



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH



DATED THIS THE 17TH DAY OF JULY, 2025

BEFORE

THE HON'BLE MR. JUSTICE S RACHAIAH

WRIT PETITION NO. 200873 OF 2024 (GM-RES)

BETWEEN :

1. VIJAY MAHANTESH MATHAPATI
AGE 42 YEARS, OCC: CPI
GOLGUMBAZ CIRCLE
R/O VIJAYAPURA 586 101
2. MALLIKARJUN Y TALAWAR
AGE 32 YEARS
OCC: PSI (L AND O)
JALANAGAR
R/O VIJAYAPURA 586 101
3. BASAVARAJ NARALE
AGE 42 YEARS
OCC: PSI CRIME
GANDHI CHOWK
R/O VIJAYAPURA 586 101
4. DEVARAJ ULLAGADDI
AGE 32 YEARS
OCC: PSI (L AND O)
APMC P.S.
R/O VIJAYAPURA 586 101
5. B M PAWAR
AGE 57 YEARS
OCC: ASSISTANT SUB INSPECTOR
JALANAGAR POLICE STATION,





R/OF VIJAYAPURA -586 101

6. Y R MANKANI
AGE 38 YEAR
OCC:HEAD CONSTABLE
JALANAGAR POLICE STATION
R/OF VIJAYAPURA 586 101
 7. GUDIMANI
AGE 43 YEARS
OCC:HEAD CONSTABLE
GANDHI CHOWK P.S
R/O VIJAYAPURA 586 101
 8. SHIV ALLIGIDAD
AGE 39 YEAR
OCC: CONSTABLE G.C.P.S,
R/OF VIJAYAPURA 586 101
 9. H D ANANDKUMAR
AGE 52 YEARS
OCC: SUPERINTENDENT OF POLICE
R/OF VIJAYAPURA 586 101
- ... PETITIONERS
- (BY SRI V.M. SHEELAVANT AND
SRI SANJAY KULKARNI, ADVOCATES)

AND:

1. STATE OF KARNATAKA
BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF
LAW AND PARLIAMENTARY AFFAIRS
VIDHANA SOUDHA
BENGALURU 560 001
2. SAYAD ASIFULLA
S/O SAYAD KHADAR BASHA KADRI
AGE 42 YEARS
OCC: ADVOCATE
R/O FAIZ-E-ASAM COLONY



BEHIND NEW ZP OFFICE
VIJAYAPURA 586 101

... RESPONDENTS

(BY SRI MALHARA RAO K., AAG, AND
SRI JAMADAR SHAHABUDDIN, HCGP FOR R1;
SRI ASHOK HARANAHALLI, SENIOR COUNSEL FOR
SRI S.S. MAMADAPUR, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA R/W SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE, PRAYING TO A) ISSUE WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION AND STRUCK DOWN RULE 6 OF KARNATAKA HUMAN RIGHTS COURTS RULES 2006 PRODUCED AT ANNEXURE-F AS UNCONSTITUTIONAL AND INCONSISTENT WITH PROVISIONS OF PROTECTION OF HUMAN RIGHTS ACT, IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 17.03.2025 AT KALABURAGI BENCH, COMING ON FOR 'PRONOUNCEMENT OF ORDER', BEFORE THE PRINCIPAL BENCH AT BENGALURU, THROUGH VIDEO CONFERENCING, THIS DAY, THE COURT MADE THE FOLLOWING:



CORAM: HON'BLE MR. JUSTICE S RACHAIAH

CAV ORDER

(PER: HON'BLE MR. JUSTICE S RACHAIAH)

1. This writ petition is filed by the petitioners seeking for issuance of writ of certiorari or any other appropriate writ, order or direction to strike down Rule 6 of the Karnataka State Human Rights Courts Rules, 2006 as unconstitutional and inconsistent with the provisions of the Protection of Human Rights Act, 1993 (for short 'Act').
2. Further, a direction is sought for in the nature of certiorari or any other writ, order or direction to quash the Crime registered in Crime No.15/2024 of Jalanagar Police Station, Vijayapura, under the provisions of the Karnataka State Human Rights Courts Rules, 2006 r/w 2(d) and Section 30 of the Protection of Human Rights Act, 1993 and further, issue a writ of certiorari or any other appropriate writ, order or direction to quash the entire proceedings pending on the file of the Principal Sessions Judge and Special court, Vijayapura in PCR No.1/2024.



FACTUAL MATRIX OF THE CASE:

3. The respondent No.2 had been apprehended on 12.05.2023 in Crime No.30 of 2023 of Jalanagar Police Station, Vijayapura for the offences under Sections 143, 147, 148, 341, 114, 302 r/w 149 of Indian Penal Code (for short 'IPC') and Section 25 of the Indian Arms Act, 1959. He was produced before the Court. On 19.01.2024, the respondent No.2 filed a private complaint in PCR No.1/2024 before the Principal District and Sessions Judge and Special Judge for Human Rights Court, Vijayapura, stating that the human rights of the respondent No.2 had been violated by the petitioners.
4. The Trial Court, after considering the said private complaint, directed the Superintendent of Police, Vijayapura, to conduct the investigation and submit the report. Being aggrieved by the same, the petitioners are before this Court seeking to quash the entire proceedings and also challenging the validity of Rule 6 of the Karnataka State Human Rights Courts Rules, 2006.



5. Heard Sri V.M. Sheelavant and Sri Sanjay Kulkarni, learned counsel for the petitioners, Sri Malhara Rao K., learned Additional Advocate General and Sri Jamadar Shahabuddin, learned High Court Government Pleader for respondent No.1 and Sri Ashok Haranahalli, learned Senior Counsel for Sri S.S.Mamadapur, learned counsel for the respondent No.2.
6. It is the contention of the learned counsel for the petitioners that the Protection of Human Rights Act, 1993 is a Central legislation dealing with the offences of violation of human rights. The Central Government has formed the Human Rights Commission at the Central level. The State Government had also formed a similar Commission at the State level as well. If any such grievance in respect of violation of human rights, the parties have to approach the Human Rights Commission at first instance and such complaints have to be dealt with by the Commission. Thereafter, those complaints would be forwarded to the Court for adjudication. The said procedure has to be followed as per the provisions of the Act.



7. It is further submitted that, the powers vested under the Act to the respective States have been envisaged under Section 41 of the Act, which deals with 'Power of State Government to make Rules'. Under such Rules, the Government without prejudice to the generality of the foregoing power, it has to deal with only the salaries and allowances, administrative conditions, annual statement of accounts etc. However, the power of the Government to make laws inconsistent with the Central Act cannot be permitted. Such being the fact, enacting Rule 6 of the Karnataka Human Rights Courts Rules, 2006 certainly would be *ultra vires* and the same has to be struck down. Further, learned counsel for the petitioners sought to quash the order of referring the private complaint to the Superintendent of Police, Vijayapura, for investigation. Making such submissions, learned counsel for the petitioners prays to allow the petition.
8. *Per contra*, Sri Ashok Haranahalli, learned Senior Counsel for respondent No.2, vehemently controverted the said submissions and he further submitted that, Section 41 of



the Act provides the power to the State Government to make rules. Accordingly, the Government has taken necessary steps in enacting Rule 6 of the Karnataka State Human Rights Courts Rules, 2006.

9. The said Rules were published in the official gazette dated 25.01.2006. The Karnataka State Human Rights Courts Rules, 2006 contained seven Rules. Rule 2 defines the definition of 'Act', 'Code', 'Court' and 'Section'. When the Act itself provided certain benefits to the State to make Rules in order to secure the protection of human rights to the citizens, enacting Rules cannot be said to be *ultra vires* or contrary to the Act or Central enactment.
10. It is further submitted that, the complainant / respondent No.2, being aggrieved by the violation of human rights by the accused / petitioners, had approached the Court by filing the private complaint and sought for investigation to be carried out by the concerned authority. Accordingly, the Court referred the matter under Section 156(3) of the Code of Criminal Procedure to the Superintendent of Police, Vijayapura, for investigation.



The same is appropriate and there is no error committed by the Court in referring the matter for investigation. Hence, the petition has to be rejected. Making such submissions, learned Senior Counsel for respondent No.2 prays to reject the petition.

11. To substantiate his arguments, learned Senior Counsel relied on the judgments of various Courts as follows:

1. *K.Dhamodharan vs. R.V.Narbabi*¹
2. *Mr.Raiklal M. Gangani Vs. Govt. Goa*²
3. *St.Johns Teachers training institute Vs. Regional Director, national council for teachers education*³
4. *BSNL Vs. Telecom Regulatory Authority if India and Others*⁴

12. Sri Malhara Rao K., learned Additional Advocate General for respondent No.1, adopted the arguments of learned Senior Counsel for respondent No.2 and prays for rejection of the petition.

¹ 2006 SCC Online Mad 1640

² 2004 SCC Online Bom 1118

³ (2003) 3 SCC 321

⁴ (2014) 3 SCC 222



13. Having heard learned counsel for the respective parties, now, it is relevant to refer Section 2(d) of the Act, which reads thus:

Section 2(d) "Human Rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.

14. On careful reading of the above said provision, it makes it clear that, when the rights relating to life, liberty, equality and dignity of individuals guaranteed by the Constitution are violated, the aggrieved party or victim or the person assigned the work by the victim is empowered to lodge a complaint before the Commission. Whether the victim can directly lodge a complaint before the Court established under Rule 6 of the Karnataka State Human Rights Courts Rules, 2006 directly or before the Commission, is the moot question to be decided.
15. The Central Act on Human Rights has been enacted with an intention to deal with violation of human rights. The Act provided certain privileges to the States to make Rules in consonance with the Act. It is also relevant to



take note of the fact that the victim has to lodge a complaint before the Commission, either State or Central, being aggrieved by the violation of human rights.

16. It is relevant to refer Sections 13 and 14 of the Act, which reads as under:

13. Powers relating to inquiries.—(1) The Commission shall, while inquiring into complaints under this Act, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), and in particular in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of witnesses and examining them on oath;

(b) 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.

(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such



points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code (45 of 1860).

(3) The Commission or any other officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973 (2 of 1974), in so far as it may be applicable.

(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 Indian Penal Code (45 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, 1973 (2 of 1974), 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 has



been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.

(5) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code (45 of 1860), and the Commission shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

1 [(6) Where the Commission considers it necessary or expedient so to do, it may, by order, transfer any complaint filed or pending before it to the State Commission of the State from which the complaint arises, for disposal in accordance with the provisions of this Act:

Provided that no such complaint shall be transferred unless the same is one respecting which the State Commission has jurisdiction to entertain the same.

(7) Every complaint transferred under sub-section (6) shall be dealt with and disposed of by the State Commission as if it were a complaint initially filed before it.]

14. Investigation.—(1) The Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilise the services of any officer or investigation agency of the Central



Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.

(2) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilised under sub-section

(1) may, subject to the direction and control of the Commission,—

(a) summon and enforce the attendance of any person and examine him;

(b) require the discovery and production of any document; and

(c) requisition any public record or copy thereof from any office.

(3) The provisions of section 15 shall apply in relation to any statement made by a person before any officer or agency whose services are utilised under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

(4) The officer or agency whose services are utilised under sub-section (1) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission within such period as may be specified by the Commission in this behalf.



(5) The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under sub-section (4) and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit.

17. On conjoint reading of these two provisions, it can be inferred that, the Act itself stipulated certain powers to the Commission to conduct investigation and also inquiry on the complaint lodged by the victim. Further, the Act stipulated that, whatever the procedure required to be followed under the above said two provisions, the Commission has to follow the Civil Procedure Code and the Criminal Procedure Code.

18. Further, it is also relevant to refer Section 17 of the Act which deals with inquiry into complaints, and the same reads as under:

"17. Inquiry into complaints.— The Commission while inquiring into the complaints of violations of human rights may—

(i) call for information or report from the Central Government or any State Government or any



other authority or organisation subordinate thereto within such time as may be specified by it:

Provided that—

(a) if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own;

(b) if, on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly;

(ii) without prejudice to anything contained in clause (i), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.”

19. It is also necessary to take note of the provision under Section 18(a)(ii) of the Act, which reads thus:

18. Steps during and after inquiry.—The Commission may take 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) xxx xxx xxx

(ii) to initiate proceedings for prosecution or such other suitable action as the Commission may deem fit against the concerned person or persons;

20. On conjoint reading of the above said provisions, it makes it clear that, the inquiry has to be conducted by the Commission as if it is a preliminary inquiry and it has to arrive at a conclusion and make a report in that regard to the Government or the Authority. If the Commission feels that it is necessary to refer the report to the concerned authority and also opined that there is a violation of human rights, it has to refer the matter to the Government or authority to initiate proceedings for prosecution or such other suitable action, as the Commission may deem fit, against the concerned person or persons.



21. The dictionary meaning of 'initiate proceedings for prosecution' means the party by whom criminal proceedings are instituted or conducted.
22. When the Commission is empowered to recommend initiating proceedings for prosecution, it amounts to double jeopardy if the victim approaches the Court directly by filing a private complaint. Therefore, enacting Rule 6 of the Karnataka State Human Rights Courts Rules, 2006 appears to be contrary to the provisions of the Act.
23. Unlike other statutes namely, the Prevention of Corruption Act, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Mines and Minerals Development and Regulation Act, the Protection of Human Rights Act had no stand-alone offences to deal with directly by the Courts. Whether the human rights had been violated or not is the task of the Commission and it has to conduct inquiry and arrive at a conclusion that there is a violation of human rights and it has to submit the report to the Government. Thereafter,



the Government has to direct the authority to initiate prosecution upon the erring officials.

24. The striking down of Rule 6 of the Karnataka State Human Rights Courts Rules, 2006 is justified in law and principle for the reason that, the Rule impermissibly expands the scope of Protection of Human Rights Act, 1993 by enabling the private party or victim to file a complaint directly by invoking the jurisdiction of the Court established under Section 30 of the Act by bypassing the provisions of the Act. This would lead to not only disrupting the legislative intent and scheme, but also invading the Central Act. The mechanism of dealing with the complaint has been enumerated in the Act as per Sections 13, 14, 17 and 18 of the Act. The Commission has to refer the matter to the Government on filing the report for further action. Such being the fact, if the said rule is enacted for the purpose of dealing with the complaint directly by the Courts, it undermines the substantial law enacted. The delegation of power to the State by the Central Government is only to make necessary rules as envisaged under Section 41 of the Act.



25. If any Rules are made contrary to Section 41 of the Act or any of the provisions of the main Act, obviously, it becomes not only contrary to the main Act, but also, the principle of the doctrine of eclipse would be applicable. Therefore, the extent to which such rule is made which is contrary to the main Act has to be vitiated.
26. In the light of the observations made above, I am of the considered opinion that, the Rule 6 of the Karnataka State Human Rights Courts Rules, 2006 is unconstitutional and inconsistent with the Protection of Human Rights Act, 1993 and also *ultra vires* the rule making power conferred under Section 41 of the Act.
27. In the light of the observations made above, I proceed to pass the following:

ORDER

- (i) The Writ Petition is *allowed*.
- (ii) Rule 6 of the Karnataka State Human Rights Courts Rules, 2006, is held to be unconstitutional and inconsistent with the provisions of the Protection of Human Rights Act,



1993 and the same is ordered to be struck down.

- (iii) Resultantly, the registration of FIR in Crime No.15/2024 is hereby quashed.
- (iv) The impugned order dated 20.01.2024 passed by the Principal Sessions Judge, Vijayapura, in PCR.No.1/2024 directing the authority to conduct investigation does not survive for consideration.
- (v) This judgment would not have any retrospective effect but would be prospective.
- (vi) In view of the disposal of the petition, pending applications do not survive for consideration and the same are also disposed of.

Sd/-
(S RACHAIAH)
JUDGE