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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **W.P.(C) 10775/2021 & CM APPL. 33248/2021**

Date of Decision: **22.04.2026**

**IN THE MATTER OF:**

THE CHIEF SECRETARY STATE OF SIKKIM & ANR.

.....Petitioners

Through: Mr. Aarohi Bhalla, Sr. Advocate  
(AAG) with Mr. Sameer Abhyankar,  
Mr. Rahul Kumar, Mr. Aakash Thakur  
& Mr. Chatinaiya Safaya, Advocates.

versus

NATIONAL COMMISSION FOR BACKWARD CLASSES & ORS.

.....Respondents

Through: Mr. Mukul Singh with Mr. Aryan  
Dhaka & Ms. Sunidhi Tyagi, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV**

**JUDGEMENT**

**PURUSHAINDR KUMAR KAURAV, J. (ORAL)**

1. The present petition has been filed seeking the following reliefs:

*“A. Issue a writ of certiorari or any other writ, order or direction in the nature thereof quashing the proceedings under F.No. NCBC/06/05/226/2020-CP pending before Respondent No. 1 wherein the approved minutes of the hearing dated 27.08.2021 have been issued by the*



*Respondent No. 1 herein, and the notices of hearing for 27.09.2021 have been issued to the Petitioners herein;”*

2. The case of the petitioners is that *vide* impugned minutes of the hearing dated 27.08.2021, the National Commission for Backward Classes (hereinafter, “**Commission**”) has directed the personal appearance of the Petitioner Nos. 1 & 2. The said directions have been issued in proceedings initiated against the petitioners by virtue of the complaint dated 17.12.2019, filed by Respondent Nos. 2 & 3. The complaint dated 17.12.2019 is extracted below:

*“It is requested that my late father Sh. Bachnu Thakur had purchased a piece of land on 10.6.1961 on which a house and shop was existing till 1985. However, Sikkim Government demolished my house and shop without any notice and constructed a Hawa Ghar thereon without permission of my deceased father.*

*In this connection, my late father made several requests to Government of Sikkim for getting his land returned. My father died in year 2005 and my elder brother tried his level best to get the said land returned to us. We both brothers Jogendra Thakur and Mahendra Thakur request that the said land be returned back to us after mutation. But Sir, I come from Backward class (Barber caste) and due to this reason also we could not get justice. Hence it is prayed that the justice be granted to my late father and both of us brothers and the injustice which is being done since 1985 be prevented.”*

3. When the matter was called up for hearing, it was argued by the petitioners that the direction for personal appearance has been passed without any basis. Upon hearing the submissions of the petitioners, this Court, *vide* order dated 23.09.2021, had stayed the proceedings before the Commission. The order dated 23.09.2021 is extracted below:

*“7. Till the next date, though proceedings before the respondent no.1 may continue; keeping in view the fact that the complaint made by the respondent nos.2 & 3 was primarily against the Govt. of Sikkim, the operation of the impugned notice insofar as it directs the personal*



*appearance of the petitioners herein and the Director, Tashi Namgyal Academy Zero Point, P.O. will remain stayed. It will, therefore, be open for the Govt. of Sikkim to be represented before the respondent no.1 through any authorised representative, who is directed to appear before the Commission on 27.09.2021 with all relevant records.”*

4. Mr. Aarohi Bhalla, learned senior counsel appearing for the petitioners, submits that the proceedings before the Commission are without jurisdiction as the dispute in question relates to a title claim, which can be adjudicated only by a civil court. It is argued that a bare perusal of the complaint dated 17.12.2019 would indicate that there is no element of discrimination in the allegations made therein and as such, the complaint has no relation to the objective envisaged under Article 338B of the Constitution.

5. It is also submitted by Mr. Bhalla that the Commission, before entertaining a complaint, has to ensure that the complainant's caste is covered in the Central List of Other Backward Classes (OBCs) for the State of Sikkim. He further submits that without doing so, the Commission could not have assumed jurisdiction.

6. The Court has heard the submissions of the parties and perused the record of the case.

7. This Court, in *Air India Ltd & Ors. v. National Commission for Scheduled Tribes & Anr.*<sup>1</sup>, dealt with similar circumstances, and made the following observations in para 5 of the judgement:

*“5.The Court has held that unless the personal appearance is absolutely necessary, the same normally should not be resorted to. There does not seem to be any pressing issue or deliberate act of non-cooperation*

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<sup>1</sup> Order dated 19.02.2026 in W.P.(C) 9314/2023.



*requiring the personal appearance of the petitioners. In view thereof, the impugned order dated 15.06.2023 stand set aside. The undertaking of the petitioners is taken on record that they shall fully co-operate with the enquiry. All rights and contentions of the parties are left open including regarding jurisdiction of the Commission to entertain the complaint.”*

8. Similar view has been taken by this Court in ***PhonePe Insurance Broking Services Pvt. Ltd. and Anr. v. National Commission for Scheduled Castes and Ors.***<sup>2</sup>, wherein it was observed that unless personal appearance is the only available recourse, the same should not be resorted to.

9. In ***PhonePe*** (supra), the Court had relied on the observations of the Supreme Court in ***State of Uttar Pradesh & Ors. v. Manoj Kumar Sharma***<sup>3</sup>. The Supreme Court, in para 18 of the said judgement, observed that public officers should not be called to the Court unnecessarily. The relevant paras have been extracted below:

*“17. A practice has developed in certain High Courts to call officers at the drop of a hat and to exert direct or indirect pressure. The line of separation of powers between Judiciary and Executive is sought to be crossed by summoning the officers and in a way pressurizing them to pass an order as per the whims and fancies of the Court.*

*18. The public officers of the Executive are also performing their duties as the third limbs of the governance. The actions or decisions by the officers are not to benefit them, but as a custodian of public funds and in the interest of administration, some decisions are bound to be taken. It is always open to the High Court to set aside the decision which does not meet the test of judicial review but summoning of officers frequently is not appreciable at all. The same is liable to be condemned in the strongest words.*

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<sup>2</sup>Order dated 11.02.2026 in W.P.(C) 1226/2024.

<sup>3</sup>(2021) 7 SCC 806.



*20. Thus, we feel, it is time to reiterate that public officers should not be called to court unnecessarily. The dignity and majesty of the Court is not enhanced when an officer is called to court. Respect to the court has to be commanded and not demanded and the same is not enhanced by calling public officers. The presence of public officer comes at the cost of other official engagement demanding their attention. Sometimes, the officers even have to travel long distance. Therefore, summoning of the officer is against the public interest as many important tasks entrusted to him gets delayed, creating extra burden on the officer or delaying the decisions awaiting his opinion. The Court proceedings also take time, as there is no mechanism of fixed time hearing in Courts as of now. The Courts have the power of pen which is more effective than the presence of an officer in Court. If any particular issue arises for consideration before the Court and the Advocate representing the State is not able to answer, it is advised to write such doubt in the order and give time to the State or its officers to respond.”*

10. In the instant petition, it appears that the directions for personal appearance of the petitioners have been issued despite the fact that they were duly represented by counsel. It is also not the case of the Commission that the petitioners failed to cooperate or assist in the proceedings before it. As such, the impugned minutes of hearing, to the extent of such directions, deserves to be set aside.

11. Therefore, without going into the issue of jurisdiction, the Court finds that the direction for personal appearance of the petitioners was wholly unwarranted. The Commission should have exercised restraint while passing such directions in the absence of any compelling circumstances.

12. Thus, the directions, so far as they relate to the personal appearance of the Chief Secretary and District Collector, are set aside. The petitioners herein are, however, directed to authorise their representatives to file a reply before the Commission raising all objections, including those on lack of jurisdiction.

13. Needless to state, if such an objection is raised by the petitioners, let



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the same be appropriately dealt with by the Commission before taking any coercive steps against the petitioners.

14. With these observations, the instant petition stands disposed of. Pending application also stands disposed of.

**PURUSHAINDR KUMAR KAURAV, J**

**APRIL 22, 2026**

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