Human Rights Commissions

Why in News?

The Madras High Court (HC) is to decide on whether the recommendations made by Human Rights Commissions are binding upon the state.

Why these commissions were established?

- The Protection of Human Rights Act of 1993 created,
    1. National Human Rights Commission at the national level and
    2. Human Rights Commissions at the levels of the various States.
- These commissions were established to protect, promote and fulfil the fundamental rights guaranteed by the Indian Constitution.

What is the criticism?

- The complexity of governance and administration has necessitated the existence of a set of independent bodies with vital functions of oversight.
- However, for all intents and purposes, the Human Rights Commissions are toothless: at the highest, they play an **advisory role**.
- The government is free to disobey or even disregard their findings.

What are their powers?

- Under the 1993 Act, these commissions are empowered to inquire into the violations of human rights committed by state authorities.
- They can take action either upon petitions presented to them, or upon their own initiative.
- While conducting these inquiries, the Commissions are granted identical powers to that of civil courts, such as the examining witnesses, etc.
- These proceedings are deemed to be judicial, and they require that any person has a right to be heard.
- After concluding a violation, the Section 18 of the Act empowers this Commission to "**recommend**" to the concerned government to,
    1. Grant compensation to the victim,
    2. Initiate prosecution against the erring state authorities,
    3. Grant interim relief and take various other steps.
- Furthermore, the Section 18 of the Act obligates the concerned government

to forward its comments on the report, including the action taken or proposed to be taken, to the Commission within a month.

What is the pending case?

- The Madras High Court (HC) will be deciding upon a case whether "recommendations" made by the Human Rights Commissions are
  1. Binding upon their respective State (or Central) governments, or
  2. The government is entitled to reject or take no action upon them.
- The Full Bench of the Madras HC is hearing the case as to bring a common conclusion to the **meaning of the word "recommend"** in the context of the Protection of Human Rights Act, 1993.
- The argument is that the only obligation upon the government is that it needs to report to the Commission under the Section 18.

What is the view that needs to be rejected?

- If the Act intended to make the recommendations of the Commission binding upon the government, it would have said so.
- It would not simply have required the government to report what action it intended to take to the Commission ("no action" also as a category).
- This is a view that needs to be rejected due to many reasons.

Why this view needs to be rejected?

- Ordinarily, a mere "suggestion" is not binding.
- There is often a gap between the ordinary meanings of words and the meanings that they have within legal frameworks.
- Legal meaning is a function of context, and the purpose of the statute within which a word occurs has influence on how it is to be understood.

What is the constitutional commitment?

- The task of Human Rights Commissions is to ensure the adequate realisation of constitutional commitment to protecting human rights.
- If the state was left free to disobey the findings of the Commission, this constitutional role would be effectively pointless.
- If this is the case, whatever the Human Rights Commission did, the final call on whether or not to comply with its commitments under the Constitution would be left to the state authorities.
- This, it is clear, would defeat the entire purpose of the Act.

What should the courts do?

- In the past, the courts have invoked constitutional purpose to determine the powers of various institutions, like CBI, Election Commission, etc., in cases of ambiguity.
- Therefore, it should also determine the powers of the Human Rights Commission, as their role in the constitutional scheme is significant.
- As the Human Rights Commission has the powers of a civil court, its findings should be treated as quasi-judicial.
- Its findings should be made binding upon the state (unless challenged).

Source: The Hindu

