



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

ANNUAL
REPORT
2006-2007

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MAHARASHTRA STATE HUMAN RIGHTS COMMISSION



SIXTH ANNUAL REPORT (APRIL 2006 - MARCH 2007)

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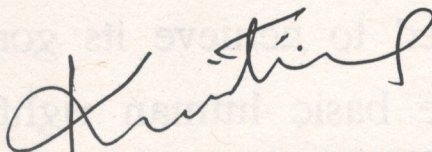
PREFACE

This is the sixth Annual Report of the Maharashtra State Human Rights Commission. Since its functioning from 2001, it has endeavoured to achieve its goal to uphold and protect the basic human rights. Human Rights Commission has been given adequate powers of investigation and inquiry into the complaints of human rights violation. Public interest being the prime concern, Commission has always taken initiative by filing suo-motu cases, to help people and to resolve situation where there might have been infringement by public servants of human rights. The Commission promotes respect for human rights.

Article 22 of the Constitution provides protection against arrest and detention in certain circumstances. In tune with these constitutional safeguards number of statutory provisions seeks to protect personal liberty, dignity and basic human rights of the citizen.

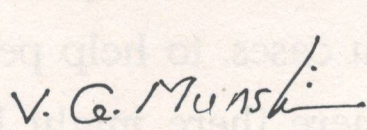
The present members assumed office in the Commission by the end of year 2006-2007 and the

Chairperson in the year 2007-2008. Thereafter, the pending work of these Annual Reports of the earlier period of the Commission was taken with top priority and is being submitted now.



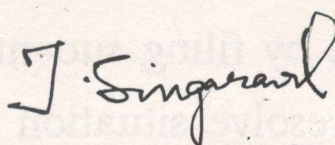
Justice Shri. Kshitij Vyas

Chairperson



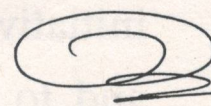
Justice V.G. Munshi

Member



Shri. T. Singaravel

Member



Shri. Subhash Lalla

Member

Mumbai:

Date: 30 June, 2009

CHAPTER 1

• Introduction

Maharashtra State Human Rights Commission is a statutory body constituted with an aim and intention to protect human rights of people.

1.2. 'Human rights' mean the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by the Courts in India.

1.3. The Commission endeavors to prevent violation of human rights by public servant. It has a holistic approach and follows three principles- Prevention, Protection and Promotion.

1.4. It helps people to resolve the situation where there might have been infringement of fundamental rights by public servants or they are negligent towards the protection of human rights enshrined in the Constitution.

1.5. The Commission ensures its efficacy by asserting its power to inquire, suo-motu or on a petition presented to it by a victim or any person on his behalf, by intervening in any proceeding involving any allegation of violation of human rights pending before Court with the approval of such Court, by visiting any jail or any other institution under the control of the State Government, where persons are detained or lodged for the purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon, and by spreading human

rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publication, media, seminars and other available means.

1.6. The Commission may take up the following activities keeping in view its responsibilities and expectation of the people of the State. It may take steps to check custodial violence, rape, torture and deaths, to have proper reform in police custody, prisons and other centers of detention and for the elimination of child labour etc.

1.7. The Maharashtra State Human Rights Commission was established on 6th march 2001 under the provisions of the Protection of Human Rights Act 1993. Its foundation is based on "Paris Principles" laid down in the meeting of representatives of National Institutions held in Paris in October 1991 and endorsed by the United Nation's Commission on Human Rights on 3rd March 1992 and by the United Nations General Assembly on 20th December 1993.

CHAPTER II

• Cases Decided During the Year –

This was the sixth year of the Commission's working, and from the nature of complaints handled, it can be seen that the scope and spectrum of the Commission's working has indeed increased. Awareness about the Commission and its activities became more widespread, thereby causing a resultant augmentation in the number of persons who approached us with their problems.

• Statistical Data –

2.2. In the current reporting year, i.e. 2006—07, the Commission received a total of 5618 fresh cases. During 1st April 2006 to 31st March 2007, 4645 complaints were disposed of.

2.3. There was not significant increase in the number of fresh complaints received during this reporting year. This trend could probably be attributed to the vacancy in the posts of Hon'ble Members after the retirement of three Hon'ble Members. The Commission there after continued only with one Member.

2.4. During the year 2006-07, 146 new complaints were sent to the Investigation Wing of the Commission. Also, 48 old cases of previous year were pending. Out of 194 cases, 118 cases were investigated during this year and 76 cases were pending at the end of this year.

2.5. The Commission took *suo-motu* cognizance in four matters during this year.

• Nature of Complaints –

2.6. An analytical study, was conducted on the 5618 complaints received by the Commission, and they were divided on the basis of the following categories –

• Entertainable By The Commission As Per As Per (Procedure) Regulations –

- (i) Against the police force – These complaints mostly included complaints alleging abuse of power by the police force, failure to register offence, false implication, illegal detention, etc.-----1991 matters.
- (ii) Against local self-governing bodies – This category includes complaints against Gram Panchayats, Panchayat Samitis, Zilla Parishads, Municipal Councils and Municipal Corporations-----368 matters.
- (iii) Against other Governmental Departments – Complaints against other Departments like the Home Department, Public Works Department, Public Health Department, Social Welfare Department etc have been included in this category-----3 matters.
- (iv) Complaints regarding atrocities on SC/ST or other minorities-----190 matters.
- (v) Complaints regarding violation of human rights of prisoners-----24 matters.
- (vi) Complaints regarding violence and harassment to women-----159 matters.

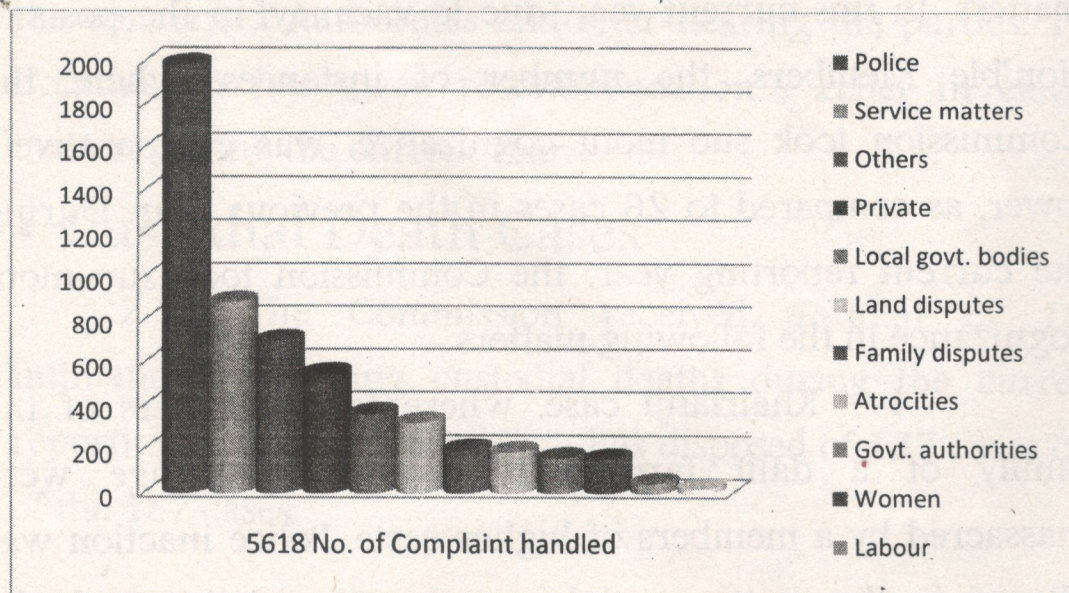
• Not Entertainable By The Commission As

Per (Procedure) Regulations –

- (vii) Complaints regarding service matters-----887 matters
- (viii) Complaints regarding family disputes-----201 matters
- (ix) Complaints regarding land disputes-----325 matters
- (x) Complaints against private persons-----554 matters
- (xi) Complaints pertaining to private
employers and other -----47 matters
- (xii) Other Complaints-----709 matters

This category includes matters pertaining to complaints against Banks, Recovery agents, and educational institutions, complaints of medical negligence, and other miscellaneous issues.

- A graphical representation of the division of the categories of complaints is given as under.



2.7. It is indeed shocking to note that, majority of the cases entertainable by the Commission, are against the police force. Serious note has been taken of this fact. Training and

awareness programmes, for the police force as well as district level administration, are planned by the Commission.

2.8. Also, a large number of cases were received, which were absolutely not entertainable by the Commission. It indicates lack of adequate awareness about the powers and functions of the Commission. Steps are being taken to overcome these problems, with a view to promote awareness among the people.

For the convenience of the parties some times hearing of the cases is taken at District head quarter by the Commission.

• Suo-Motu Cognizance Taken By The Commission –

2.9. Commission taken Suo-motu cognizance in some matters. In this current year, due to vacancy, in the posts of Hon'ble Members, the number of instances, where the Commission took suo-motu cognizance, was comparatively lower, as compared to 26 cases in the previous year. During the current reporting year, the Commission took suo-motu cognizance in the following matters –

1 – Khairlanji case, where four members of the family of a dalit farmer, Bhaiyyalal Bhotmange were massacred by a members of higher caste. Police inaction was alleged in the matter, and hence the Commission took the cognizance of the case, and called detailed report on the issue.

2 – Regarding the incident where a new born baby was mauled and killed by stray dogs in the premises of Mayo

Hospital, Nagpur, when the mother of child was semi-conscious.

3 – Regarding plight of tuberculosis patients at David Sassoon Hospital who are compelled to sleep on the floor due to lack of space.

4 – A labourer was crushed to death when a cement canopy above entrance of the door of Nair Dental College fell on him.

• Analysis Of Complaints Disposed

During The Current Year –

2.10. Total 4645 complaints were disposed of during the current year. 3942 matters were dismissed in limine. Total 682 cases were disposed of after receipt of the reports from the concerned Authorities and after hearing the parties. The Commission has given recommendation / relief in eleven matters during the current year.

• Custodial Death Cases

2.11. The Commission received a total of 187 intimations regarding custodial deaths during the current reporting year. The Commission has disposed of 127 cases out of the 187 cases.

CHAPTER III

• Sub-Committee -

Human Rights mean the right relating to life, liberty, equality and dignity of individuals guaranteed by the Constitution or embodied to the International covenants and enforceable by Courts in India.

3.2. The important Rights guaranteed by Article, 21 of the Constitution can not be denied to convicts, detainees, undertrial prisoners, except according to the procedure established by the law. Any type of cruel or inhuman treatment would fall within inhabitation of Article 21, of the Constitution, whether it occurs during interrogation or investigation.

3.3. The Hon'ble Supreme Court with a view to protect and to ensure, the safe guards of the rights of arrestee, has issued directions in case of D.K.Basu v/s state of West Bengal, (A.I.R. 1997 Supreme Court 610).

3.4. It was directed to constitute Sub-Committee in Human Rights Commission, with a view to monitor whether these guidelines and requirements are being carried properly and to take all the steps and to see that these guidelines are properly followed.

CHAPTER IV

• Observations and Recommendations made by the Sub-Committee

In view of the guidelines issued by the Hon'ble Supreme Court, the Sub Committee visited number of police stations.

4.2. In the year of 2006-07 the Sub-Committee visited Police Stations and given necessary instructions to the police officers present on duty.

• The Visits.

Sr. No	Date of Visit	Name of the Police station	Districts
1	1/05/2006	Morshi Police Station	Amravati
2	2/05/2006	Chandur Bazar Police Station	Amravati
3	31/05/2006	Naval Peth Police Station	Parbhani
4	1/06/2006	Butibori Police Station	Nagpur Rural
5	2/06/2006	Tahasil Police Station	Nagpur City
6	9/06/2006	City Police Station	Chandrapur
7	10/06/2006	Ballarpur Police Station	Chandrapur

8.	03/02/2007	Central Jail,	Parbhani
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2.3 The Sub Committee during the visits to the police stations, inspected Arrest register and other registers. From the record it was verified whether the police had given information about arrest to the relatives of the accused and whether the medical examination was carried out within 24 hours etc. Instructions were given to the Police Incharge to prepare arrest panchanama properly and to take entry of the arrest in station diary immediately. The Sub Committee also instructed them, to produce the person arrested before Magistrate within 24 hours of the arrest. Similarly necessary instructions were also given during jail visits.

2.4. The Sub-Committee is receiving quarterly reports from Superintendents of Police of all Districts of Maharashtra about proper implementation of 11 guidelines issued by Hon'ble Supreme Court.

CHAPTER V

• Administrative and Logistic Support

Government of Maharashtra vide its G.R. No. HRC-1099/378/Pol-14 dated 15 January 2000 established Maharashtra State Human Rights Commission. The first State Human Rights Commission became operational when His Excellency, the Hon'ble Governor of Maharashtra issued warrants of appointments of Chairperson and Members on 6 March 2001. Accordingly the Chairperson and Members assumed their office in the Commission.

5.2. Justice A. D. Mane retired on 21st March 2006. Justice Shri. V. G. Munshi, Shri. T. Singaravel, and Shri. Subhash Lalla joined the Commission as Members by the end of year 2006-07. The post of Chairperson remained vacant till the end of this year.

• Staff

5.3. The staff of the Commission continued to be distributed among three wings namely: Administration wing headed by Secretary, Investigation wing headed by Special Inspector General of Police and the Legal wing headed by Registrar.

5.4. After the transfer of Shri. Amitabh Chandra Secretary on 31/07/2006, Shri. Sunil Paurval taken charge as a Secretary. Thereafter, Shri. Ramesh Chandra Sagar worked as a Secretary from 28/12/2006. Addl. Director General of

Police Shri. P. N. Dixit was appointed as Special Inspector General of Police on 6th March 2007.

• Premises

5.5. The Government of Maharashtra, in its GR No. HRC-10099/378/ Pol-14 dated 15th January 2000, mentioned that the Maharashtra State Human Rights Commission's headquarter shall be at Mumbai. As per G. R. No. G.A./11.01/C.N.15/2001/22, dated 20th June 2002, the Government allotted the Commission premises admeasuring 2380 sq.ft situated in the campus of Administrative Staff College Building, 9, Hazarimal Somani Marg, Opp. CST, Mumbai- 400001. These premises were earlier occupied by State Finance Commission. The Commission is functioning in the same premises.

• Resources

5.6. During the year 2006-07, the State Government made available a grant of Rs.1 crore 43 lakhs 4 Thousand, against which the total expenditure was Rs.1 crore 43 lakhs 4 thousand. Out of this Rs. 78, 48581/- was spent on Pay & Allowances.

CHAPTER VI

• Illustrative cases

1. CASE NO. 1415/16/2005-06/1172

Name of the Complainant - Suo-motu case by MSHRC

Name of the Respondents - 1. Municipal Commission

2. Dean, Nair Dental College,
Mumbai Central, Mumbai.

Date of Order - 4th March 2007

Coram - Single Bench

NATURE OF THE COMPLAINT - MSHRC had taken Suo-motu cognizance of news appeared in newspaper "Indian Express" Mumbai dated 13th Feb 06 regarding collapsing of Hostel roof which killed a labourer.

A labourer was crushed to death when a cement canopy above entrance of the door of Nair Dental College fell on him.

ACTION TAKEN BY THE COMMISSION - Notices were issued and report was called from Dean of Nair Dental College and Municipal Commissioner. According to the report submitted by the Dy. Commissioner of Police Bombay a case was been registered against the contractor and Supervisor on 10.6.2006 and both accused were arrested and produced before the court.

DECISION OF THE COMMISSION - Due to the intervention of the State Human Rights Commission proper

action by the appropriate Authority was taken in Suo-motu case.

2. CASE NO. 26/29/2005

Name of the Complainant- Ravindra Harishchandra Kasalkar

Name of the Respondent - Collector, Dist. Sindhudurg

Date of order - 20.12.2006

Coram - Single Bench

NATURE OF THE COMPLAINT- The father of the Complainant worked as an officer in Ekatmik Balvikas. After the death of father, Complainant moved the respondent to appoint him in service, in place of his father. The respondent did not give any such opportunity to the Complainant. Therefore he approached the Commission for necessary action in this matter.

ACTION TAKEN BY THE COMMISSION- Commission issued notice to the respondent and called the report. The Respondent, Chief Executive officer Zilla Parishad, Sindudurga filed their reply. According to the Respondent the complainant was not entitled to get such job because he resided separately from joint family and the complainant's brother was already given such appointment.

DECISION OF THE COMMISSION- The Commission dismissed the case in view of the provisions of the section 17(1)(b) of the Protection Of Human Rights Act 1993.

3. CASE NO. 247/23/2005-06

Name of the Complainant- Shri. Ibrahim Mohd.Sharif

Name of the Respondent - Commissioner of Police, Pune.

Date of Order - 12th March 2007

Coram - Single bench

NATURE OF COMPLAINT- The complainant alleged that on 8.12.2005 seven or eight policemen, forcibly taken them to the police station. It was further alleged that one Fauhad given custody of her daughter-in-law's to the gang. The complainant alleged that police person forcibly taken her son and assaulted him. It was the case of the complainant that, Fauhad wanted to kill members of family of the Complainant.

ACTION TAKEN BY THE COMMISSION- The reports was called from the Commissioner of Police. The report mentions that the police have taken immediate action in this matter. They found out the missing girl and it was handed over to the father of the girl.

DECISION OF THE COMMISSION - As the Police have taken proper and immediate action in this matter and found out the missing girl no further action was necessary and the Commission disposed of the accordingly.

4. CASE NO - SUO-MOTU CASE 302/30/2005

Name of the Complainant - Suo motu case

Name of the Respondents - 1.State of Maharashtra

Through Chief Secretary

Mantralaya, Mumbai

2. Commissioner of Police, New Mumbai

3. Shri Hamid Nazir Razi, Constable, Nerul

Date of Order - 15th December 2006

Coram - Single bench

NATURE OF THE COMPLAINT – Commission took suo motu cognizance of the news published in ‘The Times of India’ dated on 19th Oct 2005, regarding rape of bar girl by a police constable attached Navi Mumbai Police Station.

ACTION TAKEN BY THE COMMISSION– Commission issued notices to State of Maharashtra through Chief Secretary Mantralaya, Mumbai, Commissioner of Police New Mumbai and Shri.Hamid Nazir Razi calling upon them to show cause as to why immediate interim relief should not be granted to the victim. Respondent P I police station stated that accused was remanded in custody and he was kept in Thane Central Prison. The Commissioner of Police has come with a case that it was a case of outraging modesty of women.

DECISION OF THE COMMISSION – The respondent police after completing investigation did file chargesheet in the Court and the matter is sub judice before the Court. The Commission disposed of the case accordingly.

5. CASE NO.:–56/4/2005

Name of the Complainant – Shri. Bharat Dashrath

Karde and others

Name of the Respondent – Director General of Prison,
Pune.

Date of Order – 15th march 2007

Coram – Single Member Bench

NATURE OF THE COMPLAINT: Complainant Shri. Bharat Dashrath Karde and other prisoners have stated that, there is no hospital facility, no basic amenities available in the Prison.

Also there is no source of entertainment which is supposed to be made available to the prisoners. Officials are always using abusive language to the prisoners.

ACTION TAKEN BY THE COMMISSION: Commission called report from Director General of Prison, Pune. The Respondent filed their reply mentioned that they have not received any clarification for the allegations against them. But after enquiry being conducted they found some of the allegations to be true and have mentioned of having given some suggestions and directions for improvement.

DECISION OF THE COMMISSION: Due to the intervention of the State Human Rights Commission proper action was taken by the appropriate Authority, the grievances of the prisoners are redressed. Thus, the case was disposed of.