
(2011) 11 UK CK 0028

In the Uttarakhand High Court

Case No : Writ Petition No. 1205 (M/S) of 2010

Alok Kumar

APPELLANT

Vs

Chairman, SIDCUL Enquiry Commission and another

RESPONDENT

Date of Decision : 28-11-2011

Acts Referred:

Commissions of Inquiry (Central) Rules, 1972 — Rule 5, 5(3), 5(4)
Commissions of Inquiry Act, 1952 — Section 3, 5(1), 5(2), 5(4), 5(5)
Constitution of India, 1950 — Article 14, 21

Citation : (2011) 11 UK CK 0028

Hon'ble Judges : Tarun Agarwala, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Hon'ble Tarun Agarwala, J.—In this group of petitions, the petitioners have questioned the validity and legality of the notice issued u/s 8B of the Commissions of Inquiry Act, 1952 (hereinafter referred to as "the Act") by the SIDCUL Enquiry Commission and accordingly, the same are being decided together. For facility, the facts of Writ Petition No. 1205 (M/S) of 2010 are being taken into consideration.

2. It transpires that the State of Uttarakhand issued a notification dated 28th May, 2007 u/s 3 of the Commissions of Inquiry Act, 1952, appointing a Commission of Inquiry for the purpose of making an enquiry into any definite matter of public importance. The terms of the reference of enquiry are as under:

(1) Matters relating to the process followed in actual land allotments in the light of standards specified by the Board of Directors and the Government.

(2) Procedures adopted in respect of infrastructural development keeping in view the established standards and transparency.

(3) Examination of the procedures, agreements and their actual implementation as adopted in the activities of SIDCUL.

(4) Any other irregularities that come to the knowledge of the Commission during the enquiry.

3. Sri Arvind Varma was appointed as a single-member Commission of Inquiry, pursuant to which the Commission of Inquiry issued notices to various persons calling upon persons acquainted or in the knowledge of facts relating to the subject matter of the enquiry. Notices were issued to various individuals calling upon them to furnish to the Commission the requisite information or facts relating to the subject matter of the enquiry by way of affidavits. It transpires that the Commission collected several affidavits and documents and various persons were examined.

4. The petitioner is an IAS officer of 1993 batch of U.P. Cadre and joined the State of Uttarakhand in the year 2001 on deputation as Additional Secretary (Planning). In and around 2004, the petitioner was appointed as Additional Secretary (Industrial Development) and Managing Director of the State Infrastructure Development Corporation of Uttarakhand Limited (SIDCUL) and remained posted as Managing Director of SIDCUL till 9th September, 2006. Subsequently, the petitioner was sent on deputation to the Government of India in the capacity of Deputy Director, Lal Bahadur Shastri National Academy of Administration at Mussoorie. It transpires that upon the formation of the Commission, the petitioner was in USA on study leave. The Commission issued a notice through email on 22nd January, 2010, asking for certain information and clarification from the petitioner, in response to which the petitioner replied through email dated 7th February, 2010. The Commission thereafter issued a notice dated 11th May, 2010 to the petitioner u/s 8-B of the Act indicating therein that the Commission having considered all the documents and other material available with it had considered it necessary to enquire into the conduct of the petitioner and was also of the opinion that the reputation of the petitioner was likely to be prejudicially affected by the enquiry being conducted in terms of the reference of enquiry and therefore, the petitioner was directed that he would be given a reasonable opportunity of being heard in the enquiry and produce evidence in his behalf. By the notice, the Commission directed the petitioner to inspect the documents and material available with the Commission and state his case on affidavit and submit a list of witnesses and produce documents, if any, in support of the petitioner's stand.

5. In response to the said notice, the petitioner inspected the documents in the Commission on 10th June, 2010 and thereafter, filed an application dated 11th June, 2010, asking the Commission to supply the documents. While the enquiry was going on, the petitioner thought fit to file the writ petition challenging the notice dated 11th May, 2010. The ground urged by the learned counsel for the petitioner is, that the notice issued by the Commission u/s 8-B of the Act is patently vague since material particulars are lacking and consequently, the notice is violative of Section 8-B of the Act and Article 14 and 21 of the Constitution of India. The learned counsel for the petitioner submitted that there was no

subjective satisfaction of the Commission nor the subjective satisfaction was indicated in the notice nor the material relied upon by the Commission was indicated in the notice and consequently, the notice was patently vague and was liable to be quashed.

6. On the other hand, the Commission in its counter affidavit submitted that the petitioner had participated in the enquiry without any demur and consequently, the petitioner upon issuance of the notice had succumbed to the authority and therefore, could not challenge the notice at this stage. The Commission contended that the petitioner after participating in the enquiry could not turn around and challenge the legality, propriety and validity of the notice issued u/s 8-B of the Act. The stand of the Commission is, that the only right conferred on a person whose conduct is being enquired is the grant of an opportunity to put forth his version and that the person has been given a right to cross-examine and address the Commission and consequently, the principles of natural justice is being followed.

7. The State of Uttarakhand has supported the stand of the Commission and contended that the petitioner is not a stranger to the enquiry and has participated in the proceedings and can very well carry out the inspection of records, which opportunity was made available to the petitioner.

8. In the light of the aforesaid stand taken by the parties, the Court has heard Sri V.K. Kohli, the learned senior counsel assisted by Sri H.M. Bhatia, the learned counsel for the petitioner in WPMS No. 1205/2010, Sri U.K. Uniyal, the learned senior counsel assisted by Sri Shobhit Saharia, the learned counsel for the petitioner in WPMS No. 346/2011, Sri T.S. Bindra and Sri Arvind Vashisth, the learned counsel for the petitioner in WPMS No. 544/2011, Sri Dharmendra Barthwal, the learned counsel for the respondent No. 1 and Sri Vijay Hansaria, the learned senior counsel assisted by Sri Amit Anand Tiwari, the learned counsel for State of Uttarakhand/respondent No. 2.

9. Before proceeding further, the Court finds that the Commission appointed under the Act does not decide any dispute and that there are no parties before the Commission. There are no lies. The Commission is not a court except for a limited purpose. Consequently, the procedure of the Commission is inquisitorial rather than accusatorial. Yet, for the limited purpose, the Commission is treated as a civil court under sub-section (4) of Section 5 of the Act and the proceedings are treated as quasi-judicial proceedings under sub-section (5) of Section 5 provided a notification is issued under sub-section (1) of Section 5 applying sub-section (2) to (5) of the proceedings before a Commission. Further, the procedure laid down by the Commission u/s 8 of the Act provides that the procedure prescribed in the Code of Civil Procedure, as far as may be, would be followed and the principles of natural justice would be followed as a guide. Consequently, it is apparently clear that the principles of natural justice are applicable in the proceedings before the Commission.

10. Since the validity of the notice has been questioned, it would be appropriate that the notice is extracted hereunder:

Whereas the Government of Uttarakhand, in exercise of powers conferred by Section 3 of the Commissions of Inquiry Act, 1952 (hereinafter called "the Act") has appointed, vide notification no. 590/328/Udoyog/2007 dated May 28, 2007, a single member Commission of Enquiry, consisting of Shri Arvind Varma, for the purpose of making an inquiry into the incidents of serious irregularities in the State Infrastructure Development Corporation of Uttarakhand Ltd. (SIDCUL) ever since its establishment. And Whereas the Commission has been entrusted with the task of inquiring into the following issues and submitting its report to the Government of Uttarakhand:

- (1) Matters relating to the process followed in actual land allotments in the light of standards specified by the Board of Directors and the Government.
- (2) Procedures adopted in respect of infrastructural development keeping in view the established standards and transparency.
- (3) Examination of the procedures, agreements and their actual implementation as adopted in the activities of SIDCUL.
- (4) Any other irregularities that come to the knowledge of the Commission during the enquiry.

2. And Whereas the Commission had, by notification published in several English and Hindi newspapers on July 18 and 19, 2007, issued a public notice that any persons and institutions having knowledge about the aforesaid issues and wishing to provide the same for assisting in the enquiry by the Commission may furnish to the Commission their written statements by post or in person on any working day not later than August 24, 2007 at the Commission's office in Dehradun. While issuing this public notice in terms of Rule 5 of the Commissions of Enquiry Rules, 1972, it had been indicated therein that the provisions of Rule 5(3) and (4) shall be applicable.

3. And Whereas several persons filed their statements and also appeared before the Commission and had their oral statements recorded;

4. And Whereas the Commission had called upon certain persons to appear and furnish the requisite information relating to the subject matter of the enquiry by way of written responses or oral statement.

5. And Whereas the Commission had, in consideration of your extended absence from India and your inability to appear before the Commission in person, communicated to you by e-mail dated January 22, 2010, the items and issues in respect of which clarification was required from you; And Whereas the Commission received your response by e-mail dated February 07, 2010.

6. And Whereas the Commission, having considered all the documents and other material available with it, considers it necessary to enquire into your conduct and

is also of the opinion that your reputation is likely to be prejudicially affected by the enquiry in respect of the terms of reference mentioned at (1), (2), (3) and (4) of paragraph 1 above.

7. Now, therefore, you are hereby given notice u/s 8-B of the Act to give you a reasonable opportunity of being heard in the enquiry and to produce evidence in your defense.

8. You are at liberty to inspect the documents and material available with the Commission at any time during office hours at the head quarters of the Commission at 7 Mantri Awas, Yamuna Colony, New Colony, Dehradun-248001.

9. Please take note that June 17, 2010 is fixed for hearing at the Commission's Office in Dehradun and you are called upon to be present (in appreciation of your being presently out of India, through a duly authorized person, if necessary) before the Commission at 10:30 am on Thursday, June 17, 2010 in response to this notice to state your case on affidavit and submit a list of witnesses and produce documents, if any, in support of your version.

10. Since you are out of the country, this notice is being sent to you electronically by e-mail, on the lines of communications exchanged with you in the recent past.

11. From a perusal of the notice extracted hereinabove, it is clear

(a) that several persons filed their statements and appeared before the Commission and that their oral statements were recorded and that the Commission had also called certain persons to appear and furnish requisite information by way of written response or oral statement, and

(b) that the Commission, after considering all the documents and other material available with it, considered it necessary to enquire into the conduct of the petitioner, and,

(c) that the Commission was also of the opinion that the reputation of the Commission was likely to be prejudicially affected by the enquiry, and

(d) that the Commission gave opportunity to the petitioner of being heard in the enquiry and produce evidence in his defense, and

(e) that the Commission granted time to the petitioner to state his case on affidavits and submit a list of witnesses and produce documents, if any, in support of his version.

The aforesaid notice was issued u/s 8B of the Act. For facility, Section 8B of the Act is extracted hereunder:

8B. Persons likely to be prejudicially affected to be heard.- If, at any stage of the inquiry, the Commission,-

(a) considers it necessary to inquire into the conduct of any person; or

(b) is of opinion that the reputation of any person is likely to be prejudicially affected by the inquiry,

the Commission shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defense:

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

12. From a perusal of the aforesaid provision, it is clear that if the Commission, at any stage of the enquiry, considers it necessary to enquire into the conduct of any person or is of the opinion that the reputation of any person was likely to be prejudicially affected by the enquiry, the Commission would give to the person a reasonable opportunity of being heard and to produce evidence in his defense. It is also clear that the Commission has to be subjectively satisfied and form an opinion that from the material collected and available on record, it forms an opinion that the reputation of any person was likely to be prejudicially affected. Consequently, formation of an opinion is necessary. Such formation of opinion is based on the material evidence placed before the Commission.

13. As a result of the aforesaid, it is clear that where a person is being issued a notice that his conduct is being enquired and that the Commission is of the opinion that his reputation is likely to be prejudicially affected by the enquiry and that he has been directed to produce evidence in his defense with regard to his reputation, it is implicit that the person should be made known and be told of the material which was the basis of forming the requisite opinion by the Commission, inasmuch as, such material and opinion found by the Commission was collected by the Commission itself behind the back of the petitioner. The petitioner has to defend himself with regard to that material and has to participate in the enquiry. Consequently, the material on which the opinion was formed by the Commission must be indicated in the notice, failing which, the very purpose of giving a reasonable opportunity would be rendered nugatory.

14. The opinion formed by the Commission u/s 8-B of the Act acquires accusatorial character and therefore, the same is quasi-judicial in nature. Section 8-B and 8-C of the Act provides an opportunity of hearing to the person whose conduct is being enquired and whose reputation is involved. Section 8-B of the Act envisages that there has to be a formation of opinion by the Commission that his conduct is being enquired and that his reputation is likely to be prejudicially affected by the enquiry. The Commission while forming an opinion u/s 8-B of the Act must do so on the basis of some material on record. Such opinion must be based on relevant factors consistent with the object of the Act and the opinion must be formed after due application of mind. The Act does not contemplate a roving and fishing enquiry and consequently, when the person against whom notices are being issued u/s 8-B of the Act, is entitled to know the specific allegations or charges against him or the material which is being relied upon by the Commission against that person. This is relevant and necessary to enable the

person charged to set up a proper defense in relation to that specific charge or allegation.

15. On the other hand, the stand taken by the Commission and the State of Uttarakhand is, that the Act nowhere requires a notice to be issued indicating the specific charges against him nor there is any requirement to refer to any material. It was contended that it is not necessary to spell out the charges before being heard. The provision only contemplates that an opportunity would be given to those persons, which the Commission considers it necessary to enquire into the conduct or where in the opinion of the Commission the reputation of any person was likely to be prejudicially affected by the enquiry. The person to whom the opportunity is being heard has got a statutory right of being heard which has been spelt out when a notice u/s 8-B of the Act was issued and that he has a right to cross-examine the witness and a right to address the Commission and a right to be represented before the Commission by the legal practitioner u/s 8-C of the Act. It was urged that the underlying idea and object of Section 8-B of the Act was that a person has to be put on his guard by the Commission when it considers it necessary to enquire into his conduct or where the Commission is of the opinion that the reputation of that person was likely to be prejudicially affected by the enquiry.

16. In support of his submission, the learned counsel for the petitioners has placed reliance upon a decision in *Sri K. Vijaya Bhaskar Reddy vs. Government of Andhra Pradesh and others*, AIR 1996 Andhra Pradesh 62, *Lal Krishna Advani and others vs. State of Bihar and others*, AIR 1997 Patna 15 and *State of Bihar vs. Lal Krishna Advani and others*, AIR 2003 SC 3357. On the other hand, the learned counsel for the respondents has placed reliance upon a decision of the Delhi High Court in *Prabhat Kumar vs. The Liberhan Ayodhya Commission of Inquiry and another*, 70 (1997) DLT 671, *Smt. Kiran Bedi vs. Committee of Inquiry and another*, (1989) 1 SCC 494 and *State of Karnataka vs. Union of India and another*, AIR 1978 SC 68.

17. Before proceeding further, the attention of the Court is drawn to a decision of the Supreme Court in the matter of *State of Karnataka vs. Union of India and another* (supra), wherein the Supreme Court held:

181. It is clear from these provisions and the general scheme of the Act that a Commission of Inquiry appointed under the Act is a purely fact-finding body which has no power to pronounce, a binding or definitive judgment. It has to collect facts through the evidence led before it and on a consideration thereof it is required to submit its report which the appointing authority may or may not accept. There are sensitive matters of public importance which, if left to the normal investigational agencies, can create needless controversies and generate an atmosphere of suspicion. The larger interests of the community require that such matters should be inquired into by high-powered commissions consisting of persons whose findings can command the confidence of the people. In his address in the Lionel Cohen Lectures, Sir Cyril Salmon speaking on "Tribunals of

Inquiry" said:

In all countries, certainly in those which enjoy freedom of speech and a free Press, moments occur when allegations and rumors circulate causing a nation-wide crisis of confidence in the integrity of public life or about other matters of vital public importance. No doubt this rarely happens, but when it does it is essential that public confidence should be restored, for without it no democracy can long survive. This confidence can be effectively restored only by thoroughly investigating and probing the rumors and allegations so as to search out and establish the truth. The truth may show that the evil exists, thus enabling it to be noted out, or that there is no foundation in the rumors and allegations by which the public has been disturbed. In either case, confidence is restored." A police investigation is, at its very best, a unilateral inquiry into an accusation since the person whose conduct is the subject-matter of inquiry has no right or opportunity to cross-examine the witness whose statements are being recorded by the police. Section 8C of the Act, on the other hand, confers the right of cross-examination, the right of audience and the right of representation through a legal practitioner on the appropriate Government, on every person referred to in Section 8B and with the permission of the Commission, on any other person whose evidence is recorded by the Commission. Clauses (a) and (b) of Section 8B refer respectively to persons whose conduct the Commission considers it necessary to inquire into and persons whose reputation, in the opinion of the Commission, is likely to be prejudicially affected by the Inquiry. It is undeniable that the person whose conduct is being inquired into and if he be a Chief Minister or a Minister, the doings of the government itself, are exposed to the fierce light of publicity. But that is a risk which is inherent in every inquiry directed at finding out the truth. It does not, however, justify the specious submission that the inquiry constitutes an interference with the executive functions of the State Government or that it confers on the, Central Government the power to control the functions of the State executive. After all, it is in the interest of those against whom open allegations of corruption and nepotism are made that they should have an opportunity of repelling those allegations before a trained and independent Commission of Inquiry which is not hide-bound by the technical rules of evidence. "It is only by establishing the truth that the purity and integrity of public life can be preserved" and that is the object which the Commissions of Inquiry Act seeks to achieve.

18. In *Smt. Kiran Bedi vs. Committee of Inquiry and another*, (1989) 1 SCC 494 (*supra*), the Supreme Court held:

17. Consequently, we find it unnecessary to consider in any further detail, the submissions made by counsel for the parties on this point. Insofar as point No. (ii) is concerned, it would be seen that the use of the word "or" between clauses (a) and (b) of Section 8-B of the Act makes it clear that Section 8-B would be attracted if requirement of either clause (a) or clause (b) is fulfilled. Clause (a) of Section 8-B applies when the conduct of any person is to be enquired into

whereas Clause (b) applies to a case where reputation of a person is likely to be prejudicially affected. As regards the inquiry about the conduct of Smt. Kiran Bedi and Jinder Singh, even the Committee in its interim report specifically stated that the conduct of these two petitioners among others was to be examined. Having once so stated in unequivocal terms, it was not open to the Committee to still take the stand that Section 8-B was not attracted insofar as they were concerned. Recourse to procedure u/s 8-B is not confined to any particular stage and if not earlier, at any rate, as soon as the Committee made the aforesaid unequivocal declaration of its intention in its interim report, it should have issued notice u/s 8-B to the two petitioners, if it was of the view as it seems to be, for which view there is apparently no justification, that issue of a formal notice u/s 8-B was the sine-qua-non for attracting that section. At all events, the Committee could not deny the petitioners the statutory protection of Section 8-B by merely refraining from issuing a formal notice even though on its own declared intention the Section was clearly attracted.

19. From the aforesaid decisions of the Supreme Court, it is clear that where the Commission considers it necessary to enquire into the conduct of a person or whose reputation is likely to be prejudicially affected by the enquiry, such person is required to be given an opportunity to repel those allegations.

20. Having considered the various provisions of the Act and having heard the learned counsel for the parties at some length, it is clear that a notice could be issued by the Commission to any person under the Act asking the said person to furnish information or submit the documents either in writing or record his oral statement, but where the Commission considers it necessary to enquire into the conduct of that person, such person would be governed by Section 8-B of the Act. The provision of Section 8-B of the Act clearly indicates that the enquiry into the conduct of any person and the reputation of that person was likely to be prejudicially affected by the enquiry is based on the opinion of the Commission. The opinion to be formed by the Commission has to be based on material placed before it.

21. In the instant case, the Court finds that there is nothing to indicate that the Commission had passed an order with regard to formation of opinion in terms of Section 8-B of the Act. There is nothing to indicate as to on what material the order with regard to the issuance of the notice u/s 8-B of the Act to the petitioner was made. In the opinion of the Court, the notice should at least indicate in brief the formation of the opinion of the Commission as well as the material relied upon by the Commission to form such an opinion. Such opinion must be made available to the petitioner so that the petitioner is in a position to address the Commission and cross-examine the witness and defend his reputation. The Court finds that necessary material which was likely to be prejudicially affect the reputation of the petitioner was not referred to in the notice u/s 8-B of the Act and that the petitioner was not made known to the material, on the basis of which he had to defend and safeguard his interest and

save his reputation. The Court finds that the formation of opinion for issuing the notice u/s 8-B of the Act was lacking and that the notice lacked necessary particulars of material on record which was in the opinion of the Commission likely to be prejudicially affected the reputation of the petitioner. The notice apparently becomes vague and cannot be sustained.

22. In *Sri K. Vijaya Bhaskar Reddy vs. Government of Andhra Pradesh and others* (supra), a Division Bench of the Andhra Pradesh High Court held that the notice issued u/s 8-B of the Act was vague since necessary particulars of the material on record was not referred to in the notice. The Division Bench held:

52... When the very foundation, namely formation of opinion for issuing notice u/s 8B is lacking, it would be trifling to observe that requisite material which formed the basis for formation of opinion for purposes of issuing notice u/s 8B and that the statement of A.W. 2 and the documentary evidence except the G.Os. which were already collected, were not reflected in the notices u/s 8B. It follows that formation of opinion requisite for the issuance of the notices u/s 8B of the Act is not objective, with reference to record of the Commission, and the notices issued u/s 8B(b) lack necessary particulars of material on record which was in the opinion of the Commission likely to be prejudicially affected the reputation of the petitioners."

The Division Bench further held:

54. From the above discussion it follows that the necessary material which is likely to prejudicially affect the reputation of the petitioners, is not referred to in the notices u/s 8B and thus the petitioners are not told of what they have to defend and what is the material on record which they have to rebut to safeguard their interest and to save their reputation being prejudicially affected. Further, when they were given notices affording opportunity of being heard granting 15 days time, the petitioners are justified in expecting that further enquiry would not go on during that period and commenting that to collect material which would prejudice the interest of the addressees of the notices till the expiry of the specified period in the notice to participate would amount to collecting the material behind the back of the addressees of the notice and conducting the enquiry otherwise than fairly. But for the above reasons, in our view, the proceedings of the Commission during that period cannot be held to be vitiated and cannot be declared as null and void for notice u/s 8B can be given at any stage of the proceedings and it would have been open to the Commission to give notices u/s 8B even at the closure of the enquiry.

55. Inasmuch as we have come to the conclusion that the notices issued to the petitioners u/s 8B of the Act dated 10-4-1995 are vague because the material on the record of the Commission as on the date of issuance of the said notices, which, if accepted, would prejudicially affect the reputation of the petitioners, was not referred to in the notices, the impugned notices are quashed and the petitioners are entitled to fresh notices u/s 8B of the Act. The Commission shall

examine the material afresh and if, in the opinion of the Commission, there is material, which prejudicially affects the reputation of the petitioners, it shall refer such material in the notices u/s 8B of the Act and serve the same on the petitioners giving them reasonable opportunity of hearing and producing evidence in defense which includes right to cross-examine the witnesses already examined u/s 8C of the Act.

23. In Lal Krishna Advani (L.K. Advani) and Others Vs. State of Bihar and Others, , a Division Bench of the Patna High Court held that the materials on the basis of which an opinion was found by the Commission should be made known to the person whose conduct was being investigated. The Patna High Court, after considering various judgments, held:

41. Therefore, having regard to above discussions and different authorities pronouncements, some of them have already been noticed, namely, V. Narayana Rao vs. State of A.P. (AIR 1957 AP 53) (FB) (supra), N. Manoharan v. State of Tamil Nadu (AIR 1981 Mad 147) (supra), Dr. Raghubir Saran v. State of Bihar (AIR 1964 (SC) supra), Sri K. Vijaya Bhaskar Reddy Vs. Government of Andhra Pradesh and others, and Smt. Kiran Bedi Vs. Committee of Inquiry and Another, , I am constrained to hold that the provisions of Section 8-B of the Act is fully attracted to safeguard the role of natural justice. It has also been held that reputation of a person is a part of a fundamental right and personal liberty. It is not to be undermined that a person who is provided with an opportunity of being heard is given option to produce evidence, cross examine witnesses and furnish explanations in defense with regard to charges or findings about his reputation, which may prejudicially affect, if remain unrebutted. He must know or be told of the materials which were the basis of forming an opinion by the Commission.

24. The said judgment was affirmed by the Supreme Court in State of Bihar Vs. Lal Krishna Advani and Others, .

25. The aforesaid judgments cited by the learned counsel for the petitioners are squarely applicable and the Court agrees with the said decisions. The decision of the Delhi High Court in the case of Prabhat Kumar Vs. The Liberhan Ayodhya Commission of Inquiry and Another, cited by the learned counsel for the respondents is distinguishable. The Delhi High Court in the said case held that the Commission was not required to give reasons or spell out the charges or to place the material while issuing a notice u/s 8-B of the Act inasmuch as the court found that the Commission had not made its mind nor arrived at a definite opinion with regard to the conduct of the person, but had issued the notice u/s 8-B of the Act pending formation of the opinion so that the person was given a fair treatment and a reasonable opportunity to defend his reputation.

26. In the light of the aforesaid, the writ petitions are allowed. The impugned notices are quashed and the petitioners are entitled to fresh notices u/s 8-B of the Act only if the Commission is of the opinion that there is material evidence on record, which prejudicially affects the reputation of the petitioners. In that

event, the Commission would refer to such material in the notice u/s 8-B of the Act.