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**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 5<sup>TH</sup> DAY OF MARCH, 2024**

**PRESENT**

**THE HON'BLE MR JUSTICE KRISHNA S DIXIT**

**AND**

**THE HON'BLE MR JUSTICE C.M. POONACHA**

**WRIT PETITION NO. 7893 OF 2020 (GM-RES)**

**BETWEEN:**

1. SRI. C. GIRISH NAIK  
S/O LATE CHANDRA NAIK  
AGED ABOUT 41 YEARS  
WORKING AS INSPECTOR OF POLICE  
BESCOM VIGILANCE POLICE STATION  
INDIRANAGAR,  
BANGALORE 560 038
2. SRI VINOD JIRAGALE  
S/O VENKATESH  
AGED ABOUT 31 YEARS  
WORKING AS SUB INSPECTOR OF POLICE,  
J.C. NAGAR POLICE STATION  
BANGALORE 560 006
3. SRI NEMINATH THAKAI  
S/O MANIK  
AGED ABOUT 33 YEARS  
WORKING AS SUB INSPECTOR OF POLICE  
J.C. NAGAR POLICE STATION  
BENGALURU 560 006

...PETITIONERS

(BY SRI. SATISH K., ADVOCATE)

Digitally signed  
by SHARADA  
VANI B.  
Location: HIGH  
COURT OF  
KARNATAKA





**AND:**

1. THE STATE OF KARNATAKA  
REP BY ITS ADDITIONAL CHIEF SECRETARY  
DEPARTMENT OF HOME  
VIDHANA SOUDHA,  
BANGALORE 560 001
2. DIRECTOR GENERAL OF POLICE AND  
INSPECTOR GENERAL OF POLICE  
NRUTPATUNGA ROAD,  
BANGALORE 560 001
3. COMMISSIONER OF POLICE  
BANGALORE CITY  
INFANTRY ROAD,  
BANGALORE 560001
4. KARNATAKA STATE HUMAN RIGHTS  
COMMISSION  
REPRESENTED BY ITS SECRETARY  
1ST - 4TH FLOOR, 5TH PHASE,  
M.S. BUILDING  
BANGALORE 560 001
5. KARNATAKA STATE HUMAN  
RIGHTS COMMISSION  
REPRESENTED BY ITS REGISTRAR  
1ST - 4TH FLOOR 5TH PHASE  
M.S. BUILDING  
BANGALORE 560 001

...RESPONDENTS

(BY SMT SAVITHRAMMA, AGA FOR R1 TO R3  
SRI GOPAL KRISHNA SOODI, ADVOCATE FOR R4 & R5)

THIS WP IS FILED UNDER ARTICLE 226 OF THE  
CONSTITUTION OF INDIA PRAYING TO QUASH THE  
IMPUGNED REPORT DATED 12.03.2020 SUBMITTED BY  
THE R-4 ANNEXURE-M IN SO FAR AS DIRECTION (a) AND



(c) IN SO FAR AS THE PETITIONERS ARE CONCERNED AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, **POONACHA. J.**, MADE THE FOLLOWING:

**ORDER**

The present Writ Petition is filed seeking for the following reliefs:

*"a) Call for records pertaining to impugned report dated 12/03/2020 (Annexure-M);*

*b) ISSUE WRIT OR ORDER quashing the impugned report dated 12/03/2020 bearing No.H.R.C. No.3720/10/31/2018 (Ann-M) submitted by the Respondent No.4 in so far as direction (a) and (c) in so far as the Petitioners are concerned, in the interest of justice and equity.*

*c) PASS any such Order which this Hon'ble Court may deem fit, including the cost of the instant Writ Petition, in the interest of justice and equity."*

2. It is the contention of the petitioners that in the report dated 12.3.2020, the fourth respondent – Commission, at para 18, has issued certain recommendations. That, a reading of the said recommendations disclose that they are in



the nature of directions and the same is beyond the scope of Section 18 of the Protection of Human Rights Act, 1993<sup>1</sup>.

3. The fourth respondent is constituted by virtue of Section 21 of the Act. The relevant provisions of the Act i.e., Section 18 and Section 29 are extracted hereinbelow for ready reference:

3.1 Section 18 of the Act reads as under:

*"18. **Steps during and after inquiry.**- The Commission may taken 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."*

*(emphasis supplied)*

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<sup>1</sup> Hereinafter referred to as the 'Act'



3.2 Section 29 of the Act reads as under:

**"29. Application of certain provisions relating to National Human Rights Commission to State Commission.-** The provisions of sections 9, 10, 12, 13, 14, 16, 17 and 18 shall apply to a State Commission and shall have effect, subject to the following modifications."

4. It is clear from the aforementioned that by virtue of Section 29 of the Act, the inquiry conducted by the State Commission is regulated by Section 18 of the Act. Section 18(a) of the Act specifically stipulates that where the inquiry discloses the violation of human rights, the Commission may recommend to the concerned Government or authority one of the measures stipulated under sub sections (i), (ii) and (iii) of Section 18(a).

5. The Hon'ble Supreme Court in the case of **N.C.Dhondial Vs. Union of India and others**<sup>2</sup> while considering a report submitted by the National Human Rights Commission<sup>3</sup> has held as follows:

**"14.** We cannot endorse the view of the Commission. The Commission which is a "unique expert body" is, no doubt, entrusted with a very important function of

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<sup>2</sup> (2004) 2 SCC 579

<sup>3</sup> Hereinafter referred to as 'NHRC'



*protecting human rights, but, it is needless to point out that the Commission has no unlimited jurisdiction nor does it exercise plenary powers in derogation of the statutory limitations. The Commission, which is the creature of statute, is bound by its provisions. Its duties and functions are defined and circumscribed by the Act. Of course, as any other statutory functionary, it undoubtedly has incidental or ancillary powers to effectively exercise its jurisdiction in respect of the powers confided to it but the Commission should necessarily act within the parameters prescribed by the Act creating it and the confines of jurisdiction vested in it by the Act. The Commission is one of the fora which can redress the grievances arising out of the violations of human rights. ...."*

*(emphasis supplied)*

6. A Division Bench of this Court in the case of **C.Gopal v. Karnataka State Human Rights Commission<sup>4</sup>** has held that the report of the Commission is recommendatory in nature and dismissed the Writ Petition as being premature.

7. Another Division Bench of this Court in the case **S.H.Vasantha v. State of Karnataka & Ors.,<sup>5</sup>**, noticing the judgment passed in the case of **C.Gopal<sup>4</sup>** disposed of the Writ Petition.

8. Having regard to the aforementioned, the present Writ Petition is disposed of by holding that the report dated

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<sup>4</sup> 2015 SCC Online Kar 5674

<sup>5</sup> WP No.1404/2021, DD 21.3.2023



12.3.2020 passed in H.R.C. No.3720/10/31/2018 issued by the fourth respondent shall not be treated as a direction but as a recommendation. The official respondents shall be at liberty to take suitable action as they may deem fit, based on the said report/recommendation dated 12.3.2020, in accordance with law.

Ordered accordingly.

**Sd/-  
JUDGE**

**Sd/-  
JUDGE**

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List No.: 1 Sl No.: 48