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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 29th July 2026*

DLHC011342492016

+ **W.P.(C) 4696/2016 & CM APPL. 19573/2016**

MINISTRY OF RAILWAY

.....Petitioner

Through: Ms. Arunima Dwivedi, CGSC and
Ms. Himanshi Singh, Advocate.

versus

NATIONAL HUMAN RIGHTS COMMISSION (NHRC)
AND ANR.

.....Respondents

Through: Mr. Kaoliangpou Kamei, Mr. Sunil
Kanti, Advocates for R-3.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present writ petition has been filed under Article 226 of the Constitution of India, challenging the orders dated 30th April, 2014 and 19th April, 2016, passed by the National Human Rights Commission (hereinafter 'NHRC'), New Delhi in Case No. 1037/4/19/2013-WC.
2. The proceedings before the NHRC arose from a complaint filed on 9th March, 2013 by the father of the victim of a gang rape case which took place on 27th August 2012 inside a bogie of a passenger train at Railway Platform no. 5 at Lakheesarai, Bihar.
3. Upon considering the complaint and the reports received from the authorities, the NHRC *vide* order dated 30th April, 2014 noted that the Chairman, Railway Board has to pay a sum of Rs. 3,00,000/- to the victim



and reiterated the said direction through subsequent communications dated 17th July 2014 and 08th January 2015.

4. Subsequently, a representation was filed on behalf of the Railways, raising an objection that compensation under the Railways Act could only be determined by the Railway Claims Tribunal and that the NHRC lacked jurisdiction. The said representation was rejected *vide* order dated 19th April, 2016, and the Railways were directed to make the payment of compensation.

5. Aggrieved by the aforesaid impugned orders, the present writ petition has been filed.

6. *Vide* order dated 27th May, 2016, the victim was impleaded as the respondent no.3 on the oral request of the petitioner and the petitioner/Railways was asked to deposit the sum of Rs. 3,00,000/- with the Registrar General of this Court. Subject to the deposit, the operation of the impugned orders dated 30th April 2014 and 19th April 2016 was stayed.

7. Pursuant to the said order, the aforesaid sum has been deposited before this Court.

8. The respondent no.3 filed a counter affidavit wherein the following averments have been made:

8.1. The respondent was a *bona fide* passenger who was subjected to a brutal gang rape inside the railway compartment and that the Railways failed to discharge their obligation of providing a safe environment to passengers.

8.2. As regards the stand of Railways that the payment of compensation cannot be made until the criminal case is over, there is little connection between the criminal case and the payment of compensation as the Railways themselves admit that the respondent no.3 was gang raped inside the railway compartment.



9. Ms. Arunima Dwivedi, CGSC appearing for the petitioner/Railways, assails the aforesaid order passed by the NHRC by making the following submissions:

- i. The rape was committed by private individuals and not by a Railways employee. The aforesaid individuals were duly convicted for the offence of rape. Since no railway employee was involved in the incident, the Railways could not have been asked to pay the compensation.
- ii. In the present case, the train was stationed at Platform no.5 at Lakheesarai, Bihar and was not a moving train. Therefore, the responsibility of law and order would be of the Government Railway Police, which comes under the Administrative Control of the State Government.
- iii. The aforesaid instance would not be covered under the definition of '*untoward incident*' in terms of Section 123 of the Railways Act. Hence, Railways is not liable to pay compensation under Section 124A of the Railways Act.

10. Mr. Kaoliangpou Kamei, counsel appearing on behalf of the respondent no.3 submits that the respondent no.3 was a *bona fide* passenger of the Railway compartment and she had purchased a ticket for the same. Therefore, the Railways was obliged to provide a safe environment on board the compartment of the train. He submits that in terms of Section 124A of the Railways Act, the Railways is bound to pay compensation on account of an untoward incident. He further submits that the aforesaid incident falls in the ambit of violent acts, in terms of Section 123C of the Railways Act.

11. I have heard the counsel for the parties.



12. The term ‘untoward incident’ has been defined in Section 123(c) of the Railways Act, 1989, which is set out below:-

“(c) “untoward incident” means –

(i)...

(ii) the making of a violent attack or the commission of robbery or dacoity; or

(iii) ...

by any person in or on any train carrying passengers, or in a waiting hall, cloak room or reservation or booking office or on any platform or in any other place within the precincts of a railway station;”

13. It is clear from a reading of the above that “untoward incident” includes an incident which has occurred on a train carrying passengers or in a waiting hall or cloak room or booking office or on any platform or any other place in the railway station. Therefore, the objection taken by the Railways that the incident occurred not in a moving train but when the train was at the station at a platform has no legs to stand on.

14. There is no doubt that the incident of gang rape would be covered in the definition of “untoward incident” as it is in the nature of a violent attack.

15. Section 124A of the Railways Act is set out below:-

“124A. Compensation on account of untoward incident.— When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependant of a passenger who has been killed to maintain an action and recovery damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident.

Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to –

- (a) suicide or attempted suicide by him;*
- (b) self-inflicted injury;*
- (c) his own criminal act;*



- (d) any act committed by him in a state of intoxication or insanity;
- (e) Any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.

Explanation.— For the purposes of this section, “passenger” includes –

- (i) a railway servant on duty; and
- (ii) a person who has purchased a valid ticket for travelling by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident.”

16. Section 124A mandates that when any untoward incident occurs, whether on account of wrongful act, neglect or default on the part of the railway administration or not, which results in injury to a passenger, the Railways would be liable to pay compensation. Section 124A makes it clear that the Railways would be liable to pay compensation towards an untoward incident, even if it is not on account of any wrongful act, neglect or default by the Railways. Therefore, even if the gang rape was committed by private individuals who were not railway employees, it would not affect the liability of the Railways to pay compensation.

17. The fact of the matter is that the victim was a *bona fide* passenger who had purchased a ticket for the journey and was travelling in the train when the said incident occurred. The Railways were obliged to provide a safe environment onboard the compartment of the train. Since the unfortunate incident occurred inside a compartment of a train, the same would be covered under the definition of an “untoward incident” as provided in Section 123(c) of the Railways Act and the Railways would be liable to pay compensation in terms of Section 124A of the Railways Act.

18. NHRC is a statutory body established under the Protection of Human Rights Act, 1993, with a mandate of better protection of human rights and



for matters connected therewith. Section 13 of the Act provides that the Commission has the powers of inquiry of a civil court. Though the recommendations made by the Commission under Section 18 of the Act are recommendatory, they cannot be treated as mere opinions. Being the outcome of a statutory inquiry conducted by an expert statutory body entrusted with the protection of human rights, such recommendations command persuasive value.

19. At this stage, it would be apposite to refer to the decision of the Division Bench of this Court in ***Kiran Singh v. National Human Rights Commission***, 2025 SCC OnLine Del 430. While examining the scope and enforceability of the recommendations made by NHRC, the Division Bench made the following pertinent observations:

*“59. After having considered the reasoning in both the Allahabad High Court and Madras High Court judgments, this Court fully agrees with the reasoning in the said two decisions - whether in the case of compensation or in the case of inquiry being directed. **The purpose of the Human Rights Act and the reasons for its enactment would be nullified if the Commissions are rendered powerless and are held to be mere recommendatory bodies. The recommendations are binding in nature.** The concerned authority/government, however, is not without remedy and can always seek judicial review of the recommendations. **Any view to the contrary, that the Human Rights Commissions can only make recommendations, which are not binding, would render the said Commissions completely toothless and nullify the object of India ratifying the Universal Declaration of Human Rights.** The Court does not agree with the stand of the Delhi Police that in each and every case, the NHRC ought to be forced to approach the Court for implementation of its own decisions. The NHRC is not meant to become a litigant before Courts.*

*60. **In the opinion of this Court, human rights are not ordinary rights. These rights are integral to Article 21 which recognizes the Right to Life. Commissions under the Human rights Act are meant to look into any infractions and exercise powers under the Act. Reports and Recommendations of Human Rights Commissions need to be treated with seriousness and not rendered edentulous or pointless. If Governments are***



aggrieved, they are free to challenge the orders of State Commissions and NHRC. But such inquiries and reports cannot be simply ignored. Human Rights Commissions are not to be ‘toothless tigers’ but have to be ‘fierce defenders’ safeguarding the most basic right of humans i.e., the right to live without fear and to live with dignity.’

[Emphasis supplied]

20. The aforesaid judgment has been followed by a Single Bench of this Court in *Commissioner, Delhi Police v. NHRC*, 2025 SCC OnLine Del 1218.

21. Consequently, the recommendation made by NHRC directing payment of compensation cannot be said to suffer from any jurisdictional error, perversity or manifest illegality warranting interference under Article 226 of the Constitution of India. Rather, NHRC has correctly exercised its jurisdiction in recommending immediate monetary relief to a victim of gross human rights violation, and no ground is made out to interfere with the impugned orders.

22. In view of the foregoing discussion, the writ petition is devoid of merits and is accordingly dismissed. The interim order dated 27th May, 2016 stands vacated.

23. The Registry shall release the aforesaid amount for compensation in favour of the respondent no.3 along with the accrued interest within two (2) weeks from today.

AMIT BANSAL, J

JULY 29, 2026
at