

(2014) 04 AHC CK 0137

In the Allahabad High Court

Case No : Civil Misc. Writ Petition Nos. 35566 and 59806 of 2013

Dr. Lalji Singh

APPELLANT

Vs

National Commission and Others

RESPONDENT

Date of Decision : 09-04-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 16 Rule 1, Order 16 Rule 14, Order 16 Rule 16, 151

Constitution of India, 1950 — Article 226, 338, 338(4), 338(5), 338(5)(d)

Citation : (2014) 4 ADJ 41 : (2014) 2 ESC 1119 : (2014) 2 UPLBEC 1613

Hon'ble Judges : Tarun Agarwala, J;Rajan Roy, J

Bench : Division Bench

Advocate : Ravi Kant and Tarun Agarwal, Advocate for the Appellant

Judgement

Rajan Roy, J.—By means of these writ petitions, the petitioner, who is Vice-Chancellor of the Banaras Hindu University, Varanasi (hereinafter referred to as "the University") has challenged the summons and warrants issued by the National Commission for the Scheduled Castes (for short "the Commission") insisting upon his personal appearance before it. As both the writ petitions arise out of the same proceedings, parties and issues involved are almost same, they have been clubbed and heard together and are being disposed of by this common judgment.

2. The facts of the case are that one Dr. Indu Choudhary, the respondent No. 9, was appointed as Assistant Professor in English Department of the University on 21.5.2007. She alongwith other female teachers, was temporarily accommodated in the Faculty Guest House.

3. On 2nd May, 2008, the Warden requested the respondent No. 9 to vacate the guest house as it was given only for temporary or transit accommodation. During 3.5.2008 to 7.5.2008, it is alleged by the respondent No. 9 that her belongings, which were kept in the guest house were thrown out and she was evicted in absentia while on leave. Subsequently, she was allowed to re-enter her room in

the guest house. She alleges that she filed a complaint/F.I.R. in the concerned police station. The police filed a final report in the case relating to theft, which is said to have been challenged by her. A charge-sheet is alleged to have been filed in respect of the alleged atrocity against her by the warden-in-charge of the guest house, namely Prof. D.K. Singh and Prof. Deepa Rani Saxena, who in turn had filed a writ petition before this Court wherein their arrest had been stayed.

4. However, on 22nd December, 2009, she was allotted another residential accommodation, being Quarter No. T.F.-21, on the ground floor of Tyagraj Colony, with the request to vacate the guest house. Even then, she did not vacate the guest house. In stead, she approached this Court by means of Civil Misc. Writ Petition No. 12398 of 2010, which was decided against her vide judgment dated 12.3.2010 and she was allowed a month's time by the Court to shift to the residential accommodation that was allotted to her. In stead of complying with the order of this Court, she filed an application for modification/review of the same, which is said to be pending. Ultimately on 26.11.2011, another quarter, being Quarter No. L/29, Tulsidas Colony was allotted to her on priority basis, whereupon she vacated the guest house.

5. In the meantime, on 5.10.2011, she submitted a complaint before the Chairman of the Commission alleging ill treatment and discrimination.

6. Besides this, other complaints were also filed by the respondent No. 9 on 17.3.2013 and 9.4.2013. Prior to it, an application was also made by her to the Vice-Chancellor on 11.3.2013 with a copy to the Commission.

7. Some other complaints were also made. One Om Prakash claiming himself to be President of the Scheduled Castes and the Scheduled Tribes Protection Committee filed a complaint alleging irregularities in making appointments in the University. Another complaint was made by one Prof. Lal Chand Prasad regarding the constitution of Standing Committee for Scheduled Castes and the Scheduled Tribes. One Dr. Paramita Shuklabaidya is also said to have made a complaint to the Commission. Sri Mahendra Pratap Singh also submitted a representation regarding non-filling up of backlog vacancies in the University and non-compliance of certain office memos.

8. The Commission took cognizance of the aforesaid complaints and issued summons to the petitioner for appearance on 18.10.2011, 14.8.2012, 31.8.2012, 15.10.2012, 16.11.2012, 7.12.2012, 19.12.2012, 9.1.2013, 25.4.2013, 31.5.2013 and 17.6.2013. The University responded to these summons and submitted its replies dated 17.12.2011, 3.11.2012, 6.10.2012, 25.8.2012, 11.9.2012, 21.9.12, 18.12.12, 22.1.2013, 1.5.2013, 10.5.2013, 15.6.2013 and 5.10.2013 etc.

9. The officials of the University appeared before the Commission alongwith relevant records for assistance in the matter. In spite of the replies submitted by the University, the Commission kept on insisting for appearance of the Vice-Chancellor-petitioner herein. A warrant was issued against the petitioner on

19.6.2013.

10. Aggrieved by the issuance of repeated summons and warrant dated 19.6.2013, the petitioner filed Civil Misc. Writ Petition No. 35566 of 2013, wherein after hearing the parties, this Court passed a detailed order observing therein as under:

Prima facie without entering into the question of jurisdiction of the Commission at this stage, we are satisfied that the University has cooperated in the investigation of the complaints and that the Vice-Chancellor has assured that he will appear at the appropriate stage, when the investigation through the appropriate officers of the university is over and deficiency if any on the part of the university is identified and communicated to him.

In the facts and circumstances of the case, as an interim measure, we stay the execution of the warrant dated 19th June, 2013 and personal appearance of the petitioner before the Commission. The petitioner will, however, appear after the preliminary investigation, into the complaint is over through the assistance of the officers of the University, and after an order is passed by the National Commission for Scheduled Castes, communicating the object and purpose for which personal presence of the Vice-Chancellor is required. The National Commission of Scheduled Castes may complete the investigation into the complaint in accordance with law after considering the objections raised by the University including the objection to its jurisdiction in entertaining the complaints.

11. Thereafter, the Commission passed an order dated 8.8.2013 recording its dissatisfaction with the assistance provided by the officials of the University and accordingly, it again issued summons to the petitioner for appearing before it in person on 19.8.2013. A notice was issued on 26.9.2013 in response to which the petitioner did not appear but sent his reply dated 5.10.2013. Ultimately on 10.10.2013, warrant was again issued against the petitioner, which led to filing of the second writ petition i.e. Civil Misc. Writ Petition No. 59806 of 2013.

12. This Court while entertaining the second writ petition on 27.10.2013 passed an order staying further proceedings before the Commission in respect of the complaints referred above. The matter was next taken up on 28th October, 2013 and an order was passed, relevant extracts of which are Quoted below:

In addition to what has been recorded by us when the matter was taken up yesterday at the residence of one of us (Arun Tandon, J.) a query was made to Mr. Manoj Kumar Verma, learned counsel for the respondent Nos. 8 and 9 as to what is the exact complaint against the Vice-Chancellor of the University. He only replied that the Assistant Registrar and the Registrar were unable to answer the query of the National Commission for the Schedules Castes, and, therefore, the Vice-Chancellor has been summoned.

We are of the opinion that if the informations given by the Assistant Registrar and the Registrar do not satisfy the query made by the Commission, it is open to

the Commission to take a final decision in the matter and to make its recommendation to the President. When there is no complaint specifically against the Vice-Chancellor in respect to the complaint before the Commission, we hardly see any reason for his summoning before the Commission. It is, therefore, provided that till the date fixed in the matter, it will not be necessary for the Vice-Chancellor to appear before the Commission, and the Commission is free to decide the complaints of the complainants on the informations supplied by the University.

13. During pendency of these writ petitions, the Commission has sent its report to the Government of India with regard to the complaints entertained by it. The Government of India, in turn, vide its letter dated 18th October, 2013 asked the Registrar of the University to send its comments on the report of the Commission, in pursuance whereof, the University appears to have sent the comments vide its letter dated 5.11.2013. The Government of India is, thus, seized with the matter.

14. Though, after submission of the report, the impugned summons and warrants issued by the Commission have lost their efficacy, however, as the respondent No. 9 insisted that the matter be decided on merits as the issues involved herein are likely to arise in future also and as she insisted that the Commission could further monitor the matter, we have considered the issues involved on merits.

15. The moot point involved in the instant writ petitions is regarding the jurisdiction of the Commission in respect of the subject-matter of the complaints, maintainability thereof as well as the justification for issuing summons and warrants for personal appearance of the Head of the Institution i.e. the Vice-Chancellor of the University.

16. Sri Ravi Kant, learned Senior counsel appearing for the petitioner contended that the subject-matter of the complaints in question was beyond the jurisdiction of the Commission in view of the provisions contained in Article 338 of the Constitution of India. The said complaints were also not maintainable in view of the provisions of the RULES OF PROCEDURES OF THE NATIONAL COMMISSION FOR SCHEDULED CASTES, (for short "the Rules") framed by the Commission itself under Article 338(4) of the Constitution of India and published in the Gazette of India dated 15th June, 2009. The subject-matter of the complaints was such, which was either subjudice before the Courts or had been decided by them, therefore, the same was barred by Rule 7.4.1. (e) & (f) of the Rules. He also contended that the said complaints were not maintainable in view of Rule 7.4.1 (g) & (h) of the Rules.

17. Learned Senior counsel for the petitioner also contended that the Commission was not at all justified in insisting upon the personal appearance of the Vice-Chancellor of the University, who is the head of the institution, as he was neither a witness to the subject-matter of the complaints nor did he have

any personal knowledge thereof. The Vice-Chancellor himself would be guided by the material on record of the University, which had already been placed before the Commission. He also referred to the provisions of Order XVI C.P.C. in this regard. He also contended that the insistence for personal appearance was guided by extraneous reasons and the same was not sustainable. The Commission did not apply its mind to the facts of the case nor to the replies submitted by the University nor did it conduct any investigation but in a mechanical and routine manner, the summons and warrants were issued repeatedly.

18. Learned Senior counsel for the petitioner also made reference to the earlier order of this Court dated 4th July, 2013 passed in Writ Petition No. 35566 of 2013 and based thereon submitted that without complying with the observations/directions contained in the said order, the Commission had again issued summons and warrant against the petitioner.

19. Learned counsel for the Commission, on the other hand, contended that the Commission was well within its jurisdiction in taking cognizance of the complaints in question and issuing summons and warrants to the petitioner, who was adopting an intransigent attitude by not appearing before the Commission. He further contended that after passing of the interim order dated 4th July, 2013, the Commission had considered the matter in the light of the observations/directions contained therein and had passed a reasoned order dated 8.8.2013 and 19.8.2013 stating that the assistance provided by the officials of the University was not at all satisfactory as they were not aware of the relevant facts, on account of which the presence of the Vice-Chancellor was necessary. The order of this Court dated 4th July, 2013 had been complied and only thereafter the warrant was issued.

20. The respondent No. 9, Dr. Indu Choudhary, appeared in person and made her submissions. She invited the attention of the Court to her complaint dated 5.10.2011 and submitted that she had approached the Commission against the Vigilance Enquiry, which was continued for one and the half year before being dropped in May, 2013, which goes to show that it was initiated only to harass her. The insistence of the officials of the University for vacating the premises, during pendency of her application for review/modification of the judgment dated 12.3.2010, was not justified. She also invited the attention of the Court to the facts pertaining to her eviction from the guest house in absentia, illegally and highhandedly, in respect of which she had lodged an F.I.R.

21. She invited the attention of the Court to various documents filed by her alongwith the counter-affidavit including the representation dated 11th March, 2013 addressed to the Vice-Chancellor raising various grievances, which according to her, were never redressed and a document dated 1.11.2011 (Annexure C.A. 3 to her counter-affidavit). On the basis of the said documents, she tried to show that the officials of the University were prejudiced against the aforesaid category of teachers/employees.

22. She further submitted that the report contained in Annexure C.A. 4 was an attempt to contravene and contradict the reservation policy of the Government of India, which was applicable in the University. She also submitted that the subsequent complaints made by her in her capacity as General Secretary of Anusuchit Jati & Jan Jati Kalyan Samiti, were in respect of non implementation of the reservation policy and harassment to the scheduled caste teachers and employees in the University, as such, these were cognizable by the Commission.

23. Learned counsel for the private respondents namely Mahendra Pratap Singh and Ms. Paramita Shuklabaidya, contended that the opposite party No. 8 i.e. Mahendra Pratap Singh was not an employee of the University but his complaint was in respect of non-implementation of the reservation policy in the University. The complaint of Ms. Paramita Shuklabaidya, was in respect of her grievances relating to her service and harassment meted out to her.

24. We have heard Sri Ravi Kant, learned Senior counsel assisted by Sri Tarun Agarwal, for the petitioner, learned Standing Counsel for the State of U.P., Dr. Indu Choudhary, the respondent No. 9 in person as well as the learned counsel for Mahendra Pratap Singh and Ms. Paramita Shuklabaidya, the private respondents and have also perused the record. The other private respondents have not contested the matter.

25. The commission has been constituted under Article 338 of the Constitution of India. The duties of the Commission have been enumerated in Article 338(5) as under:

(5) It shall be the duty of the Commission--

(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes;

(c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes and to evaluate the progress of their development under the Union and any State;

(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes as the President may,

subject to the provisions of any law made by Parliament, by rule specify.

26. Under Article 338(4) of the Constitution, the Commission is empowered to regulate its own procedure. Accordingly, it has framed the Rules. Rule 7.3 of the Rules relates to procedure for enquiry by the Commission. Rule 7.4 relates to enquiry into specific complaints with regard to the deprivation of rights and safeguards of scheduled castes. The said Rule inter alia provides that in order to enable the Commission to perform its functions effectively and efficiently, the Commission would like the members of scheduled castes to know that it will be helpful to inquire into their grievances if they substantiate their complaints with supporting documents and quote the relevant provisions of the Act or Rules or directions which have been violated. Rule 7.4.1 reads as follows:

7.4.1 The following aspect may be kept in mind while filing complaints before the Commission.

(a) The complaint should be directly addressed to the Chairman/Vice-Chairman/Secretary, National Commission for Scheduled Castes, New Delhi or the heads of its State Offices.

(b) The complainants should disclose his full identity and give his full address and should sign the representation.

(c) Complaints should be legibly written or typed and, where necessary, supported by authenticated documents.

(d) Complaints should clearly disclose the violation of Reservation policy, DOPT OMs, Government of India Orders, State Government Orders, PSUs and Autonomous Bodies orders or any other violation Rules of Reservation.

(e) No action will be taken on matters, which are subjudice. Hence subjudice matter need not be referred to the Commission as complaint(s).

(f) Cases pending in Courts or cases in which a Court has already given its final verdict may not be taken up afresh with the Commission.

(g) The cases of Administrative nature like transfer/posting/grading of ACRs will not be taken up by the Commission unless there is caste based harassment of petitioner.

(h) No action will be taken on the matters where there is no mention of violation of Reservation policy, DOPT OMs, Government of India Orders, State Government Orders, PSUs and Autonomous Bodies orders or any other violation of Rules of Reservation. Hence the matters where there is no mention of violation of above Rules need not be referred to the Commission as complaints.

27. Under Article 338(8) of the Constitution, the Commission is empowered while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), to have all the powers of a Civil Court trying a suit and in particular in respect of the following matters,

namely:--

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the 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 and documents;
- (f) any other matter which the President may, by rule, determine.

Rule 7.2. (a) (v) to (vi) of the Rules reads as under:

7.2. (a) (v) In accordance with clause 8 of Article 338 of the Constitution, while investigating in a matter referred to in sub-clause (a) or in inquiring into any complaint referred to in sub-clause (b) of clause (5) of Article 338, the Commission shall have all the powers of Civil Court trying a suit and in particular in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the 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 and documents;
- (f) any other matter which the President may, by rule, determine.

7.2. (a) (vi) The Commission for the purpose of taking evidence in the investigation or inquiry requires the presence of any person and when considered necessary may issue summons to him/her with the approval of the Chairman. The summons for enforcing attendance of any person from any part of India and examining him/her during the course of investigation and inquiry by the Commission shall provide at least 15 days" notice to the person directed to be present before the Commission from the date of receipt of the summons. In serious cases of atrocities, three days notice will be given to the person directed to be present before the Commission from the date of receipt of the summons by him/her.

28. The first complaint was made to the Commission by Dr. Indu Choudhary on 5.10.2011, a perusal of which reveals that the complainant had prayed for stay on the proceedings initiated against her by the University, withdrawal of the charge-sheet dated 28.9.2011 issued to her as well as refund of the amount deducted from her salary for the month of June, 2011. However, in the body of

the complaint, the facts and grievances as narrated by her, related to her illegal eviction, the alleged discrimination in charging higher rent, ill-treatment by the then Warden Professor D.K. Singh and the Warden In-charge Prof. Deepa Rani Saxena etc.

29. The Commission immediately acted upon the aforesaid complaint dated 5.10.2011 and issued summons dated 18.10.2011 for appearance before its Chairman.

30. The University filed its reply on 17.12.2011, a perusal of which shows that a detailed and point-wise rebuttal of the allegations contained in the complaint dated 5.10.2011, have been made.

31. It was submitted that though the said faculty guest house was only meant to be provided for a very short period, yet, considering the exigency due to increased number of female employees, Dr. Indu Choudhary was allotted Room No. S-5 for a longer period of 3 months on special consideration w.e.f. 24.7.2007 to 23.10.2007. It was further submitted that by the allotment letter dated 23.7.2007, she was informed that she will have to pay Rs. 100/- per day, her allotment will be cancelled automatically after 3 months and that any stay beyond the period of allotment will cost Rs. 200/- per day.

32. The terms and conditions of the allotment were acceptable to her at that time and she had never objected to it until her letter to the Commission dated 5.10.2011 i.e. after than 3 years. She knew quite well that her accommodation was temporary and that she was expected to arrange a dwelling place for herself within three months. The allegations of discrimination in rental charges on account of her being a scheduled caste woman were denied.

33. With regard to Prof. D.K. Singh and Prof. Deepa Rani Saxena it was stated that there was no record of any previous incident against them of levelling such allegations against any one. It was unthinkable that the aforesaid persons would conduct themselves in the manner as alleged by the complainant.

34. So far as her eviction from the guest house is concerned, it was stated by the University that the complainant resided in the guest house from 24.7.2007 to 31.1.2008 and did not seek any accommodation. The University on sympathetic considerations allowed her to stay therein for a further period i.e. w.e.f. 1.2.2008 to 30.4.2008. She was requested by the Warden In-charge vide letter dated 2.5.2008 to vacate the room failing which they will be left with no other option but to open the room in presence of the Proctorial Board of the University and the possession of the room will be taken by the Guest House at 11.30 a.m. on 3.5.2008. In spite of the aforesaid communication, the complainant did not vacate the room. Consequently possession was taken, an inventory of all her belongings was made by the administration of the faculty guest house in presence and with the help of the Proctorial Board and all her belongings were returned to her alongwith a copy of the inventory of all the items.

35. With regard to the allegations of threatening letters being issued to her, it was submitted that when the complainant did not vacate the room in question, in spite of disposal of her writ petition and the requests made to her on 21.6.2010, wherein she was warned that disciplinary action may be initiated against her, a letter was again sent to her on 6.1.2011 under the orders of the Vice-Chancellor, but she did not respond. Neither she vacated the room nor paid the room rent of Rs. 10,600/- up to 30.11.2009. Further, she did not pay the rent from 1.12.2009 till 17.12.2011.

36. In view of non-compliance, strong letters were written to her as is normally done in such cases, which cannot be treated as threatening letters to harass her. It was also stated that the residential quarter in Tyagraj colony was far better than the bachelor quarters in the campus. The University also submitted its reply regarding the deductions from her salary, alleging violation of certain rules of the Central Civil Services (conduct) Rule, 1964.

37. On an over all consideration of the facts and circumstances including the reply of the University, it is clearly borne out that Dr. Indu Choudhary was annoyed by the refusal of the University to allow her to stay at the faculty guest house. Based on the instances which took place way back in the year 2008, she preferred a complaint on 5.10.2010 only after disciplinary proceedings were initiated against her.

38. In the facts and circumstances narrated in the reply of the University, as the aforesaid respondent was adamant not to vacate the premises in question even going to the extent of disobeying the directions of this Court dated 12.3.2010, the University could not be said to have acted high-handedly in issuing letters to her to vacate the premises and when she did not comply with the same, in issuing a charge-sheet for disciplinary proceedings.

39. We fail to see as to how in such circumstances the allegations of discrimination based on caste could be levelled or accepted. Initiation of disciplinary proceedings was a purely administrative matter. The complaint in this regard was clearly barred by Rule 7.4.1 (g) of the Rules. It did not involve deprivation of any right or safeguard available to Dr. Indu Choudhary as a scheduled caste.

40. Her conduct was in fact in gross violation of the judgment dated 12.3.2010 passed in Writ Petition No. 12398 of 2010 filed by her, relevant extract of which, is being quoted herein-below:

We do not find that the petitioner has made any good ground for occupying the transit accommodation indefinitely. She has allotted a house in the residential colony occupied by other faculty members. The allotment of room in Guest House to the petitioner was only for a temporary period as transit accommodation. The facility provided by the University cannot be claimed as a matter of right. Now since the petitioner has been allotted a regular residential accommodation, it would be appropriate that she may shift to the

accommodation allotted to her after completing the formalities.

The petitioner is allowed one month time to shift to the residential accommodation allotted to her, after completing the necessary formalities.

The writ petition is disposed of accordingly.

41. Mere pendency of an application for modification or review of the aforesaid judgment, did not absolve the aforesaid private respondent from complying with the same.

42. The complaint relating to eviction, discrimination in charging rent etc. was clearly barred by Rule 7.4.1 (f) of the Rules. Dr. Choudhary was very well aware of the terms and conditions of allotment as mentioned in the allotment order as also the rent payable and accepted the same, therefore, the allegations of discrimination were clearly unfounded. Her occupation of the room in the guest house was held to be illegal by this Court, even then she did not vacate the same till 26.11.2011. In view of the judgment dated 12.3.2010, the bar of Rule 7.4.1 (f) was attracted.

43. So far as the allegations relating to the alleged theft and atrocities during the month of May 2008 is concerned, the same was clearly subjudice, even as per the complainant's own admission, before the Court concerned, therefore, it was also barred by Rule 7.4.1 (e).

44. The allegations against the two Wardens namely Prof. D.K. Singh and Prof. Deepa Rani Saxena were also the subject-matter of the case pending before the Court in which charge-sheet had been filed and the said persons had also filed writ petition in the High Court wherein their arrest had been stayed. Rule 7.4.1 (e) was applicable in this respect also.

45. So far as the deduction from her salary is concerned, if an employee is liable to pay rent as per the terms agreed upon and fails to do so in spite of repeated requests, it is open for the University to recover the same from her salary in accordance with law and in such an event it cannot be said that she was harassed in the name of her caste. The residential accommodation allotted to her, if is used as an office of the scheduled caste association, the University is justified in raising objection in this regard.

46. We are of the considered view that the complaint dated 5.10.2011 was made by Dr. Indu Choudhary to settle personal scores and to wriggle out of the disciplinary proceeding which was initiated against her by the University. By no stretch of imagination can such a complaint be treated as one falling within the fore-corners of Article 338 of the Constitution of India, specially, in view of the provisions of the Rule 7.4.1 (e), (f) & (g) of the Rules.

47. The Commission entertained the complaint in a routine manner without applying its mind as to whether the same fell within its jurisdiction and whether it was in conformity with the Rules made by it or not. The repeated insistence of

the Commission for appearance of the Vice-Chancellor by issuance of summons to him in respect of the aforesaid complaint of Dr. Indu Choudhary was clearly unjustified and unsustainable in law.

48. Such action was also unjustified in view of the detailed point-wise reply submitted by the University on 17.12.2011 and on subsequent dates which leave no doubt that the allegations made in the said complaints were not bona fide nor was there any truth in the same, yet the Commission proceeded with the matter.

49. So far as her letter dated 11th March, 2013 is concerned, we fail to understand as to how mere non-supply of certain rules by a certain officer of the University would amount to caste based harassment. It would have been better if the rules had been provided to her, but it could hardly form a basis for initiating any action under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

50. The complaint dated 17th March, 2013 was again with regard to her occupation of accommodation in the faculty guest house and the rent charged in respect thereof as also her eviction therefrom in May, 2008 etc.. The said complaint also related to administrative/disciplinary matters and there was nothing indicative of any caste based harassment nor deprivation of any right of the complainant as a scheduled caste.

51. It is the complaint dated 9.4.2013 submitted by her, which is quite revealing. This complaint was made by Dr. Indu Choudhary, in her capacity as the General Secretary SC/ST Employees Welfare Association (Regd.) BHU Varanasi (UP) on the letter pad of the said association, a copy of which is annexed with the writ petition. The said complaint/letter pad mentions the name of the Chairman of the Commission, as the Chief Patron of the said Association and the complaint is also addressed to him by name. The aforesaid Association is said to have been registered as a society on 7.4.2012 i.e. during the pendency of individual complaints of Dr. Indu Choudhary before the Commission.

52. From the pleadings in the Writ Petition No. 35566 of 2013 and the array of the parties, we find that the then Chairman of the Commission was impleaded by name as the respondent No. 2 and in paragraphs 58 to 61 thereof, the following allegations were made against him:

58. That it is stated here that no such society, known as Scheduled Castes and Scheduled Tribes Employees Welfare Association (Regd.), Banaras Hindu University, Varanasi, is registered with the Registrar of Society. The only registered society is Scheduled Castes and Scheduled Tribes Employees Welfare Samiti. It has no concern, at all, with the University as such. Therefore, the complaint dated 9th April, 2013 was alleged by an association, which had no concern with the University.

59. That it is, indeed, noteworthy that the complaint dated 17th March, 2013 was also made by Dr. Indu Choudhary as General Secretary of the Scheduled Castes

and Scheduled Tribes Employees Welfare Association (Regd.), Banaras Hindu University Varanasi. Dr. P.L. Punia, Chairman of the Commission, is the Chief Patron of the society. The petitioner has all reasons to believe that the society must have obtained his consent before designating him as Chief Patron of the Society. Thus, Dr. Punia is vitally interested in the affairs of the society as well as the complaints alleged by Dr. Choudhary as the alleged General Secretary of the Scheduled Castes and Scheduled Tribes Employees Welfare Association (Regd.), Banaras Hindu University Varanasi.

60. That, that being so, Dr. Punia is clearly disqualified from either entertaining or participating in the hearings on the complaints. The settled principle is that justice should not only be done, but it seems to have been done.

61. That in view of the aforesaid clinching evidence, the conclusion is inescapable that Dr. Punia has deep and abiding interest in the subject-matter of complaints. He ought to have rescued himself from participating in the proceedings, far less issuing of summons and warrant to the petitioner to appear personally before him.

53. In spite of notice having been issued to the aforesaid respondent No. 2 on 4.7.2013, he did not file his personal affidavit denying the allegations made in paragraphs 58 to 61 of the writ petition. Even in the counter-affidavit filed by Tarun Khanna, Assistant Director of the Commission on behalf of the respondent Nos. 1 & 2, in reply to the contents of paragraph 59 of the writ petition it has been stated that the same need no comments. In reply to the contents of paragraphs 60 & 61 of the writ petition it has been stated that the Commission has taken up action under Article 338 of the Constitution of India. Thus, clearly there is no rebuttal by the respondent No. 2 of the facts as asserted in paragraphs 58 to 61 of the writ petition.

54. It is the respondent No. 9, Dr. Indu Choudhary, who has tried to reply the aforesaid paragraphs of the writ petition in paragraphs 9 (v) to 9 (x) of her counter-affidavit.

55. Though she has stated that Dr. P.L. Punia is not the chief patron of the SC/ST Employees Welfare Association but the document annexed by her as Annexure C.A. 43 in support thereof belies her claim to the extent that the said document, which is a news item dated 16.5.2013, states that Dr. Punia had been removed as chief patron of the aforesaid association in the meeting of the executive committee held last week i.e. about 7 days prior to 16.5.2013 i.e. on or after 8.5.2013.

56. Even if the assertions contained in the news item are accepted on face value, it only goes to show that prior to 9th May 2013, Dr. Punia was the Chief Patron of the complainant association as is borne out from the documents filed by the complainant herself. The summons for personal appearance as also the warrant in question were issued during the period 18.10.2011 to 19.6.2013, with the approval of the aforesaid Chairman of the Commission. It is under these

summons that the personal appearance of the Vice-Chancellor of the University i.e. the petitioner herein was insisted upon, failing which, a warrant of arrest was issued on 19th June, 2013, which was challenged in Writ Petition No. 35566 of 2013 and was stayed by an order dated 4.7.2013.

57. From the records it is revealed that only after such objections were raised in Writ Petition No. 35566 of 2013, the Chairman recused himself from considering the complaints in question and thereafter the same were considered by another Member of the Commission namely Mr. Raju Parmar, who issued subsequent summons and warrant of arrest, which are the subject-matter of challenge in Writ Petition No. 59806 of 2013. The Chairman ought to have recused himself much earlier.

58. Though the learned counsel for the petitioner during the course of hearing on interim relief matter on 4.7.2013 made a statement before this Court that he was not pressing the allegations of mala fide against the Chairman of the Commission, the only reason we have referred to the aforesaid facts is to show the conduct of the complainant Dr. Indu Choudhary and the manner in which the proceedings took place before the Commission.

59. The complaint dated 9.4.2013 reveals that Dr. Indu Choudhary raised grievances ranging from her personal grievances to violation of the reservation policy of the Government of India etc. by the University administration, in general. One of the grievances was with regard to the hostility of the University to the constitutional body of the Government of India i.e. the National Commission for Scheduled Castes.

60. The subject-matter of the said complaint so far as it related to deprivation of rights and safeguards of the scheduled castes, such as non-implementation of reservation policy etc. was within the jurisdiction of the Commission but the complaint was not in conformity with Rules 7.4.1 (d), (g) and (h) of the Rules, thus not maintainable. Her individual grievances were not maintainable before the Commission for the reasons already mentioned in the earlier part of the judgment. The complaint dated 9.4.2013 also appears to have been actuated by the intent of the complainant to settle personal scores and to teach a lesson to the University authorities.

61. The respondent No. 9 did not make any specific complaint against Dr. O.N. Srivastava before the Commission nor was he ever summoned, therefore, reference to the document dated 1.11.2011 by her is of no relevance in the instant case.

62. One Sri Om Prakash claiming himself to be the President of the Scheduled Castes and Scheduled Tribes Protection Committee also filed a complaint dated 4.7.2012 addressed to the Visitor of the University alleging irregularities in the appointments made by the University but there was no reference to denial of any safeguard to scheduled castes, therefore, it was clearly outside the domain of the Commission. The said complaint did not even contain the relevant details of the

complainant, such as address etc. and was clearly not maintainable in view of Rule 7.4.1 (b), (d) & (h) of the Rules but it appears that the Commission somehow took cognizance of the same. The said complaint does not refer to any rule or order pertaining to the provisions of reservation for the scheduled castes which could be alleged to have been violated. Therefore, the same was also not in accordance with Rule 7.4.1 (d), (g) & (h) of the Rules.

63. The complaint of Professor Lal Chand Prasad & others dated 2.4.2012 pertained to reconstitution of Standing Committee for the scheduled castes and scheduled tribes. It did not mention of any violation of reservation policy. The Standing Committee was reconstituted on 4.7.2012 and Sri Lal Chand Prasad himself was appointed as Chairman of the Scheduled Castes & Scheduled Tribes Grievances Cell and this fact was duly communicated by the University to him vide letter dated 6.10.2012. It was also pointed out therein that the reservation rosters for teaching posts have been prepared and approved by the Vice-Chancellor in terms of the decision taken by the Executive Council on 29.1.2009 and subsequently, the same have been approved by the Standing Committee for the Scheduled Castes and Scheduled Tribes of the University in its meeting dated 23.9.2010.

64. In view of the above, there was no occasion for Commission to proceed any further with the complaint of Prof. Lal Chand Prasad, yet summons and warrants were issued in respect thereof by it which was clearly unjustified.

65. Sri Lal Chand Prasad and others in their complaint dated 12.3.2012, raised a grievance regarding violation of reservation policy in respect of which detailed replies were submitted by the University on 18.4.2012 giving details of sanctioned, reserved and backlog posts, the number of vacancies advertised and those to be advertised shortly. This complaint was within the domain of the Commission subject to compliance of Rule 7.4.1 (a) to (g) of the Rules.

66. As far as the complaint of Sri Mahendra Pratap Singh is concerned it was regarding non-implementation of the reservation policy and filling up of backlog vacancies on the posts of Professors and Assistant Professors in the University. The said complaint also alleged violation of office memo dated 30.12.2010 regarding filling up of backlog vacancies. The said complaint was within the jurisdiction of the Commission subject of course to the compliance of the Rule 7.4.1 (a) to (g) of the Rules.

67. The complaint of Dr. Paramita Shuklabaidya, the then Assistant Professor in the Department of History dated 25.2.2013 pertained to certain service benefits regarding counting her past services rendered in another institution for the purposes of service benefits in BHU and unnecessary delay was caused in this regard. She also referred to her grievances regarding pay fixation and non-issuance of LPC as subsequently, she has taken employment in Indira Gandhi University and the payment of arrears. This complaint was addressed to the Vice-Chancellor of the University with a copy to the Chairman of the Commission Dr.

P.L. Punia.

68. The subject-matter of the aforesaid complaint was purely administrative in nature, therefore, we fail to understand as to how cognizance of the same could have been taken by the Commission in view of the provisions of Article 338 of the Constitution of India read with Rule 7.4.1 (a) to (h) of the Rules framed by the Commission itself under Article 338(4) of the Constitution.

69. Moreover, the University was already seized with the matter in pursuance of her earlier representations and had informed Dr. Paramita Shuklabaidya vide its letter dated 4.1.2012 that her past services rendered at Tagore Arts College, Pudduchery could not be counted for the purpose of G.P.F. and other service benefits. In view of the above, such complaint was out side the domain of the Commission. As per the University, the grievances of the Dr. Shuklabaidya have been redressed.

70. In view of the above discussions the Court finds that the Commission had entertained some of the above mentioned complaints without due and proper application of mind as to its jurisdiction under Article 338 and their maintainability in the light of the Rules made by it under Article 338(4) of the Constitution of India. The subject-matter of some of the complaints, as referred above, was apparently out side the purview of the Commission. The requirements of Rule 7.4.1 (a) to (g) of the Rules were not adhered to.

71. Merely because an employee belongs to a scheduled caste does not mean that every grievance of his pertaining to his service will fall in the domain of the Commission. The matters of purely administrative nature including disciplinary matters will not be cognizable by it unless they involve deprivation of rights and safeguards of the scheduled castes as available to them under the Constitution or under any other law or under any order of the Government or they involve caste based harassment. Such deprivation has to be specifically made out in the complaint with the support of documentary evidence, if any, and with reference to the relevant provisions of law as is also evident from Rule 7.4.1 of the Rules made by the Commission itself.

72. The Commission should form a prima facie view regarding maintainability of the complaint keeping in mind the provision of Article 338 and the Rules made by it under clause (4) thereof before entertaining the same and issuing notices thereon.

73. Mere cryptic, unsubstantiated allegations lacking in necessary details as required under Rule 7.4.1 (a) to (f), which do not make out a case for interference, should not be acted upon by the Commission. It should be cautious not to entertain vexatious complaints made with oblique motives.

74. The proceedings before the Commission should not be allowed to be misused for ulterior motives such as arm twisting the employer in purely administrative and disciplinary matters. The Commission should sift the complaints and

entertain only the genuine ones.

75. The next question which arises for our consideration in the instant case is as to whether the insistence of the Commission for personal appearance of the Vice-Chancellor of the University was justified.

76. The Commission is clothed with the power of summoning and enforcing the attendance of any person for a limited purpose as mentioned in Article 338 itself but by virtue of the said provision it does not become a Civil Court. It does not have the powers to adjudicate the rights of the parties nor to issue any direction or injunction on merits.

77. The scope of its powers has already been considered by the Supreme Court in the case of *Collector, Bilaspur Vs. Ajit P.K. Jogi and Others*, . In the said case, the Commission had decided the validity of a caste certificate after summoning the records and recording extensive finding on merits based thereon. The supreme Court disapproved the action of the Commission and observed that the duties under clause 5(b) of Article 338 did not extend to either issue of caste/tribe certificate or to revoke or cancel a caste/tribe certificate or to decide upon the validity of the caste certificate. Having regard to sub-clause (b) of clause (5) of Article 338, the Commission could no doubt entertain and enquire into any specific complaint about deprivation of any rights and safeguards of Scheduled Tribes. When such a complaint was received, the Commission could enquire into such complaint and give a report to the Central Government or the State Government requiring effective implementation of the safeguards and measures for the protection and welfare and socio-economic development of the scheduled tribes. This power to enquire into "deprivation of rights and safeguards of the scheduled castes and scheduled tribes" did not include the power to enquire into and decide the caste/tribe status of any particular individual on the rights of the parties. The Supreme Court disapproved the action of the Commission in summoning senior officers of the Government and recording a finding regarding the caste status of the concerned person as unwarranted.

78. Further a Division Bench of this Court in the case of *U.P. State Hand Loom Corporation and Another Vs. State of U.P. and Another*, also had the occasion to consider the scope of powers of the Commission under Article 338 of the Constitution and it held as under:

11.....The powers to summoning or enforcing attendance of any person and examining him on oath; requiring the discovery and production of any document" receiving evidence on affidavits" requisitioning any public record or copy thereof from any Court or office; issuing commissions for the examination of witnesses and documents" and any other matter that may be prescribed by Section 12 of the State Act are for the purposes of facilitating investigation and enquiries. These powers are not for issuing any orders or decrees to be implemented by the public authorities. If, after making investigation and enquiry, the National Commission or State Commission for the Scheduled Castes and

Scheduled Tribes comes to any conclusion with regard to atrocities committed, or for ensuring socio-economic upliftment of the members of the Scheduled Castes and Scheduled Tribes, the Commission can make a recommendation to the President/Governor, as the case may be, to give due consideration for the benefit of the members of the community.

79. The power to summon or enforce attendance of any person and examine him on oath, as available to the Commission under Article 338(8), is the same as is available to a Civil Court trying a suit, as such, the exercise of such power is to be guided by the provisions contained and principles enshrined under Order XVI of the CPC especially Rule 1 & 14 thereof. Therefore, before summoning a person, the Commission is required to apply its mind as to the necessity thereof. Such summons for personal appearance should not be issued mechanically. The Commission has to examine the facts of each case and if it is found that such appearance of a person is necessary for the purpose of inquiry or investigation, only then the summons should be issued. It would be appropriate that the reasons and the purpose for issuance of such summons is mentioned.

80. Under Order XVI Rule 1, the concerned party desirous of obtaining any summons for the attendance of any person is required to file an application stating therein the purpose for which the witness is proposed to be summoned.

81. The Supreme Court in the case of the Union of India (UOI) Vs. Orient Engg. and Commercial Co. Ltd. and Another, , had the occasion to consider the requirements of Order XVI Rule 1 C.P.C. and it observed as under:

3. In this case, a list of witnesses was furnished by the 1st respondent and the Registrar of the High Court, in the routine course, granted summons, perhaps not advertent as to why the arbitrator himself was being summoned. That was more or less mechanical is evident from the fact that the reason given for citing the arbitrator is the omnibus purpose of proving the case of the party-not the specific ground to be made out. We should expect application of the mind of the Registrar to the particular facts to be established by a witness before the coercive process of the Court is used. It is seen that the learned Judge before whom objection was taken under s. 151 C.P.C. to the summons to the arbitrator dismissed the petition on the score that he saw no ground to refuse to summon the arbitrator as a witness. The approach should have been the other way round. When an arbitrator has given an award, if grounds justifying his being called as a witness are affirmatively made out, the Court may exercise its power, otherwise not. It is not right that every one, who is included in the witness list is automatically summoned; but the true rule is that, if grounds are made out for summoning a witness he will be called; not if the demand is belated, vexatious or frivolous. Thus the Court also has not approached the question from the proper perspective. If arbitrators are summoned mindlessly whenever applications for setting aside the award are enquired into, there will be few to undertake the job. The same principle holds good even if the prayer is for modification or for remission of the award. The short point is that the Court must realise that its

process should be used sparingly and after careful deliberation, if the arbitrator should be brought into the witness box. In no case can he be summoned merely to show how he arrived at the conclusions he did. In the present case, we have been told that the arbitrator had gone wrong in his calculation and this had to be extracted from his mouth by being examined or cross-examined. We do not think that every Munsif and every Judge, every Commissioner and every arbitrator has to undergo a cross-examination before his judgment or award can be upheld by the appellate Court. How vicious such an approach would be is apparent on the slightest reflection.

4. Of course, if a party has a case of mala fides and makes out prima facie that it is not a frivolous charge or has other reasonably relevant matters to be brought out the Court may, in given circumstances, exercise its power to summon even an arbitrator, because nobody is beyond the reach of truth or trial by Court. In the present case, after having heard counsel on both sides, we are not satisfied that on the present material there is justification for the examination of the arbitrator.

82. A Division Bench of this Court in the case of Chitranjan Singh Vs. Chandra Bhushan Pandey, , while dealing with a contempt proceeding considered the necessity of summoning a person for examination and after referring to the provisions of Order XVI Rule 14 C.P.C., held that a special case has to be made out even under Order XVI, Rule 14, C.P.C., for summoning witnesses as Court witnesses.

83. In the instant case some of the grievances were beyond the Commission's jurisdiction as has already been mentioned earlier.

84. The record reveals that after receiving the initial summons issued by the Commission, detailed point-wise replies were filed by the University, from a perusal whereof, it is found that there was sufficient material before the Commission to form an opinion in the matter relating to reservation policy for scheduled castes etc. for the purposes of sending a report as per Article 338(5) (d) & (e) of the Constitution.

85. In its detailed replies, which have been noted by the Commission itself in its report sent to the Government of India, it was stated that the reservation roster for the teaching and non-teaching posts (cadre-wise) was prepared in the University as per Post-Based roster at 200 points and the same was approved by the Executive Council of the University, a copy of which had already been sent to the Commission.

86. The University advertised the posts of Professors, Associate Professors and Assistant Professors through various advertisements. As per the Post-Based reservation roster, out of the total strength of 343 posts of Professors, 687 posts of Associate Professors and 1386 posts of Assistant Professors, 51 posts of Professors, 103 posts of Associate Professors and 208 posts of Assistant Professors respectively were reserved for the scheduled castes. The requisite

number of posts were also reserved for the scheduled tribes and other backward classes.

87. It was further stated that 35 posts of Professors reserved for the scheduled castes were advertised. 15 posts of Professors reserved for the scheduled castes belonging to the Institute of Technology-BHU were not permitted to be filled up by the Ministry of Human Resources Development, Government of India owing to the pending issue of conversion of the said Institute into the I.I.T. BHU. The remaining 1 post of Professor reserved for the scheduled castes was to be advertised shortly.

88. Like wise it was also stated that 69 posts of Associate Professors reserved for the scheduled castes had been advertised. 29 posts of Associate Professors reserved for the scheduled castes belonging to the Institute of Technology-BHU were not permitted to be filled up by the Ministry of Human Resources Development, Government of India for the reasons already mentioned above. The remaining 2 posts of Associate Professors reserved for the scheduled castes were to be advertised shortly.

89. It was further stated that 85 posts of Assistant Professors reserved for the scheduled castes had been advertised. 28 posts of Assistant Professors reserved for the scheduled castes belonging to the Institute of Technology-BHU were not permitted to be filled up by the Ministry of Human Resources Development, Government of India for the reasons already mentioned above. The remaining 11 posts of Assistant Professors reserved for the scheduled castes were to be advertised shortly.

90. Out of the above advertised posts, 4 posts of Professors for the scheduled castes category, 25 posts of Associate Professors for the scheduled castes category and 6 posts of Assistant Professors for the scheduled castes category were to be re-advertised due to non-availability of the eligible candidates, non-suitability of the candidates and on account of no application having been received from the candidates of the said category.

91. With regard to the non-teaching posts also the requisite figures were given, which revealed that out of 22 posts of Group-"A" reserved for the SC category, 21 posts had been filled up and the remaining 1 post had been advertised. No back-log vacancy (permitted by UGC) under direct recruitment, existed in Group-"B" "C" "D".

92. The requisite figures for the ST and OBC categories were also furnished by the University but in the instant case since we are concerned only with the SC category, reference to the figures of other categories is not necessary.

93. We also find that the University had also submitted replies to the complaints of Prof. Lal Chand Prasad & Sri Mahendra Pratap Singh regarding alleged non-implementation of the reservation policy and non-filling up of the back-log vacancies. In this regard it was stated that the Post-Based reservation roster for

various teaching posts in the University had been prepared cadre-wise as per quota of SC, ST, & OBC to the extent of 15%, 7.5% & 27% respectively. Since 554 posts of Professors, Associate Professors and Assistant Professors had been separated from the University and given to the I.I.T. BHU, as such, the reservation roster prepared cadre-wise at the level of the University became ineffective as these teaching positions of I.I.T. BHU all along the roster and separation of I.I.T. Resulted in gaps in the rosters which necessitated re-drawing the reservation roster.

94. A fresh roster for the remaining total sanctioned strength of 246 positions of Professors, 511 positions of Associate Professors and 1105 positions of Assistant Professors in the University had been prepared as per prescribed norms of the Government of India.

95. Accordingly, 36 posts of Professors for SC and 18 posts of Professors for ST and 76 posts of Associate Professors for SC, 38 posts of Associate Professors for ST, 165 posts of Assistant Professors for SC, 82 posts of Assistant Professors for ST and 298 posts of Assistant Professors for OBC were earmarked for these categories fulfilling the required percentage of reservation. The reservation roster had been prepared cadre-wise (not department-wise) as per the prescribed norms.

96. Further details of the number of posts filled up and advertised etc. were also given. The said details have already been mentioned above. The current status regarding the back-log vacancies was also given.

97. The aforesaid replies were not dealt with by the Commission before summoning the petitioner for his personal appearance or issuing the warrants for the said purpose. There was no necessity for insisting upon personal appearance of the Vice-Chancellor as the Vice-Chancellor was neither a witness to any incident/allegation nor any specific allegation of atrocity was made against him. The Vice-Chancellor is not supposed to have any personal knowledge of these matters. Being the Head of the Institution, he would assist the Commission only on the basis of records available with the University, which were in fact already produced by it before the Commission.

98. The officers of the University i.e. Assistant Registrar etc. were regularly appearing before the Commission. Detailed point-wise replies to the complaints were filed dealing with each and every point. If the Commission was not satisfied on any issue it should have mentioned the specific point on which it was dissatisfied and should have asked the University to furnish its additional reply in respect thereof. But this was not done, in stead, repeated summons were issued for the personal appearance of the Head of the Institution, failing which, warrants were issued. Even the summons did not mention the purpose for which the petitioner was required to appear in person. The impugned action was taken in a routine and mechanical manner without due and proper application of mind.

99. It was only after passing of the order dated 4.7.2013 that it issued a letter

dated 8.8.2013 to the petitioner mentioning that the assistance provided by the Registrar and the Deputy Registrar who appeared before it on 8.10.2012, 5.11.2012 and 9.11.2012 and the Assistant Registrar who appeared before it on 17.6.2013 was not adequate as they were unable to answer the queries of the Commission and were not aware of the relevant facts, as such, the Member of the Commission Sri Raju Parmar had decided to discuss all the above cases with the petitioner i.e. the Vice-Chancellor in person on 19.8.2013 at 12.00 Noon in his chambers. Vague allegations were also made therein regarding violation of UGC norms in implementing the reservation policy and resorting to unnecessary harassment of the scheduled caste employees.

100. The aforesaid letter does not comply with the requirements of the order dated 4th July, 2013 passed by this Court in as much as it does not show that the Commission considered the objections raised by the University in its replies to the complaints nor does it consider the question of jurisdiction. Moreover, prior to the said letter dated 8th August, 2013, though the proceedings had been going on since the year 2010, no such plea had been taken by the Commission that the Registrar, Deputy Registrar and the Assistant Registrar were not able to assist the Commission nor the issues/points on which their assistance was unsatisfactory was ever communicated to the University. The said recital in the letter dated 8th August, 2013 appears to be unfounded in view of the replies submitted by the University, which have been perused by us.

101. There was sufficient material before the Commission by way of complaints as well as replies submitted by the University to arrive at a conclusion as to whether the scheduled castes have been deprived of any right available to them or not and to submit a report in this regard under Article 338 but there was no necessity of summoning the Vice-Chancellor.

For the aforesaid reasons the issuance of summons and warrant in question is not sustainable being unjustified.

102. Before parting we would like to refer to the report sent by the Commission to the Government of India as we find that one of the recommendations made is as under:

7. The Hon'ble Supreme Court may be requested to issue directions to all the Hon'ble High Courts not to interfere with the proceedings of the National Commission for Scheduled Castes being pursued under the provision of the Constitution and acknowledge the status of NCSC as a Constitutional body and interim orders against NCSC may not be passed as a matter of routine.

103. We take strong exception to such recommendations/recitals in the Report. Here, it has clearly exceeded its boundaries. Actions of the Commission can be judicially reviewed under Article 226 of the Constitution of India by the High Courts. If aggrieved by any order of the High Court, the Commission can always assail the same in accordance with law or seek its vacation or modification but such observations are impermissible and contemptuous. The Commission

appears to be unmindful of the limits of its powers and the decorum required to be maintained by it with regard to the Supreme Court and the High Courts. We refrain ourselves from taking any further action in the matter in the solemn hope that good sense shall prevail with the Commission in future.

104. In view of the fact that the report has already been submitted by the Commission under Article 338 of the Constitution, the summons and warrants issued by it for personal appearance of the petitioner have lost their efficacy/relevance, as such, there is no need to quash the same at this stage, though, as observed earlier, issuance of the same was not justified. With the above observations, both the writ petitions are disposed of.