

[MANU/SC/1510/1998](#)

Equivalent Citation: JT1998(9)SC119, 1997(7)SCALE17, (1998)9SCC388

IN THE SUPREME COURT OF INDIA

Writ Petition (Crl.) No. 1900 of 1981

Decided On: 11.11.1997

Appellants: **Dr. Upendra Baxi**

Vs.

Respondent: **State of U.P. and Ors.**

Hon'ble

Judges/Coram:

[J. S. Verma](#), C.J., [B. N. Kirpal](#) and [V. N. Khare](#), JJ.

Subject: Constitution

Catch Words

Mentioned IN

Acts/Rules/Orders:

Protection of Human Rights Act, 1993

Case

Note:

Constitution - monitoring affairs - Articles 21 and 32 of Constitution of India and Protection of Human Rights Act, 1993 - issue arose due to malfunctioning of Agra Protective Home (APH) - Court issued directions that National Human Rights Commission (NHRC) be given statutory powers to improve the scenario - further request made to involve NHRC to make APH achieve objects for which it was formed.

ORDER

1. By order dated 29-4-1991, this Court had disposed of this matter and directed the

learned District Judge of Agra to continue to monitor the affairs of the Agra Protective Home and give the necessary directions from time to time, as may be required for this purpose in addition to sending periodical reports to this Court. In view of certain problems which arose thereafter, the matter has been required to be taken up again by the Court. We are constrained to observe that the authorities concerned of the Government of Uttar Pradesh have not been vigilant in this matter which has given rise to justifiable criticism of the continued malfunctioning of the Agra Protective Home.

2. Having dealt with this matter for some time, we have formed the opinion that a better method for supervision of the functioning of the Agra Protective Home is necessary. Now, that the benefit of the National Human Rights Commission (NHRC) with statutory powers under Protection of Human Rights Act, 1993 is available and since most of the problems associated with the functioning of the Agra Protective Home are such that they can be better dealt with by NHRC, we consider it expedient to make this order to involve the NHRC in this exercise. It is likely that the pendency of this matter and the directions made by this Court may have to some extent inhibited the NHRC in exercise of its ordinary functions relating to the Agra Protective Home so far. The order we make herein will also have the effect of removing any such impression or inhibition.

3. We now request the NHRC to be involved in the supervision of the working of the Agra Protective Home to ensure that it functions in the manner as is expected for achieving the object for which it has been set up. For this purpose, we modify the earlier order dated 29-4-1991 and direct that the District Judge, Agra would now send his reports to the NHRC with a copy to the Registry of this Court. The NHRC, acting on the reports of the District Judge or otherwise in the manner it considers fit will ascertain the facts relating to the actual functioning of the Agra Protective Home and would issue the necessary direction to the authorities concerned for prompt compliance by them so as to ensure proper functioning of the Agra Protective Home. It is expected that all the authorities concerned would promptly comply with such directions given by the NHRC. In case, any clarification is needed by any authority or by the NHRC or by the amicus curiae, it would be open to them to approach this Court for the same and it would also be open to the NHRC to invoke the jurisdiction of this Court for making such other orders as it considers necessary and expedient for achieving fully the objective of this exercise.

4. We must place on record our appreciation of the stand taken by the learned Solicitor General that this would be the appropriate course to adopt and that the

NHRC is the most suitable agency for the performance of this task for which purpose assurance of the Central Government has been indicated by the learned Solicitor General.

5. Draft of some guidelines suggested by the learned Solicitor General and learned amicus curiae, Mr S. Muralidhar, to which the State has agreed may also be sent to the NHRC for their comments in addition to other papers in the record to be indicated by the learned amicus curiae. Registry to take prompt action to this effect.

6. We also placed on record our appreciation of learned amicus curiae, Mr S. Muralidhar, for the assistance rendered to the Court in these proceedings and his offer to assist the NHRC also hereafter. We are sure that the Commission will appreciate his assistance in performance of this exercise.

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