



CGHC010188192021



2026:CGHC:39308

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 3240 of 2021

1 - Mrigesh Kumar Yadav S/o Kartik Ram Yadav Aged About 39 Years R/o Village-Jhagarha, Post- Risdi, P.S.- Balco, District- Korba, Chhattisgarh.

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through Secretary, Higher Education Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, Nawa Raipur, District- Raipur, Chhattisgarh.

2 - Chhattisgarh State Anusuchit Jati Aayog Through Its Secretary, Saksharta Chowk, Near Police Head Quarters, Civil Lines, Raipur, District- Raipur, Chhattisgarh.

3 - Superintendent Of Police Korba, District- Korba, Chhattisgarh., District : Korba, Chhattisgarh

4 - Incharge Of Police Station Ajak, Korba, District- Korba, Chhattisgarh.

5 - Kumari Deepmala Guleri D/o Bhagat Guleri C/o Shri Sharda Prasad Patle, R/o Near Bazar Chowk, Urga, Post Office- Kudurmali, Urga, Korba, District- Korba, Chhattisgarh.

... Respondent(s)

For Petitioner(s)	: Shri Kabeer Kalwani appears on behalf of Shri Anurag Singh, Advocates.
For State/respondent	: Shri Anway Tiwari, PL.
For Respondent No.2/Scheduled Caste Commission	: Ms. Purnima Singh, Advocate.

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

08/09/2026

1. This Writ Petition has been filed against the impugned recommendation dated 16.03.2021 (Annexure P/1) made by Chhattisgarh State Scheduled

Castes Commission, to register FIR against the petitioner as the Commission found the charge levelled against the petitioner under Section 3 (1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 to be proved.

2. Brief facts of the case are that petitioner is holding the post of Assistant Professor and was appointed by the State Government vide its order dated 23.11.2012. He is posted at Government College, Barpali, Korba, District Korba and is discharging its duties and obligations at the most satisfaction of its superiors. Petitioner is facing the different enquiries due to the complaint made by the private respondent who was caught red handed while cheating in the examination, by the petitioner and one Khushboo Tiwari. Thereafter, the complainant/Respondent No.5 made a complaint to Rajya Anusuchit Jati Ayog, Raipur. It is apparent on the face of the complaint that allegations were levelled against the petitioner that petitioner is pressurizing the complainant on the pretext that she is cheating in the examinations. The Ayog issued a notice to the petitioner on 21.1.2020. The petitioner has submitted the detailed reply on 03.02.2020. In the reply the petitioner has disclosed all the materials including the fact that on the similar allegations the investigation was carried out and the complaint has been found to be false, even the documents were supplied to the Ayog. However, the Aayog proceeded to pass the impugned recommendation directing registration FIR against the petitioner.
3. Learned counsel for the petitioner submits that under the garb of recommendation, the Aayog has passed an order directing registration of FIR against the petitioner. He submits that the Aayog in the impugned

recommendation has very explicitly found the charges levelled against the petitioner under Section 3 (1) of the Act, 1989 to be proved thereby usurping the jurisdiction of a criminal court and as such, by no stretch of imagination, the impugned recommendation could be held to be a recommendatory one.

4. Learned counsel for Respondent No.2/Aayog submits that the Aayog has only made a recommendation for registration of an FIR. She submits that looking to the seriousness of the complaint against the petitioner, the said recommendation was made that too after considering each and every aspect of the matter in detail as the impugned recommendation comprises of 17 leaves, as such, it cannot be said that recommendation of Aayog is not in accordance with law. She further submits that reading of sub-section (1) of Section 9 of the Scheduled Castes Commission Act, 1995 would show that the function of the Commission is to protect the interest of the members of the Scheduled Tribes particularly the protection afforded to them under the Constitution or other law for time being in force and to ensure timely implementation of programme meant for the members of the Scheduled Tribes. By virtue of sub-section (2) of Section 9 of the Act, 1995, advice of the Commission is ordinarily binding upon the Government and as the advice is recommendatory in nature, therefore, the petitioner's contention is not sustainable as the commission has only recommended to take action against the petitioner according to the law and procedure established. Learned counsel also submits that complainant/respondent no.4 has stated in point no.5 of the complaint that the petitioner was harassing her over a cheating case and willfully didn't disclosed it to the authorities so that he can take advantage of the same to sexually harass the complainant, on enquiry it was

found out that the petitioner has deliberately and willfully not submitted complainant case to the principal on 24.10.2019, the principal has also warned petitioner that the complaint/action regarding cheating case of complainant/respondent no.4 should have been done at the same day so that it would have been easier to ascertain the matter, not at the belated stage, which clarifies the mental intention of the petitioner to harass her in lieu of the blackmailing to save her from the cheating case.

5. I have heard learned counsel for the parties and perused the documents annexed with the petition carefully.
6. Hon'ble Supreme Court in the case of **Bhabani Prasad Jena Vs. Convenor Secretary, Orissa State Commission for Women and Anr. (2010) 8 SCC 633**, while dealing with the powers and jurisdiction of State Women Commission has observed thus:-

“9. It would be seen from Section 10 of the 1993 Act that the State Commission has been authorized to take up studies in respect of economic, educational and health situation of the women of the State and also the working conditions of women in the factories, establishments, construction sites and make its recommendations to the State Government. The State Commission is empowered to compile information in respect of the offences against women and to coordinate with the State Cell and District Cells for atrocities against women. Further, the State Commission is competent to receive complaints in respect of the matters specified in Section 10(1)(d) and take up the grievances raised in the complaint/s with the concerned authorities for appropriate remedial

measures. The State Commission is also given role of assisting, training and orienting the non-Government organizations in the State in legal counselling of poor women and enabling such women to get legal aid. Under Clause (f) of Section 10(1), the State Commission is authorized to inspect or cause to be inspected, a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise and take up with the concerned authorities these matters for remedial action.

10. In other words, the State Commission is broadly assigned to take up studies on issues of economic, educational and healthcare that may help in overall development of the women of the State; gather statistics concerning offences against women; probe into the complaints relating to atrocities on women, deprivation of women of their rights in respect of minimum wages, basic health, maternity rights, etc. and upon ascertainment of facts take up the matter with the concerned authorities for remedial measures; help women in distress as a friend, philosopher and guide in enforcement of their legal rights. However, no power or authority has been given to the State Commission to adjudicate or determine the rights of the parties.”

7. Recently, in the matter of **Mumbai Port Authority vs. National Commission for Scheduled Caste and Others** reported in {2026 SCC OnLine 1398}, the Hon'ble Supreme Court in paragraph 9 has observed as under:-

9. We are of the considered view that the Division Bench fell in error in holding that the directions issued

by NCSC in its order dated 23.10.2024 were within the scope of powers provided under the Constitution. The legislature has been quite categorical in the powers of the Civil Court that have been extended to the NCSC. The word used is “namely” whereunder certain powers have been enumerated. That indicates the limited scope of the powers granted to it. It is therefore clear that while it has powers to requisition documents and receive evidence it does not have the power to make an order in furtherance of that evidence. In other words, NCSC can record a factual finding and then ask the concerned Government, either the Centre or the State to act thereupon. At this stage it would be appropriate to refer to the submission of the NCSC which states that the word “safeguards” is an enforcement limb of Sub-article (5). Such a submission is difficult to accept in view of the explicit language of the Article. It certainly does not confer adjudicatory power, at best recommendatory in nature. The power provided is to inquire into the deprivation of “rights and safeguards” of the Scheduled Castes. The use of the word “and” indicates that rights and safeguards are to be read together as a bundle.

8. In **Bhabani Prasad Jena v. Convenor Secretary, Orissa State Commission for Women and Another**, reported in (2010) 8 SCC 633, the Hon'ble Supreme Court, while considering the scope of powers of the State Commission for Women, observed that although the Commission is empowered to receive complaints, inquire into grievances and take up matters with the concerned authorities for remedial measures, no power or authority is conferred upon it to adjudicate or determine the rights of the parties.

9. The aforesaid principle has also been reiterated by the Hon'ble Supreme Court in **Mumbai Port Authority v. National Commission for Scheduled Castes and Others**, reported in 2026 SCC OnLine SC 1398, wherein the Supreme Court considered the extent of powers available to the National Commission for Scheduled Castes. The Court held that the conferment of certain powers of a civil court upon the Commission is limited to the matters specifically enumerated by the relevant constitutional provision. Such powers enable the Commission to requisition documents, receive evidence and record factual findings, but do not confer upon it the authority to pass an order in furtherance of such evidence so as to adjudicate the rights of the parties. The role of the Commission, at the highest, remains recommendatory in nature.
10. In this regard, the Hon'ble Supreme Court in the matter of **All India Indian Overseas Bank SC and ST Employees' Welfare Association and Others v. Union of India and Others**, {(1996) 6 SCC 606} has held in paragraph 10 as under:-

“10. Interestingly, here, in clause (8) of Article 338, the words used are “the Commission shall ... have all the powers of the Civil Court trying a suit”. But the words “all the powers of a Civil Court” have to be exercised “while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause 5”. All the procedural powers of a civil court are given to the Commission for the purpose of investigating and inquiring into these matters and that too for that limited purpose only. The powers of a civil court of granting injunctions, temporary or permanent, do not inhere in the Commission nor can such

a power be inferred or derived from a reading of clause (8) of Article 338 of the Constitution.”

11. Further, the Hon'ble Supreme Court in the matter of **Shridhar C. Shetty (DECEASED) THROUGH LEGAL REPRESENTATIVES v. Additional Collector And Competent Authority And Others, {(2020) 9 SCC 537}** held in paragraph 19 as under:-

“19. It being a pure question of law, the facts being undisputed, we see no reason not to allow the appellant to raise the same before us for the first time. The competent authority under the Act could have certainly withdrawn the exemption in the event of breach along with all its attendant consequences. Failure to do so did not deprive the statutory authority of its powers to proceed appropriately under the Act. But the competent authority being a creature of the statute under Section 2(d) of the Act, cannot act beyond its statutory jurisdiction and the exercise of its powers shall remain circumscribed by the provisions of the Act. Any undertaking by the appellant cannot expand the statutory jurisdiction of the competent authority. The demand for the market value of the remaining seven tenements, falling outside the purview of the Act, cannot be construed as money due to the Government so as to vest in it the nature of an arrears of land revenue recoverable under Section 265 of the Maharashtra Land Revenue Code, 1966. We have, therefore, no hesitation in concluding that the impugned demand is dehors the provisions of the Act and unsustainable being beyond the statutory powers of the competent authority and thus arbitrary.”

12. Having heard learned counsel for the parties and after keeping in view the observations of the Hon'ble Supreme Court in aforecited cases, as also perusing the impugned recommendation, it appears that the Aayog has

exceeded its jurisdiction as it has explicitly stated in the impugned order that charge against the petitioner under Section 3 (1) of the Act, 1989 is proved which is perhaps beyond the jurisdictional scope of the Aayog as the same rests with the criminal Court.

13. In the result, the Writ Petition is **allowed**.

Sd/-

(Amitendra Kishore Prasad)
Judge

Avinash