

# Business Standard

## J-K HC restores suo motu powers of Accountability Commission

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The State Accountability Commission (SAC) in Jammu & Kashmir has been restored powers to suo motu look into complaints against public functionaries with Jammu and Kashmir High Court setting aside a single bench order.

The landmark judgment by a bench of justices Muzaffar Hussain Attar and B S Walia came yesterday on a petition by SAC against the 2013 order of Justice Hasnain Massodi. The state government had opposed the plea.

While restoring the suo motu powers of SAC, the bench said that though the Commission has to act in accordance with the statute but its functioning cannot be circumscribed or limited by the statute. As such this Commission cannot be denied the power to initiate suo motu action for achieving the purpose of considerable public importance.

The order comes as a shot in the arm of SAC which critics claim has virtually become toothless following various amendments in the enabling Act.

The SAC had strongly pleaded before the high court seeking restoration of suo motu powers to look into complaints against erring public functionaries.

The SAC fielded senior Supreme Court advocate Colin Gonsalves and referred to various provisions of Accountability Commission Act of 2002 to urge the court that provisions of the Act required to be given a purposive interpretation.

A division bench headed by Chief Justice N Paul Vasanthakumar had earlier heard the commission's appeal on the issue against the order of a single judge that the panel had no suo-motu powers to proceed against accused public functionaries.

"Any restrictive interpretation will result in demise of the Accountability Commission Act which was enacted to achieve transparency & accountability in public administration," Gonsalves had said.

The state government, however, has taken a contrary stand saying that SAC had no suo-motu power to investigate or inquire into a complaint against a public functionary.

The newly-composed SAC headed by former Chief Justice B A Khan is making efforts to regain

the powers of the commission under the original legislation.

The Commission Act has undergone multiple amendments making the commission powerless and ineffective, according to critics.

On January 7, 2013, the high court ruled that SAC cannot suo-motu direct investigation, inquiry or proceedings against a public functionary on the basis of an anonymous or as good as anonymous complaint.

A bench of Justice Hasnain Massodi struck down Regulation 9 holding it ultra vires and beyond power given to the Commission under Section 31 of the Act.