



2026:CGHC:24336

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 598 of 2023

1 - Kamla Motors Through Its Proprietor Kailash Barmecha, Aged About 51 Years, S/o Shri Prakash Chand R/o Digamber Jain Mandir Road, Gandhi Chowk, Durg (C.G.)

... **Petitioner(s)**

versus

1 - State Of Chhattisgarh Through Secretary, Chhattisgarh State Backward Class Commission, Shahid Bhagat Singh Chowk, Shanker Nagar Road, Raipur (C.G.)

2 - The Collector Durg, Distt. Durg (C.G.)

3 - Dushyant Prakash Nag S/o Shri Atma Ram Naag, R/o M.No. 02, N.H. 30, Main Road, Chinouri, Ward No. 1, Gram Chinouri, Distt. Utter Baster Kanker (C.G.)

... **Respondent(s)**

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| For Petitioner(s) | : | Shri AD Kuldeep, Advocate. |
| For State | : | Dr. Arham Siddiqui, PL. |

Hon'ble Mr. Justice Amitendra Kishore Prasad
Order on Board

17/06/2026

1. This Writ Petition has been filed against the letter dated 23.09.2022 issued by the Chhattisgarh State Backward Class Commission whereby the Commission has intimated the recommendation made in its meeting dated 04.02.2022 in Case No.784 of 2020.



2. Necessary facts of the case are that the petitioner is having dealership of Harvester machine (Preet Company) and doing his business at Durg Distt. Durg (C.G.). Respondent no.3 booked one harvester machine model no. 4949 for an amount of Rs 21 Lakhs on 31.07.2020. Rs. 30,000/- was also paid by respondent no.3 as advance to the above sale. Respondent no.3 also agreed to pay the remaining amount of Rs. 20,70,000/- upto 10.08.2020. The petitioner informed Respondent no.3 that there might be some delay in delivery of the said vehicle due to Covid-19. Respondent no.3 could not get approved of finance from the Bank, therefore, payment was not made to the petitioner and in the month of September 2020, when Respondent no.3 got the loan financed, the same was paid to the petitioner and on 13.10.2020 the above vehicle was available at the petitioner's shop and the was ready for delivery to respondent no.3 who was informed accordingly. Respondent no.3 later on cancelled the deal, due to which the petitioner sustained financial loss. The petitioner has no fault in cancelling the deal but respondent no.3 submitted applications before various authorities including respondent no.1 with a view to harass the petitioner and raising illegal demand from the petitioner and police complaint was also made. As the respondent no.3 made an application before the respondent no.1, the petitioner submitted his reply narrating all the facts and prayed for dismissal of complaint. Respondent no.1 without considering the detailed reply vide impugned proceedings in



the meeting held on 04.02.2022 made recommendation for recovery of Rs. 1,26,500/- to respondent no.2 from the petitioner which is illegal, against the law as the commission has no authority to decide such types of disputes and further the Commission communicated the same to the petitioner vide letter dated 23.09.2022.

3. Learned counsel for the petitioner submits that the Commission has directed Respondent No.2 to recover Rs.1,26,500/- from the petitioner and pay the same to Respondent No.3. He submits that the Commission is having no authority to pass such an order. The Commission is only vested with recommendatory powers, however, the Commission in the disguise of recommendation has passed order for recovery from the petitioner, which is not in accordance with law. As such, the impugned proceeding culminating in letter dated 23.09.2022 may kindly be quashed/set aside.
4. On the other hand, learned State counsel submits that the petitioner has not made proper party to this Petition, however, they have filed their reply in which they have categorically stated that impugned recommendation is only recommendatory in nature and not binding and thus it cannot be said that the Commission has in any way exceeded its jurisdiction while passing such a recommendation.
5. I have heard learned counsel for the parties and perused the documents available with the petition carefully.
6. In the case at hand, the petitioner is a dealer of harvester machines in



the name of Preet company at Durg, Chhattisgarh. Respondent No. 3 booked a Harvester Machine (Model No. 4949) on 31.07.2020 for ₹21,00,000/- and paid an advance of ₹30,000/-, agreeing to pay the balance amount by 10.08.2020. Due to non-approval of bank finance, Respondent No. 3 failed to make payment within the stipulated time. The petitioner had also informed Respondent No. 3 that delivery might be delayed owing to the COVID-19 pandemic.

7. After obtaining finance in September 2020, Respondent No. 3 made payment, and the harvester machine became available for delivery on 13.10.2020. The petitioner informed Respondent No. 3 accordingly; however, Respondent No. 3 cancelled the transaction, causing financial loss to the petitioner.
8. Thereafter, Respondent No. 3 filed complaints before various authorities, including Respondent No. 1. The petitioner submitted a detailed reply denying any fault on his part and sought dismissal of the complaint. However, in meeting dated 04.02.2022, Respondent No. 1 directed Respondent No.2 to make recovery of ₹1,26,500/- from the petitioner and pay the same to Respondent No.3.
9. It would also be apt to quote Section 9 of the Adhiniyam 1995 which provides for Functions of the Commission:-

"9. Functions of the Commission.-(1) It shall be the function of the Commission-

(a) to act as watch-dog commission for the protection afforded to the members of the backward classes under



the Commission and under any other law for the time being in force;

(b) to watch the proper and timely implementation of programmes meant for the welfare of backward classes and to suggest improvement in such programmes of the State Government or any other body or authority responsible for implementation of such programmes;

(c) tender advice regarding reservation for backwards classes in public services and for admission in educational institutions;

(d) to examine requests for inclusion of any of the citizens as backward classes in the list prepared by State Government from time to time for purpose of making proviso for the reservation in appointments in the posts and hear complaints of overinclusion or under-inclusion of any backward class in such lists and tender such advice to the State Government as it deems appropriate;

(e) ascertain the category of person or groups falling under the creamy layer within the backward classes;

(f) to perform such other functions as may be assigned to it by the State Government.

(2) The advice of the Commission shall, ordinarily be binding upon the State Government; where, however, the Government does not accept the advice, it shall record its reasons therefor."

10. From perusal of the provisions of the Adhiniyam, 1995, specifically Section 9, it appears that the Commission's role is essentially advisory and recommendatory in nature. Its advice is ordinarily binding on the State Government, though the Government may depart from it by recording reasons for doing so. However, in the present case, while



usurping the powers of the competent authority, it seems that the Commission has passed a recovery order as it directed the Respondent No.2 to recover the amount of Rs.1,26,500/- from the petitioner and pay the same to Respondent No.3 which, in the opinion of this Court cannot be said to be recommendatory in nature.

11. In the matter of **All India Indian Overseas Bank Scheduled Castes and Scheduled Tribes Employees Welfare Association vs. Union of India** {(1996) 6 SCC 606} , the Hon'ble Supreme Court after examining the provisions of Article 338 of the Constitution held as under:-

“5. 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 the Article 338 of the Constitution.

6. Sub-clause (a) to (f) of clause (8) clearly indicate that 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.

7. It will be interesting to observe that the Commissions of Inquiry Act, 1952 grants similar powers to the Commission of Inquiry. Section 4 and sub-sections (4) and (5) of Section 5 of the Commissions of Inquiry Act, 1952 which confer such powers are quoted below:

“4. Powers of Commission - The Commission shall have the powers of a Civil Court, while trying a suit under the



Civil Procedure Code, 1908 (Act V of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person 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 or documents;

(f) any other matter which may be prescribed.

5. (4) The Commission shall be deemed to be a Civil Court and when any offence as is described in Section 175, Section 178, Section 179, Section 180 or Section 228 of the Penal Code, 1860 (Act XLV of 1860) is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1898 (Act V of 1898), forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under Section 482 of the Code of Criminal Procedure, 1898.....

12. In the matter of the **State of Punjab And Another vs. Punjab State Commission for Scheduled Castes and Others** reported in {2025 SCC OnLine P & H 17400} , Punjab and Haryana High Court held in paragraph 15 as under:-

15. To the same effect is the judgment of a Division Bench of the Delhi High Court in *Anju Bala v. Municipal Corporation of Delhi* (LPA 1051 of 2024 & CM APPL.61576 of 2024) decided on 21.10.2024 : Law



Finder Doc Id # 2658131. In the said judgment it has been held as under:—

“7. Having heard the learned counsel for the appellant, this Court is of the view that the present appeal is completely misconceived. The basic premise of the present appeal as well as the underlying application in the writ petition is untenable in law insofar as the NCSC is not empowered to “investigate” or issue any directions in the nature of a civil or criminal Court. A bare perusal of Article 338 of the Constitution reveals that the limited powers of a Civil Court can be exercised by the commission in furtherance of an investigation into matters relating to the safeguards provided for the Scheduled Castes. One of us, Manmohan, J., in Union of India v. National Commission for Scheduled Castes, 2014 SCC OnLine Del 3324, has after taking into consideration the judgment of this Court in Municipal Corporation of Delhi v. Lal Chand, W.P.(C) 5468/2011 as well as All India Indian Overseas Bank SC and ST Employees' Welfare Association v. Union of India, (1996) 6 SCC 606 and Karnataka Antibiotics v. National Commission for SC & ST, 2008 SCC OnLine Kar 205 : ILR 2008 Kar 3305 has held, “this Court is of the opinion that the Commission under Article 338 of the Constitution is not an adjudicatory body which can issue binding directions of injunction orders. This Court is of the view that the views of the Commission are recommendatory in nature and cannot be equated with decrees/orders passed by Civil Courts which are binding on the parties and can be enforced and executed. Commission's reports are not alternative to the hierarchical judicial system envisaged under the Constitution of India”

8. Further, the nature of orders passed by the Commission can only be recommendatory and not directory as is in the present case.”

13. The Supreme Court in **All India Indian Overseas Bank Scheduled Castes and Scheduled Tribes Employees Welfare Association** (supra)



has held that the conferment of certain powers of a Civil Court for the purpose of investigation or inquiry does not convert the Commission into a Civil Court. Similar views have been reiterated in subsequent judicial pronouncements holding that recommendations of such Commissions are not enforceable decrees or binding adjudicatory orders.

14. In the present case, the Commission, while dealing with a dispute arising out of a commercial transaction, directed recovery of ₹1,26,500/- from the petitioner and payment thereof to Respondent No.

3. Such a direction travels beyond the scope of the statutory powers vested in the Commission and cannot be treated as a mere recommendation. The Commission has thus acted in excess of its jurisdiction.

15. For the foregoing , impugned proceedings in the meeting dated 04.02.2022 are hereby quashed/set aside and accordingly, the Writ Petition is **allowed**.

**Sd/-
(Amitendra Kishore Prasad)
Judge**