



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

9, Hajarimal Somani Marg, Opp. Chhatrapati Shivaji Terminus (VT), Mumbai - 400 001
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SHRC/VGM/01/2010/ 295
Date: 20th January 2010

Case No. - 4230/2007-08

Name of the Complainant : Ambadas Chityal
People's Activation Front
Shramik Nagar, Savedi
Ahmednagar - 414 003

Date : 20 January 2010

Coram : Justice V G Munshi, Member

ORDER

Read the averments made in the complaint. Heard the President of Peoples Activation Front. Read the case papers.

2. Present complaint is moved against the School Administration. It was alleged that the Respondent wanted to protest against in-action of civic administration in removing a dustbin from the vicinity of School premises. Therefore, on 05.10.2007 they organized a protest march and hunger strike by the students between age of 10 -14 years in front of Municipal Corporation. It was alleged by the complainant small children were forced to walk by the road, they were required to stand that too without food. Thus, there was violation of human rights at the hands of the School Administration. Therefore, the complainant moved the Commission for necessary action in this matter.

3. The relief is not claimed against public servant. Section 12 (a) of the Protection of Human Rights Act, 1993 is reproduced as under.



"The Commission shall perform all or any of the following functions namely,

- (a) inquire suo motu or on a petition presented to it by a victim or any person on his behalf (or on a direction or order of any Court) into complaint of-
- (i) violation of human rights or abatement thereof or
- (ii) negligence in prevention of such violation by a public servant"

It was further pointed out that the expression "public servant" has been defined in Section 2(m) of the Act of 1993 and it reads as under,

'Public servant shall have meaning assigned to it in Sec. 21 of the Indian Penal Code."

A careful reading of the definition of 'public servant' in Section - 21 of IPC shows that the Respondent cannot be said to be a public servant'. Therefore, in view of the bar under clause 8(f) of Maharashtra State Human Rights Commission (Procedure) Regulations, 2001 r/w. Sec.10 of Protection of Human Rights Act, 1993, the Commission cannot entertain such complaint, because allegations are not made against public servant.

High Court, Madras in

2005 INDLAW MAD 259

Santosh Hospitals Private Limited

Vs.

State Human Rights Commission

Tamil Nadu and Others

In similar set of circumstances it was held that,

"Human Rights Act deals with violation of Human Rights by a public servant and not others - Petitioner is surely not a public servant and hence the Human Rights Act will not apply at all."



In view of the principle laid down in above referred decision, the position of law is now very clear and the Commission cannot entertain and decide such matter.

4. Therefore, copy of this complaint be sent to Education Officer - Secondary, Zill Parishad Ahmednagar for information and necessary action. The Commission hopes and trusts that such event /incident is not repeated in future and proper care of the school children is taken and they should not be subjected to any inconvenience.

With these observations and suggestions Case No. 4230/2007-08 is disposed of accordingly.



V. G. Munshi

(Justice V G Munshi)
Member, SHRC