# The Role of the National Commission for Scheduled Castes: The Mumbai Port Authority Case

Constitutional bodies and the judiciary | News reference: 28 July 2026 (the Supreme Court's judgment) | Published: 17 October 2026

## Background and Context

Article 338 of the Constitution provides for the National Commission for Scheduled Castes (NCSC). Its history was built in several stages: according to paragraph 6 of the judgment, in the draft Constitution it was Article 299, which had a provision for a special officer; in 1990 the 65th Amendment turned this officer into a Commission; the 89th Amendment of 2003 split it into the NCSC (Article 338) and the National Commission for Scheduled Tribes (Article 338A); and the 102nd Amendment of 2018 added the Backward Classes Commission as Article 338B. Article 338(5) lists the Commission's duties - investigating and monitoring safeguards, inquiring into complaints, advising on development planning, an annual report to the President and recommendations. Article 338(8) gives the Commission some powers of a civil court while investigating, such as summoning witnesses, requisitioning documents and receiving affidavits. The question was whether these powers include the Commission ordering the payment of arrears in service matters.

## Why in the News

On 28 July 2026, the Supreme Court said in Mumbai Port Authority v. National Commission for Scheduled Castes (2026 INSC 755; a bench of Justice Sanjay Karol and Justice Augustine George Masih) that the NCSC does not have adjudicatory power; its role is recommendatory and advisory. Madhavi Chandorkar, a Scheduled Caste employee of the Port Authority, had been demoted from Stenographer Grade-I to Grade-II in the seniority-fixing process. She complained to the NCSC and the Commission gave directions in its order of 23 October 2024 (with the minutes of the 1 October 2024 meeting), which included paying the arrears within 30 days. A division bench of the Bombay High Court held this within the Commission's power. The Supreme Court held the division bench wrong, set aside the High Court's judgment and declared the direction to pay arrears contrary to the Constitution and 'non-est' in law. The appeal was allowed.

## The Main Concept: The Meaning of 'Powers of a Civil Court' - the Power of Process, Not of a Decision

Article 338(8) says the Commission will have 'all the powers of a civil court' while investigating, but immediately after it, with 'namely', it lists certain specific matters. The

Supreme Court treated this 'namely' as decisive: the listed powers are limited and they are procedural powers that make an inquiry smooth. So the Commission can take evidence, requisition documents, record facts, and then ask the concerned government - the Centre or a state - to act on it. But giving a binding order on the basis of evidence is a power of the civil court kind, which the Commission did not get. The court cited an old judgment of 1996 in which even the power to issue a temporary injunction was held not to be with the Commission.

## Main Facts and Figures

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| **The judgment** | **Mumbai Port Authority v. National Commission for Scheduled Castes, 2026 INSC 755 - 28 July 2026; bench: Justice Sanjay Karol and Justice Augustine George Masih (a civil appeal arising from SLP(C) 33359/2025)** |
| **The main question** | Whether the NCSC can give orders in service matters and whether those orders are directory or binding (paragraph 2) |
| **The Commission's order** | 23 October 2024 - directions in the minutes of the 1 October 2024 meeting for compliance with the reservation roster as per the promotion rules, payment of arrears within 30 days and an action-taken report within 45 days |
| **The essence of the judgment** | The NCSC can record a finding of fact and ask the government to act; it has no adjudicatory power, 'at best recommendatory' (paragraph 9); the role is recommendatory and advisory, not adjudicatory (paragraph 13) |
| **The final order** | The High Court's judgment set aside; the direction to pay arrears contrary to the Constitution and 'non-est' in law; the appeal allowed (paragraph 14) |
| **What was not decided** | The validity of the 2002 office memorandum on reservation in seniority and promotion was not an issue before the court (paragraph 3.3) |

## How the Court Built Its Reasoning - Three Steps

**The text of Article 338(5):** the court read every sub-clause of clause 5 and found no word like 'to order' anywhere. Sub-clauses (a) investigation-monitoring, (b) inquiry into complaints, (c) advice, (d) a report to the President, (e) recommendations in the report and (f) other functions assigned by the President. The court did not accept the NCSC's argument that the words 'safeguards' include enforcement; according to it, 'rights and safeguards' should be read together (paragraph 9).

**Confirmation from sub-clauses (a) and (d):** in sub-clause (a) the Commission's work is to monitor that the safeguards given by the legislature are applied on the ground; giving safeguards is the legislature's work. In sub-clause (d) the Commission gives the President a report on the working of the safeguards. From these two the court drew the conclusion that the Commission's directions are conceived as recommendations (paragraph 10).

**Support from old judgments:** in All India Indian Overseas Bank SC/ST Employees Welfare Association v. Union of India (1996) 6 SCC 606 it was said that the powers of a civil court were given to the Commission for the limited purpose of inquiry and investigation, and the power to issue an injunction is not included. In Collector v. Ajit Jogi (2011) 10 SCC 357 it was held that deciding about a caste certificate is not the Commission's work. In Bhawani Prasad Jena v. Orissa State Commission for Women (2010) 8 SCC 633 there was a similar view about the women's commission (paragraphs 11-13).

## Why This Judgment Matters

**The limit of constitutional bodies:** commissions like the NCSC, NCST and NCBC are constitutional bodies and were made with the purpose of social welfare, but the court said the legislature has given them a recommendatory and advisory role, not an adjudicatory one. They are not institutions that take the work of adjudication into their own hands (paragraph 13). This makes the roles of courts and commissions clear in the separation of powers.

**The route that remains for the complainant:** the judgment does not yield the conclusion that the Commission's intervention is useless: it can investigate, record facts and send a recommendation to the government, on which under the Constitution the government has to place a report of the action before Parliament (Article 338(6)). But for binding relief the route of a court or a competent tribunal remains.

## Cautions and Open Questions

**The judgment's scope:** this judgment is on the NCSC's powers; it decided nothing on the merits of reservation in seniority or the demotion. The High Court had set aside the 2002 office memorandum in 2016 and a special leave petition against it is pending - the court kept it outside this case (paragraph 3.3).

**The question of the enforcement shortfall:** without an obligation to accept a recommendation, the Commission's effectiveness remains dependent on the government's will. It is a policy debate whether a law should be made to give the commissions more authority; the court gave no such direction.

**The question of application to other commissions:** the court, naming the NCST (Article 338A) and the NCBC (Article 338B) in its reasoning, said they too are constitutional bodies (paragraph 13); but the judgment's specific analysis rests on the text of Article 338. Before applying the same conclusion to other bodies, the text of their own Articles will have to be seen.

## Way Forward

Three directions are possible ahead: (i) the NCSC should present its inquiry findings as concrete, evidence-based recommendations and keep monitoring of action through reports; (ii) governments should build a framework of a time-bound response to the Commission's recommendations, so that Article 338(6) reporting becomes effective; (iii) affected employees should seek binding relief in courts or service tribunals.

## Distinctions Within the Concept

**Remember three distinctions:** (1) inquiry versus adjudication - the Commission inquires, a court decides. (2) recommendation versus order - the Commission can ask the government 'to act', it cannot 'give' one. (3) procedural power versus substantive power - summoning a witness or requisitioning a document is process; getting arrears paid or issuing an injunction is substantive power.

## Mains Perspective

GS-II: constitutional, statutory and quasi-judicial bodies; institutional mechanisms for weaker sections; GS-II: the judiciary's role. In the answer keep both the facts (28 July 2026; Articles 338(5) and (8); 'namely'; the 1996 judgment) and the balance (the Commission's limit and its usefulness).

## UPSC CSE Mains Style: Original Practice Question

**'The National Commission for Scheduled Castes is a recommendatory institution, not an adjudicatory one.' Examine this statement with reference to the Supreme Court's recent judgment and suggest measures to make the Commission effective.**

(Answer in 150 words) | 10 marks

### Answer Outline

**Introduction:** Article 338 and the Commission's history.

**Main Body:** The judgment: the interpretation of clauses 5 and 8, the 'namely' argument. Limits: no power to make binding orders. Usefulness: inquiry, monitoring, reports and compliance before Parliament. Suggestions: a time-bound government response, transparent reporting, alternative judicial remedies.

**Conclusion:** Suggest ways to make the Commission's inquiry, monitoring and evidence-based recommendations effective through a time-bound government response; do not treat procedural civil-court powers as a power to give binding relief, and draw no conclusion on the merits of seniority reservation.

## Sources

- Supreme Court - Mumbai Port Authority v. NCSC, 2026 INSC 755, the judgment text (28 July 2026)

All facts and paragraph references are taken by reading the full judgment text published on the Supreme Court's website. The mention of the old judgments of 1996, 2010 and 2011 is only to the extent this judgment cited them; we have not separately read the original judgments.

**Also read:** Article 142: the power of complete justice and procedural accountability | The seal on SIR's validity: the ADR judgment, the voter list's purity and the boundary of citizenship checks.

**Remember:** keep three things in mind: on 28 July 2026 the Supreme Court said the NCSC under Article 338 can inquire and recommend, not adjudicate; its direction to pay arrears was held 'non-est'; and the judgment decided nothing on the question of reservation in seniority.