



*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION*

CRIMINAL WRIT PETITION (STAMP) NO.903 OF 2024

Abasaheb Anandrao Patil
Age-51 Yrs, Occu-Service,
Presently working as,
Police Inspector at Crime Branch,
Unit-1, Vashi, New Mumbai,
R/o-1606, Shri. Gopinath Sublime,
Parsik Nagar, Kalwa, Thane.

... Petitioner

Versus

1. The State of Maharashtra
Through the Principal Secretary
Home Dept. Mantralaya, Mumbai.
2. The Director General of Police
For the State of Maharashtra,
Shamaprasad Mukharji Chowak,
Mumbai-01.
3. The Superintendent of Police, Raigad
Having his office at
Alibagh, Dist-Raigad.
4. Smt. Sarita Mahadev Shedge
Age-60 Yrs, Occu-Agri,
R/o-Chandhave Bk, Tal-Mahad,
Dist-Raigad.

...Respondents

Mr. Shekhar Ingawale i/b Mr. Anand S. Patil, for the Petitioner.

Ms. Gauri S. Rao, A.P.P for the Respondent Nos.1 to 3-State.

Mr. Rupesh Shinde, for the Respondent No.4.

*CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.*

DATE : 9th AUGUST 2024

ORAL JUDGMENT (Per Revati Mohite Dere, J.):

1. Heard learned counsel for the parties.

2. Rule. Rule is made returnable forthwith, with the consent of the parties and is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent Nos.1 to 3–State. Mr. Shinde, waives notice on behalf of the respondent No.4.

3. By this petition, the petitioner has impugned the order dated 6th July 2022 passed by the Hon’ble Member, Maharashtra State Human Rights Commission in particular recommendations made in clauses ‘b’ and ‘c’ as well as the order dated 26th April 2023 passed by the said Commission in Review Application No.5059 of 2022.

4. The principle grievance of the learned counsel for the petitioner is that the Maharashtra State Human Rights Commission has passed the impugned order dated 6th July 2022, on the basis of the statements of several witnesses and doctor, without issuing notice to the petitioner and without hearing the petitioner, in clear breach of the principles of natural justice. He submits that admittedly the petitioner was not heard by the Maharashtra State Human Rights Commission before passing the impugned order dated 6th July 2022. This according to the learned counsel for the petitioner has led to serious miscarriage of justice. Learned Counsel for the petitioner further submits that it is only after the impugned order dated 6th July 2022 was passed that the petitioner, learnt of the impugned order dated 6th July 2022, by which the Maharashtra State Human Rights Commission (i) directed the petitioner to pay compensation of Rs.2,00,000/- to the complainant-Sarita Shedge and (ii) directed the office of the DGP, Mumbai, to lodge a departmental enquiry against the petitioner and others, for gross negligence. Mr. Ingawale further submits that it was incumbent for the Maharashtra State Human

Rights Commission to issue summons as mandated under Section 16 of the Protection of Human Rights Act.

5. Learned APP fairly states that the petitioner ought to have been heard before the impugned order dated 6th July 2022 was passed. She further fairly states that the Maharashtra State Human Rights Commission has not complied with Section 16 of the Protection of Human Rights Act.

6. Learned Counsel for the respondent No.4 opposes the petition. He submits that no interference was warranted in the impugned orders.

7. Perused the petition. It appears that respondent No.4 - Sarita Shedge (original complainant) had filed a complaint before the Maharashtra State Human Rights Commission in 2017 expressing suspicion vis-a-vis the death of her son and non-investigation of the same by the police, despite her son having died under mysterious circumstances. According to the complainant, the police registered a

case of 'Accidental Death' i.e. a case of 'Death by rash and negligent driving by an unknown driver of the vehicle' and as such did not investigate the case properly. The learned Member, Maharashtra State Human Rights Commission vide the impugned order dated 6th July 2022 considering the said complaint made the following recommendations:-

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- a) *Director General of Police, Mumbai to order registration of offence u/s. 302 IPC against the culprit Shri Dilip Kamble by deleting offences u/s. 304A, 279 IPC, under crime no. 62/16, to Sec. 302, 201 IPC. Investigation should be entrusted to a senior police officer of the rank of Superintendent of Police;*
- b) *Compensation of Rs.2,00,000/- awarded to complainant Smt. Sarita Mahadeo Shedge to be paid by the erring police officer ACP Shri Aabasaheb Anandrao Patil, Anti Corruption Division, Mumbai and retired PI Shri Nandkishore Digambar Saste jointly and severally within six weeks from the date of receipt of this order, failing which amount to be recovered by the office of DGP, Mumbai, with simple interest of 12% p/a. from the date of order till its full realization;*
- c) *Office of DGP, Mumbai to consider launching of departmental enquiry against the erring police officers entrusted with investigation of the crime for gross negligence in registering a proper crime against the culprit and for having made incorrect submissions before the*

High Court as observed by the Commission in its previous orders supra above;

- d) *Office of Secretary attached with this Commission to forward the copy of the order to the office of DGP, Mumbai and ACS Home for information and necessary action in accordance with the provisions of sec. 18(e) of the Act of 1993 a/w Reg. 22 to 24 of the Maharashtra State Human Rights (Procedure) Regulations, 2011.”*

(Emphasis supplied).

8. It appears that the petitioner learnt of the said order only when notice was issued to the petitioner for complying with the same i.e. Clauses – ‘b’ and ‘c’ of the order dated 6th July 2022. Pursuant thereto, the petitioner filed a Review Application before the Maharashtra State Human Rights Commission. The said Review Application was dismissed by the learned Member, Maharashtra State Human Rights Commission vide order dated 26th April 2023.

9. By the impugned order dated 6th July 2022, compensation was awarded to the complainant, which is to be paid by the petitioner. As noted aforesaid, admittedly, the petitioner was not heard, much less

notice was issued to the petitioner in the said proceeding/complaint. We find that principles of natural justice have not been complied with and that the Maharashtra State Human Rights Commission ought to have issued notice to the petitioner, having regard to the nature of allegations.

10. Considering the aforesaid, the petition is allowed to the extent as stated hereinunder:-

ORDER

- (i) Recommendations made in Clauses – ‘b’ and ‘c’ of the impugned order dated 6th July 2022 passed by the Maharashtra State Human Rights Commission, are quashed and set aside;
- (ii) Consequently, the order dated 26th April 2023 passed by the Maharashtra State Human Rights Commission, in Review Application No.5059 of 2022, is also quashed and set aside;
- (iii) The matter is remitted back to the Maharashtra State Human Rights Commission, for fresh consideration, after hearing the petitioner and other officers;

- (iv) Before hearing the matter on merits, the Maharashtra State Human Rights Commission is requested to give notice to the petitioner and other officers for issuing directions as regards grant of compensation and/or departmental enquiry to be initiated against them;
- (v) The Maharashtra State Human Rights Commission after hearing the parties, to decide afresh uninfluenced with the findings recorded in the impugned order and the recommendations made in clauses – ‘b’ and ‘c’. The Maharashtra State Human Rights Commission is further requested to return its findings afresh, particularly in respect of clauses – ‘b’ and ‘c’.

11. The Petition is allowed to the extent aforesaid and is accordingly disposed of. Rule is made absolute in the aforesaid terms.

12. We make it clear, that we have not gone into the merits of the case, and as such, keep all contentions of all parties open.

All concerned to act on the authenticated copy of this judgment.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.