

214 SUPREME COURT CASES (2015) 17 SCC

(2015) 17 Supreme Court Cases 214

(Record of Proceedings)

(BEFORE MADAN B. LOKUR AND UDAY U. LALIT, JJ.)§

Writ Petition (Crl.) No. 122 of 2013, decided on September 18, 2015

DALIT MANAVADHIKAR KENDRA SAMITI .. Petitioner;

Versus

STATE OF RAJASTHAN AND OTHERS .. Respondents.

With

(BEFORE MADAN B. LOKUR AND UDAY U. LALIT, JJ.)§

Writ Petition (Crl.) No. 122 of 2013, decided on November 6, 2015

DALIT MANAVADHIKAR KENDRA SAMITI .. Petitioner;

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With

Writ Petition (Crl.) No. 122 of 2013, decided on November 6, 2015

**Human and Civil Rights — Protection of Human Rights Act, 1993 —
Ss. 30 and 21(3) — Rajasthan State Human Rights Commission functioning
without Chairperson as well as Secretary; Human Rights Courts not set up;
tremendous staff shortage in the Commission; no steps taken to fill vacancies;
and draft recruitment rules sent to State Government not finalised as yet —
Directions issued**

Dalit Manavadhikar Kendra Samiti v. State of Rajasthan, WP (Cri) No. 122 of 2013, order dated 9-12-2013 (SC), referred to

P-D/56446/S

Advocates who appeared in this case :

Colin Gonsalves, Senior Advocate [Ms Divya Sunderajan, Ms Jyoti Mendiratta (Advocate-on-Record) and Kamlesh Kr. Mishra, Advocates] for the Petitioner;

S.S. Shamshery, Additional Advocate General and Mahabir Singh, Senior Advocate [Ms Preeti Bhardwaj, Ishu Prayash, Ms Ruchi Kohli (Advocate-on-Record), Nikhil Jain (Advocate-on-Record), Ms Preeti Singh, Abhishek Jain, Amit Sharma, Ms S. Spandana Reddy and Gagan Deep Sharma, Advocates] for the Respondents.

Chronological list of cases cited *on page(s)*

1. WP (Cri) No. 122 of 2013, order dated 9-12-2013 (SC), *Dalit Manavadhikar Kendra Samiti v. State of Rajasthan* 216a

§ **Ed.:** Given the nature of these orders, they have been published in SCC, together, in chronological order, by the date of the order, as one combined report with the citation: (2015) 17 SCC 214. This is to facilitate a holistic view of the matters decided in such orders. Furthermore, to make it possible to search for a particular order by date as well, in SCC Online, each order has been reported separately with an independent citation with reference to the page on which it falls in SCC, in the combined report of all the orders i.e. (2015) 17 SCC 215(1) and (2015) 17 SCC 215(2).

(2015) 17 SCC 215(1)
ORDER dated 18-9-2015

a (BEFORE MADAN B. LOKUR AND UDAY U. LALIT, JJ.)

Writ Petition (Crl.) No. 122 of 2013

1. We have gone through the affidavits filed by the State of Rajasthan as well as the Rajasthan State Human Rights Commission. We have also heard the learned counsel for the parties.

b 2. We are distressed to note that the Rajasthan State Human Rights Commission has been without the services of the Chairperson since 16-7-2010 i.e. for the last more than five years. This is totally unacceptable and in a sense subverts the Protection of Human Rights Act, 1993 (for short “the Act”). We also find that Human Rights Courts that are required to be set up under Section 30 of the Act have apparently not been set up. In any event, there is no mention of the setting up of these courts in the affidavit filed by the State of Rajasthan.

c 3. The learned counsel for the State of Rajasthan says that he will check up the position and let us know the progress made and the steps taken in the appointment of the Chairperson of the Rajasthan State Human Rights Commission and for setting up of Human Rights Courts.

d 4. The affidavit of the Rajasthan State Human Rights Commission indicates that there is a tremendous staff shortage and in spite of several letters having been sent to the State Government, no steps have been taken to fill up the vacancies and the draft recruitment rules sent to the State Government have also not been finalised by the State Government.

5. This is an extremely sad state of affairs insofar as human rights in Rajasthan are concerned.

e 6. The learned counsel for the State of Rajasthan says that he will get positive instructions indicating a time-frame within which all the deficiencies that have been pointed out not only in the affidavit filed by the State of Rajasthan but also in the affidavit by the Rajasthan State Human Rights Commission will be remedied and will file an affidavit within four weeks. We make it clear that time to file an affidavit will not be extended except on payment of heavy costs. List the matter on 6-11-2015.

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(2015) 17 SCC 215(2)
ORDER dated 6-11-2015

(BEFORE MADAN B. LOKUR AND UDAY U. LALIT, JJ.)

Writ Petition (Crl.) No. 122 of 2013

g 7. In this writ petition under Article 32 of the Constitution of India, the petitioner, Dalit Manavadhikar Kendra Samiti has prayed for several reliefs. The principal relief is for a writ of mandamus directing the State of Rajasthan to appoint a Secretary to the State Human Rights Commission (for short “the Commission”) in accordance with Section 21(3) of the Protection of Human Rights Act, 1993 (for short “the Act”) as well as to fill up all vacant sanctioned posts in the Commission in terms of Para 11 of the writ petition. In Para 11, it

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has been pointed out that a large number of posts of staff in various categories, totalling about 67, are lying vacant.

8. By an order dated 9-12-2013¹, notice was issued to the respondents limited to this prayer only. During the pendency of these proceedings, we were informed that apart from the fact that there is no or inadequate staff with the Commission, the Commission was without the services of the Chairman since 16-7-2010. We were also given to understand that the Human Rights Courts have not been set up as required under Section 13 of the Act. We had recorded this in our order dated 18-9-2015² and had directed the State of Rajasthan to let us know the progress by way of an affidavit. a

9. Today, the learned Additional Advocate General appearing for the State of Rajasthan says that for some reason the affidavit could not be filed, but he has handed over to us a Warrant of Appointment dated 20-10-2015 issued by Shri Kalyan Singh, Governor of Rajasthan appointing Shri Prakash Tatia, retired Chief Justice of the Jharkhand High Court as the Chairperson of the Commission for a term of five years from the date on which he enters office or until he attains the age of seventy years, whichever is earlier. The learned Additional Advocate General says that the retired Chief Justice Shri Prakash Tatia has accepted the appointment and to the best of his knowledge he has also entered upon his office. The Warrant of Appointment is taken on record. b

10. The learned Additional Advocate General has also handed over a Notification dated 5-4-2013 (in Hindi) to the effect that Human Rights Courts have been set up in every district of the State and the District and Session Judges have been designated as the District and Session Judges for their respective boundaries as Human Rights Courts. This Notification dated 5-4-2013 (in Hindi) is also taken on record. c

11. With regard to the staff shortage, the learned Additional Advocate General has informed us that today there are 18 sanctioned posts that are lying vacant. He says that the recruitment rules proposed by the Commission are under examination and will be discussed with the Chairperson of the Commission so that all the posts can be filled up and the Commission can start functioning effectively. d

12. In view of the above, we request the Chairperson of the Commission to ensure that the State Government complies with the submissions that have been made before us and vacant posts are filled up at the earliest. e

13. In view of the above, no further relief is sought for in this writ petition and it is accordingly disposed of. f

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¹ *Dalit Manavadhikar Kendra Samiti v. State of Rajasthan*, WP (Cri) No. 122 of 2013, order dated 9-12-2013 (SC), wherein it was directed:

“Heard. Respondents 3 and 4 are deleted from the array of parties. Issue notice to Respondents 1 and 2 only limited to Prayer A in the amended writ petition for the present.” h

² Set out in paras 1 to 6, above.