

HRC No: 5373/10/14/2018 (FB) D.D 16/1/2019

A letter dated 26/12/2018, addressed to this Commission by Peoples' Union for Civil Liberties-Karnataka (PUCL) was registered as complaint. The letter had, as its subject - Chief Minister's oral order to the police being violative of Constitution and Law. It also urged the Commission to issue notice with immediate effect and call for explanation from the then Chief Minister, Shri H.D. Kumarswamy, to examine the implications and impact of such emotional act/remarks made by him on the police, judiciary and public. The letter was annexed with and based upon press reports related to the incident of alleged murder of Sri Prakash by an unidentified gang on Mysore Highway on 24/12/2018. The electronic and print media stated to have reported that the victim was an active political worker, close to then Chief Minister who had been alleged to have asked the police to shoot-out the murderers. The Commission after carefully considering the concern expressed by PUCL stated in its order dated 16/1/2019 that "functions and powers of this Commission, as prescribed u/s 12 of the Protection of Human Rights Act, 1993 include powers to enquiry into a complaint of violation of human rights or abetment thereof or negligence in the prevention of that violation by a public servant. Therefore, for the Commission to enquire, an act of human rights or negligence in the prevention of such violation is a condition precedent, in absence of which the Commission is not empowered or required to initiate an enquiry or intervene. There is no doubt about the constitutional guarantee and fundamental right to life of every person. However, any remark or alleged oral order by way of emotional out-burst or otherwise cannot, by itself amount to violation of fundamental right to life or personal liberty of any one. Consequently, reports in the media or any remark or oral order cannot be a basis for initiating an enquiry or taking any action u/s 12 of Protection of Human Rights Act, 1993. It is not within the framework of powers and functions of the Commission to examine the implications and impact of any

emotional remarks alleged to have been made by any public servant or a person elected to any office; and the Commission has no power to issue any appropriate direction on the basis of such examination as urged in the letter of PUCL”. The Commission considered the matter to be outside its purview and jurisdiction to indulge in the exercise of entertaining the letter as a complaint of violation of human rights by a public servant to come to any conclusion on the basis of media report.