliance report in this regard may be submitted to the Hon'ble Chairman on 06-03-2024.

2. This issues with the approval of Hon'ble Chairperson, National Commission for Backward Classes.

Sd/- Y.P. Yadav,
Deputy Secretary (Admin)."

-- -- --

"GOVERNMENT OF INDIA
NATIONAL COMMISSION FOR BACKWARD CLASSES
(A Constitutional Body exercising powers of Civil
Court under Article 338B of the Constitution of India)

F.No.NCBC/Karnataka/2023/RU/02

Date:13-03-2024

To

1. Shri Gaurav Gupta,
Managing Director, Karnataka Power Corporation
Limited (KPCL), & Additional Chief Secretary to
Energy Department, Government of Karnataka,
Room No.236, 2nd Floor, Vikasa Soudha,
Dr.B.R. Ambedkar Street, Bengaluru-560 001
Email: prs-energy@karnataka.gov.in, mdkpcl@gmail.com

2. Divisional Commissioner, Nagpur.

Sub: Affidavit filed by the appearing officer on behalf of
Managing Director, Karnataka Power Corporation Limited
(KPCL), and Additional Chief Secretary to Energy
Department, Government of Karnataka is appended as
Annexure-I.

Ref: Letter vide File No.AIMIB3/IBOCM/1187 dated
05.03.2024

Sir,

In reference of the above cited subject w.r.t. meeting
held on 22-02-2024 and Affidavit filed during the review
meeting held on 21-02-2024 by the appearing Officer on behalf
of Managing Director, Karnataka Power Corporation Limited
(KPCL) and Additional Chief Secretary to Energy Department,
Government of Karnataka in presence Divisional Commissioner,
Nagpur and District Collector, Chandrapur, the undersigned is
directed to say that;

- (i) As committed in the affidavit provided on 21.02.2024, to provide payments of cheque against compensation every 10 (ten) days to beneficiaries/ recipients, the first tranche of payment of ₹5 lakhs each was distributed on 06-03-2024. The next scheduled date for payment of cheques has become due on 16-03-2024.
- (ii) Hon'ble Chief Minister of Maharashtra and Hon'ble Deputy Chief Minister of Maharashtra will be meeting the officials of Karnataka State Government and Karnataka Power Corporation Limited in the next 15 days. In this connection, Hon'ble Chairperson, National Commission of Backward Classes has asked for information about the arrangements of the meeting.
- (liii) As committed in the affidavit provided on 21.02.2024 the payments to small contractors has to be finalized and paid within 10 days. In this connection, the Commission be apprised about the status.
- (v) Necessary action be initiated for Chicholi Land Acquisition and the details of the newly appointed officer in this regard be provided to the Commission.

Keeping in view of the above para (i), the undersigned is directed to say that the payment of cheques should be paid on 16-03-2024 at 11.00 a.m. at office of Sub-Divisional Magistrate, Warora in presence of Divisional Commissioner, Compliance report in this regard may be submitted to the Hon'ble Commission on 16-03-2024.

Sd/- Y.P.Yadav,
Deputy Secretary (Admin)."

Pursuant to the notices, it appears, the Officer of the Corporation appear and file an affidavit before the Commission. The affidavit reads as follows:

"Affidavit

I, C. Nagaraju, Age 52 years, S/o Late Shri Chikkanna working as Director (HR) KPCL attending this meeting on authorization by the M.D. KPCL, No.82, Sakthi Bhavan, Race Course Road, Bangalore-1 do hereby solemnly affirm and state as under:

1. That as per minutes of the meeting held on 24.07.2023 and in minutes on 31-10-2023 asking the reply from KPCL, that letter has been written on 28-12-2023 to Principal Secretary, Revenue & Forest Department, Government of Maharashtra for a meeting.

Hon'ble Chairman has directed to conduct the meeting within 15 days or from 16th day KPCL will have to start distributing ₹4 lakh per acre as compensation.

2. That the minimum wages as per HPC has to be paid from August 2023 onwards. The same has to be kept before the next Board of Directors' meeting.
3. The misleading information submitted by KPCL to NCBC has to be brought to the notice of the Board.
4. Payment to small contractors for which list is given, has to be finalized and paid within 10 days.
5. The payment of cheques to be paid from 26-02-2024 and every 10 days payment in lieu of appointments has to be paid which are clear in nature.

Verified that paras 1 to 5 are true and correct.

Sd/- Deponent."

The challenge is to the notices. The challenge is on the ground that the Commission has no jurisdiction.

10. Since the challenge is on the score that the Commission has no jurisdiction, it becomes necessary to notice, the genesis of the Commission and its elevation from an Act, to a constitutional status. The National Commission for Backward Classes was notified on 2nd April, 1993. The Act was to constitute a National Commission for Backward Classes other than the Scheduled Castes and Scheduled Tribes for matters connected therewith and incidental thereto. The duties of the Commission and composition of the Commission were all enumerated under the Act. The functions of the Commission were to examine requests of various proportions including entertainment and answering all complaints against welfare and interest of backward classes. When things stood thus comes the 102nd amendment to the Constitution of India. The amendment Act reads as follows:

"1. (1) This Act may be called the Constitution (One Hundred and Second Amendment) Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 338 of the Constitution, in clause (10), the words, brackets and figures "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" shall be omitted.

3. After article 338A of the Constitution, the following article shall be inserted, namely:—

"338B. (1) There shall be a Commission for the socially and educationally backward classes to be known as the National Commission for Backward Classes.

(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 socially and educationally backward classes 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 socially and educationally backward classes;
- (c) to participate and advise on the socio-economic development of the socially and educationally backward classes 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 the 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 socially and educationally backward classes; and
- (f) to discharge such other functions in relation to the protection, welfare and development and advancement of the socially and educationally backward classes as the President may, subject to the provisions of any law made by Parliament, by 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 State Government which 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 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.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting the socially and educationally backward classes."

4. After article 342 of the Constitution, the following article shall be inserted, namely:—

"342A. (1) The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the socially and educationally backward classes which shall for the purposes of this Constitution be deemed to be socially and educationally backward classes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the Central List of socially and educationally backward classes specified in a notification issued under clause (1) any socially and educationally backward class, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification."

5. In article 366 of the Constitution, after clause (26B), the following clause shall be inserted, namely: -

`(26C) "socially and educationally backward classes" means such backward classes as are so deemed under article 342A for the purposes of this Constitution;'"

(Emphasis supplied)

The 102nd amendment elevated the National Commission for Backward Classes, from a statutory status to a constitutional body. After Article 338A, Article 338B was to be inserted and after Article 342, Article 342A and in Article 366 clause (26C) was to be inserted. Article 338B after the amendment, reads as follows:

"338-B. National Commission for Backward Classes.—(1) There shall be a Commission for the socially and educationally backward classes to be known as the National Commission for Backward Classes.

(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 socially and educationally backward classes 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 socially and educationally backward classes;

- (c) to participate and advise on the socio-economic development of the socially and educationally backward classes 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 the 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 socially and educationally backward classes; and
- (f) to discharge such other functions in relation to the protection, welfare and development and advancement of the socially and educationally backward classes as the President may, subject to the provisions of any law made by Parliament, by 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 State Government which 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 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.**

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting the socially and educationally backward classes:

Provided that nothing in this clause shall apply for the purposes of clause (3) of Article 342-A.

...

...

...

(Emphasis supplied)

As observed, Article 338B elevated the statutory status of the National Commission for Backward Classes, to be a Constitutional body. The Constitutional status of the Commission, was to

safeguard the interest of backward classes; have an advisory role to the Union and the State Governments including the socially and educationally backward classes; have a grievance redressal mechanism and inclusion and exclusion of recommendations. The reason behind elevation to a Constitutional status, is ostensibly to address inadequacy of the Commission lacking sufficient powers to effectively enforce, safeguard and deal with complaints *inter alia*. What the Commission is empowered to do is found in Article 338B itself. Sub-articles of Article 338B mandates that it would the duty of the Commission to investigate and monitor all matters relating to the safeguards provided for the socially and educationally backward classes under the Constitution and several other duties incidental to the duty of safeguard and complaint redressal of deprivation of rights of backward classes.

DIVING BACK TO THE FACTS:

11. The Commission receives representations from the hands of the District Collector of Chandrapur District, one of which is quoted hereinabove. As observed, it gives a telling tale of persons living in and around the mining area. It is, therefore, the

Commission initiated action for compliance or upliftment of lives of the people in the mining area. Notices are issued after initiating proceedings to oversee the agreement that was entered into between the parties for rehabilitation and resettlement, as rights of poor people i.e., backward classes should not be seen shivering in the heat of sadness, as people in the mining area began to commit suicide on account of debts. The debts are generated on account of non-payment to the contractors or to the workers, as the case would be, which has a spiralling effect on the lives of poor people.

12. Representations were submitted to the Commission by civil contractors regarding non-payment and by the workers regarding shady rehabilitation. It is, therefore, the Commission, in the considered view of the Court, is duty bound to see welfare of the backward classes. **It is not only the agreement that calls for interpretation here, but it is the lives of backward classes.** The State cannot ignore those backward classes in the case at hand, who are working for menial wages after losing their lands for the purpose of mining activities and are rendered a paltry sum, in lieu of employment. Even that paltry sum is partly paid.

Therefore, this Court would undoubtedly hold that the Commission did have jurisdiction to entertain the representations, as it is empowered to do so under Article 338B of the Constitution. Up to 2018, the submission of the learned Advocate General would hold some water, though it would have been a matter of interpretation. With the elevation of the Commission to a Constitutional status, the State cannot now hinge upon the status that stood repealed, as the **Commission is not a statutory body, but a Constitutional body, and the Constitution is not a statute; it is the fountainhead of all statutes.**

13. The learned Advocate General relies on the judgment rendered by this Court in the case of **M.B. SIDDALINGASWAMY v. STATE OF KARNATAKA – 2020 SCC OnLine Kar. 4968**. This Court was examining the power of Scheduled Castes and Scheduled Tribes Commission to have entertained a service dispute concerning appointment in the State of Karnataka governed by statute and promotion thereof. The Commission, in the said case, had issued directions to grant promotion and report compliance of implementation. It is in those circumstances this Court considered

whether the said Commission would have jurisdiction for adjudication of a service dispute. It was held that it did not have, as the service of the employee was governed by statutes. The said judgment is distinguishable without much *ado* in the case at hand. The Commission here, is not directing a case of an individual, whose rights are governed by any statute. **The present matter is not the grievance of an individual employee; it is a collective cry of scores of displaced villagers, their lives eclipsed by mining operations.**

CONCLUSION:

This Court, in the praefatus deliberations, cannot view the aforesaid dispute in a narrow prism of contractual niceties alone. The Constitution is not an arid parchment; it is a living testament to justice, equity and welfare of the marginalized. Article 338B, by its luminous mandate, entrusts the Commission with a duty to investigate, monitor and remedy, grievances of the backward classes. Its powers are not illusory, they are as wide as the cause they are meant to protect. To hold otherwise, would be to silence the

voice of the vulnerable and render nugatory, the very purpose for which the Commission was enshrined into the Constitution. The villagers who have parted with their lands are entitled to Constitution's compassion. Their plight is not a contractual inconvenience, but a Constitutional concern.

14. Finding no merit in the petition, the petition stands ***rejected.***

Interim order, if any operating, shall stand dissolved. Pending applications if any, also stand disposed.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

bkp
CT:SS