



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

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**SECOND ANNUAL REPORT  
2002-2003**

# **MAHARASHTRA STATE HUMAN RIGHTS COMMISSION**

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**2002-2003**

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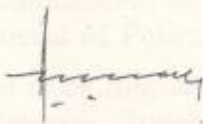
## PREFACE TO ANNUAL REPORT 2002-03

"Our individual and localized interest have to be harmonized within the larger pluralistic order so as to give primacy to human rights ..... For a peaceful human life, law and justice have to assist. If justice fails to protect human rights, the nation fails."

The above words by President APJ Abdul Kalam echo the concern that has prompted the setting up of the national as well as state Human Rights Commissions. Since its inception in the year 2000, the Maharashtra State Human Rights Commission has endeavoured to achieve its *raison d'être*, viz better protection of human rights. Much has been said and accomplished in this year under report, all of which should make its way into our records as the second successful year of the Maharashtra State Human Rights Commission.

This year has witnessed a phenomenal increase in the number of complaints regarding violation of human rights received by the Commission, and consequently, the number of cases where, due to the intervention of the Commission, grievances have been redressed.

It may be said with a certain degree of well placed pride and satisfaction, that the objectives for which the Commission has been set up, are being attained, though not in full measure, but gradually. We are well aware that a lot remains to be accomplished, and it is with this thought in mind that the Commission submits its annual report to the State Government, which is subsequently to be placed before the Assembly, in accordance with Section 28 of the Protection of Human Rights Act, 1993.



Justice A. D. Mane (Retd.)  
Acting Chairperson



Dr. V. S. Chitnis  
Member



Shri. M. R. Patil  
Member



Shri. C. L. Thool  
Member

Mumbai :

Dated 16th August 2005.

## CHAPTER 1

### INTRODUCTION

This is the Second Annual Report of the Maharashtra State Human Rights Commission covering the period 1st April 2002 to 31st March 2003.

1.2 The Maharashtra State Human Rights Commission was set up *vide* Government Resolution No. HRC-1099/378/Pol-14, dated 15th January 2000 of the Home Department. The Commission became operational from 6th March 2001.

#### Composition

1.3 The year under report witnessed a change at the helm of the State Commission. Justice Arvind Savant (Retd.), Chairperson of the Commission resigned from the post and Justice Anant D. Mane (Retd), Member of the Commission was appointed as the Acting Chairperson on 7th May 2002.

Dr. V. S. Chitnis and Shri M. R. Patil continued to serve as Members of the Commission. Further, on 26th December 2002 Shri C. L. Thool was appointed as the fourth Member of the Commission in accordance with Section 21 (2) (c) of the Protection of Human Rights Act, 1993.

1.4 The year also witnessed the departure of Shri Gorekh Megh (IAS), Secretary of the Commission on 28th August 2002. He was succeeded by Shri M. B. Ray (IAS) and who held the office of the Secretary till 16th January 2003. Smt. Ranjana Sinha (IAS) took charge as Secretary of the Commission on 16th January 2003. Shri Subhash Avate (IPS) continued as Inspector General of Police (Investigation).

Shri M. P. Kukday continued to be Registrar of the Commission till 15th July 2002. On his departure, Shri J. R. Sangam, Superintendent of Police, held the additional charge of the Registrar up to the end of the year under report.

## CHAPTER 2

### COMPLAINTS HANDLED

One of the main functions of the Commission is to inquire on its own initiative or on a complaint presented to it by a victim of human rights violation or by any person on his behalf, into a complaint of violation of human rights or abetment thereof or into negligence in the prevention of such violation by a public servant.

#### Statistics

2.2 During the reporting year i.e., 1st April 2002- 31st March 2003, the Commission received 2153 complaints. The number of complaints received increased by 50 percent over the preceding year (April, 2001- March, 2002) when the Commission received 1458 complaints. Including the 916 cases which were pending for decision at the beginning of the year, the Commission had a total of 3069 cases that required consideration during the year 2002-03.

2.3 Out of the 3069 cases, 1548 cases were disposed of 'in limine' and 97 complaints were disposed of with directions and recommendations to the appropriate authorities. Thus at the end of the reporting year, 1414 complaints were pending for decision. In the preceding year (2001-02) 37.17 percent cases were disposed of; whereas during the year under report (2002-03) 53.77 percent of cases were disposed of.

2.4 During the year under report 100 cases were taken up for the investigation by the Investigation Division of the Commission. Of these, 66 complaints were investigated and reports were submitted to the Commission.

2.5 Increasing complaints signify the growing consciousness about human rights and the increasing knowledge regarding the Maharashtra State Human Rights Commission. Data on disposal of cases also reveal the efforts of the Commission to cope with the increasing complaints.

2.6 During the year under report the Commission took *suo motu* cognizance in 22 cases.

#### Nature of Complaints

2.7 Of the 97 complaints which were decided by the Commission with appropriate directions to the concerned authorities, 35 complaints were against the police alleging illegal detention, harassment, torture, refusal to register complaints, threat, inaction, verbal and physical abuse and improper enquiry by the police. Moreover, out of 22 cases in which the Commission took *suo motu* cognizance 10 cases were against the police alleging harassment, torture, atrocity and death in custody.

2.8 Of the 97 decided cases, 9 complaints were from women complaining of harassment at workplace and immoral trafficking, 5 were from senior citizens complaining about non- receipt of retirement benefits such as provident fund and non-implementation of government schemes such as Sanjay Gandhi Niradhar Yojana, among others; 4 complaints related to the rights of tribals and 3 concerned the interest of children.

2.9 Out of the 97 decided cases, 9 cases related to violation of right to residence and 4 to violation of right to livelihood. The Commission decided 7 cases in which the benefits of government schemes were denied to the complainants in spite of their eligibility, these grievances could be settled due to the intervention of the Commission. The Commission also dealt with two cases in which the issue of corruption was raised.

2.10 Coming to the decisions given by the Commission in 97 cases it was observed in 14 cases upon receipt of notice from the Commission, the concerned authority took

corrective steps ; in 47 cases the Commission received satisfactory report. In 19 cases the Commission gave its recommendation and advice to the concerned department. Eight cases were closed as the concerned department assured to take correctional steps ; however, in three of these, the compliance is still awaited. In six decided cases it was observed by the Commission that the incident narrated by the complainant did not at all take place, and a complaint was filed with the Commission only to harass the respondent.

2.11 While deciding cases the Commission was conscious of its duty towards the society in general and the victims of human rights violations in particular. Moreover through its decisions the Commission recommended both preventive and reformative measures.

2.12 There were 3 cases of social significance, which the Commission decided during the year. In the first case the Commission recommended a survey of all persons below the poverty line (BPL) since it was found that certain BPL persons were left out. In the second case a survey of schools situated at tribal areas was recommended as it was found that some children in that area could not get admission in schools in spite of the government schemes of free education to all children on the ground that the birth certificate of the children could not be produced. In another instance the Commission recommended rehabilitation of the persons whose legal hutments were demolished.

2.13 Considering the cognizance taken by the Commission, corrective steps were undertaken by the concerned departments in 14 cases, which included the suspension of a police inspector who avoided to register a complaint regarding the rape of a minor girl.

2.14 An analysis of complaints received, reveals that despite the various constitutional and statutory provisions, rights of people continue to be violated. It would not be out of place to mention the need for greater awareness regarding the welfare schemes of the government ; a close watch on the implementation and enforcement of schemes is also required.

### **Custodial Death Cases**

2.15 Consequent upon the setting up of the Maharashtra State Human Rights Commission in March 2001, the State Government issued instructions *vide* Circular No. HRC 132001/Misc.45/Pol.14, dated 17th April 2001 to all concerned officers that henceforth reports regarding custodial deaths in police custody, prisons, juvenile homes and similar institutions should also be submitted to the Maharashtra State Human Rights Commission. Accordingly, the concerned officers are required to give intimation of custodial deaths to the MSHRC through wireless message or telegrams or fax ; besides they are also required to send report of inquest panchnama, post mortem report and information in proforma prescribed by the Commission.

2.16 During the year under report the Commission received 218 custodial death cases as against 119 cases received in the preceding year 2001-02. Of the 218 cases, approximately 54% related to death of convicted prisoners in various jails in the State, 6% were due to police encounters, 32% of the cases pertained to under-trials, while 8% of the custodial deaths occurred in beggars' homes. Of the total number of custodial deaths, 7% were women and children. Of the 218 cases reported to the Commission, further inquiry or investigation was recommended in 169 cases. There was no case where the Commission proposed punitive action.

## CHAPTER 3

### RIGHTS OF ARRESTEES SUB-COMMITTEE

The Fundamental Rights enumerated in Part III of the Constitution are available to each and every citizen/person, irrespective of the fact that such a person may be accused of having broken the law itself. Articles 20 and 22 are an embodiment of the recognition of the need to protect the rights of arrested persons (arrestees). Article 20 grants a fundamental right to all persons against conviction of any offence except for a violation of an existing law, double jeopardy and forced self-incrimination; while Article 22 enumerates the rights of an arrestee to information regarding the reason of his arrest, legal representation and production before the nearest Magistrate. Article 21, which can rightly be called a corner stone in the foundation of the Constitutional structure, mandates that no person shall be deprived of his life and personal liberty except according to the procedure established by law, and this gives an inbuilt guarantee against torture or assault by the state or its functionaries.

3.2 Furthermore, there are provisions in the procedural law as well with regard to the procedure for arresting persons and ensuring the protection of their rights as arrestees. (Chapter V, Code of Criminal Procedure, 1973).

3.3 Thus, insofar as mandatory safeguards and precautionary provisions for the protection of the rights of arrestees are concerned, the present legal framework seemed well equipped. However, the increasing frequency of complaints relating to custodial violence, police torture, abuse of powers and custodial deaths revealed the inadequacy and discrepancies in the said laws, and necessitated substantial and exhaustive provisions to protect the rights of arrestees.

3.4 Experience showed that violations of human rights could occur during the course of investigation when the police with a view to securing evidence or confession often resort to third degree methods including torture and adopts techniques of screening arrest by either not recording the arrest or describing the deprivation of liberty merely as a prolonged interrogation.

3.5 The Supreme Court expressed its concern in the matter of increasing complaints against custodial violence and police torture, highlighting the fact that as functionaries of the State, the paramount duty of the police force is to protect the citizens and not to commit gruesome offences against them. Considering the sacred duty of the Court as the custodian and protector of the fundamental and the basic human rights of the citizens, and to deter breaches of affirmed rights of every human being and minimise the misuse of police powers of arrest, the Supreme Court in the case of **D. K. Basu Vs State of West Bengal (1997) 1 SCC 416**, stipulated 11 requirements to be followed by the arresting authorities while arresting and detaining any person. With these 11 requirements, the Supreme Court gives the status of 'rights of arrestees' to the procedure to be followed by the arresting authorities by making the procedure binding on the arresting authorities to protect rights (See Annexure).

3.6 With a view to ensuring proper compliance of the said 11 requirements, the Supreme Court requested the Chairmen of the various State Human Rights' Commissions to constitute a Sub-Committee within the Commission to oversee the conformation of the said eleven requirements. The Supreme Court also empowered the Sub-Committee to make surprise checks with a view to verifying the actual implementation of the 11 requirements. The Sub-Committee was required to send a report of action taken to the Supreme Court within three months.

3.7 Accordingly the Maharashtra State Human Rights Commission constituted a Sub-Committee on 19 December 2001 comprising Members of the State Commission. A Circular dated 11th March 2002 was issued to all the concerned authorities, requiring Reports to be sent to the Sub-Committee in respect of the following points :—

(i) Whether the eleven requirements set out by the Supreme Court were being actually followed. Such reports were required to be submitted within four weeks.

(ii) In cases where the heads of the concerned Departments noticed violations/infringements of the safeguards, they were to make and submit quarterly Reports of the same to the Sub-Committee, also mentioning the remedial action that might have been taken to prevent such violation.

### **Composition of the Sub-Committee**

3.8 In the 8th meeting of the Sub-Committee held on 16th January 2003, it was reconstituted by Justice A. D. Mane, Chairperson of the Sub-Committee as below :—

- |    |                    |                                    |
|----|--------------------|------------------------------------|
| 1. | Shri M. R. Patil   | Chairperson of the Sub-Committee ; |
| 2. | Dr V. S. Chitnis   | Member ;                           |
| 3. | Shri C. L. Thool   | Member ;                           |
| 4. | Shri J. R. Sangam, | Secretary.                         |

### **Response from the concerned authorities**

3.9 Compliance with the directions of the Hon'ble Supreme Court required two kinds of reports to be submitted to the Commission, viz, (i) Report stating whether the eleven requirements were actually being followed (this Report was required to be submitted within 4 weeks of the date of Circular dated 11th March 2002), and (ii) Report by all the Heads of concerned Departments whether any violation of the eleven requirements had occurred, and if so, what remedial action was taken by the said Department (this Report was required to be a quarterly Report i.e. sent every three months).

3.10 Since the issuance of the Circular dated 11th March 2002, the Reports mentioned in (i) above were received by the Commission from the concerned Departments. Though the quarterly Reports were also received regularly, none mentioned any violation having taken place ; the quarterly reports were received from all Superintendents of Police in the State.

### **Surprise visits**

3.11 As per the orders of the Hon'ble Apex Court, the main function of the Sub-Committee is to monitor compliance of the guidelines given in D. K. Basu's case, and pay visits to police stations in the State for instant verification of compliance. In accordance with these orders the Sub-Committee performed its functions and visited various police stations in Maharashtra State. In the year 2002-2003, 11 Police Stations were visited. During these visits, data pertaining to the arrest, medical examination, information of arrest of the person to the relatives etc. were examined. As envisaged by the Hon'ble Apex Court, arrest memos were also inspected to verify whether the signature of the arrestee was on record and whether it was duly attested and also if it bore the signature of the arresting officer.

3.12 During the year 2002-03 following police stations were visited:—

|                                   |                   | (Date of Visit) |
|-----------------------------------|-------------------|-----------------|
| 1. Mauda Police Station           | Nagpur            | 6/5/2002        |
| 2. Frezorpura Police Station      | Amravati (City)   | 7/5/2002        |
| 3. Azad Maidan Police Station     | Mumbai (City)     | 13/5/2002       |
| 4. Bandra Police Station          | Mumbai (Suburban) | 15/5/2002       |
| 5. Shegaon Police Station         | Chandrapur        | 27/5/2002       |
| 6. Chandrapur City Police Station | Chandrapur        | 25/1/2003       |
| 7. Topkhana Police Station        | Ahmednagar        | 25/1/2003       |
| 8. Mumbai Crime Branch            | Mumbai (City)     | 11/2/2003       |
| 9. Boisar (MIDC) Police Station   | Thane (Rural)     | 8/3/2003        |
| 10. Dahanu Police Station         | Thane             | 19/3/2003       |
| 11. Bazarpeth Police Station      | Kalyan-Thane      | 31/3/2003       |

### Observations and recommendations

3.13 In most of the police stations that were visited, it was found that the directives were being well adhered to,—

(i) The Sub-Committee observed that 11 directives issued by the Supreme Court were by and large displayed in the police stations. The registers regarding the details of arrested persons were maintained properly.

(ii) In some police stations, the officers informed the Sub-Committee that information regarding arrest was given to the relatives of the arrestee, however, they were unable to produce documentary proof of this fact. Therefore, it was suggested that the police should keep a copy of the correspondence under which they informed the relative. If such relative was informed in person, a document with his signature must be made available showing the acknowledgement of intimation of arrest.

(iii) The notice board was not exhibited prominently in few cases. The concerned police officers were instructed to exhibit the notice board at a conspicuous or prominent place.

(iv) The police personnel were keeping nametags with their designations.

3.14 The recommendations of the Sub-Committee were conveyed to the officers of the concerned police stations at the time of the visit itself. The Sub-Committee started receiving quarterly reports from District Superintendents of Police from all over Maharashtra regarding monitoring the compliance of the 11 directives.

CHAPTER 4  
**PROMOTION OF HUMAN RIGHTS**  
**EDUCATION AND AWARENESS**

Section 12 (h) of the Protection of Human Rights Act, 1993 requires the Commission "to spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means".

4.2 Inculcation of human rights culture in society, awareness about human rights amongst the masses and good and accountable governance are the key requirements for the welfare and well being of the society. Recognising human rights education as the best channel to fulfill these requirements, the State Commission supported various human rights programmes to voice the formidable problems prevailing in society and to bring awareness about human rights.

**Seminars and Workshops**

4.3.1 During 2002-03 the Commission organised a seminar on "Police as a Protector of Human Rights" in collaboration with Department of Criminology Correctional Administration, TISS, Mumbai and India Centre for Human Rights and Law, Mumbai on 9th February 2003. The seminar aimed at creating a forum to understand the role of the police in the protection and promotion of human rights. It discussed the relevance of human rights in the functioning of the police and the problems faced by it at the grassroots level in the implementation of human rights. The main participants of the seminar were Police Inspectors, human rights activists, social workers and academicians.

4.3.2 Shri P. M. Bansod, Chief Metropolitan Magistrate, Mumbai was the Chief Guest of the Seminar. Shri Subhash Avate, Spl. Inspector General of Police, Maharashtra State Human Rights Commission, Prof R. R. Singh, Director, Department of Criminology and Correctional Administration, Tata Institute of Social Science, Mumbai and Advocate Mihir Desai, Honorary Director, India Centre for Human Rights and Law addressed the participants.

4.4 The Commission observed the Human Rights Day on 10th December 2002. While speaking on this occasion, Justice A. D. Mane (Retd.), Acting Chairperson, noted the significance of Universal Declaration of Human Rights, 1948 and other international & national norms and stated that human rights day was an opportunity to express our commitment towards the principles of Universal Declaration of Human Rights, 1948.

4.5 The Commission took active interest in attending seminars, workshops and meetings on human rights and contributed towards the dissemination of human rights education. In all 19 human rights related seminars, workshops and meetings were attended or addressed by the Members during the year under report.

4.6 While inaugurating a training Programme organised by Ambedkar College under NSS, Justice A. D. Mane (Retd) stressed on the need for collective efforts of the Human Rights Commissions and NGOs. Addressing another regional conference of the government officers on "Human Rights Act, 1993", he discussed the scope of the Protection of Human Rights Act, 1993 and referred to the Act as an 'instrument of social utility'.

4.7 Dr. V. S. Chitnis, Member participated in a number of seminars such as Terrorism Gangsterism and Human Rights, Human Rights and Terrorism and Terrorism and Organised Crime. While delivering a lecture on "Gender Justice" on the occasion of International Women's Day (8th March 2003) he stated that discrimination on the grounds of race and sex led to poverty, exploitation and deprivation.

4.8 Shri M. R. Patil, Member addressed a meeting of District Magistrates and Inspectors General of Police at Nagpur, a post recruitment training programme of Tahsildars and Naib Tahsildars organised by the Amravati Regional Training Institute of Government of Maharashtra; a workshop organised by the Commissioner of Police, Amravati; a workshop organised by S. P. College of Law and Mahila Vikas Mandal, Chandrapur on "Juvenile Justice (Care and Protection of Children) Act, 2000 and Abandoned/Orphan Infant" and also addressed a Symposium on Human Rights organised by Women International League for Peace and Freedom held at Nagpur. Shri M. R. Patil emphasised that awareness of human rights amongst the masses could help to stop or minimise the violation of human rights.

4.9 Shri C. L. Thool (Member) addressed 5 seminars and workshops during 2002-03.

### Visits

4.10 The Commission visited a number of police stations and jails during the year 2002-03. Arthur Road Jail (Mumbai), Yerawada Jail (Pune), District Jail (Ahmednagar) and Central Prison (Thane) were visited by Dr. V. S. Chitnis, Member. During his visits to jails, he offered suggestions to the concerned authorities regarding the upgradation of medical facilities and expeditious disposal of cases. During his visits to the police stations in Ahmadnagar and Thane, Dr. V. S. Chitnis stressed on the compliance of the 11 requirements prescribed in D. K. Basu's case by the Supreme Court.

4.11 In his visits to the police stations at Mauda-Nagpur, Frezorpura- Amravati, Azad Maidan- Mumbai, Bandra- Mumbai, Shegaon- Buldana, Chandrapur, Mumbai Crime Branch- Mumbai and Boisar (MIDC)-Thane (Rural) Shri M. R. Patil, Member observed shortcomings such as requirements prescribed by the Supreme Court regarding rights of arrestees not being displayed on the notice board and non-preparation of arrest memo.

4.12 Shri C. L. Thool, Member visited 2 jails and 2 police stations.

### Publications

4.13 During the year 2002-03 the Commission started its own publications. Brief outline of the publications by the Commission are given below.

#### Fact Folder—

It contains six leaflets namely,—

- Welcome- Gives an introduction to human rights as per the Protection of Human Rights Act, 1993
- Know your Human Rights Commission – Offers an introduction to the Maharashtra State Human Rights Commission
- How we settle the complaint – Relevant sections of the Protection of Human Rights Act.
- Manavadhikaranchi Sarvabhoom Ghoshana, 1948 (Marathi)- Spells out the various Articles of the Universal Declaration of Human Rights, 1948
- Human Rights and the Constitution- Close relationship between human rights and fundamental rights is seen
- Custodial Jurisprudence – Spells out the rights of persons in the custody of the state.

#### *Human Rights - An Unending Fight*

4.14 This book has pointed out important standards and norms of international human rights law, Indian Constitutional provisions, and Supreme Court judgments relating to human rights. It has also described the meaning, nature and scope of human rights.

## *Human Rights Act, 1993 "An Instrument of Social Utility"*

4.15 This book provides an understanding of human rights and the Protection of Human Rights Act, 1993. It has resisted the temptation of perceiving this Act purely as rights against the Government and instead views the Act as an opportunity to add new and profound dimension to establish relationship with the public.

### *Human Rights And Development*

4.16 As the title of the book indicates, this book has explained 'development' as an integral part of human rights. In addition to human development, human rights framework, and the Kyoto Declaration, which has described the notion of sustainable development, this book also focuses on issues such as poverty, women, environment and the governance.

## ADMINISTRATIVE MATTERS AND LOGISTIC SUPPORT

Although the Maharashtra State Human Rights Commission was established by the Government of Maharashtra *vide* its G. R. No. HRC-1099/378/Pol-14, dated 15th January 2000, the Commission became operational on 6th March 2001 and started its actual functioning on 12th March 2001 when Justice Arvind V. Savant took over as its first Chairperson. Subsequently, as mentioned earlier in this report, Justice Arvind Savant (Retd.), resigned and Justice Anant D. Mane (Retd.), Member of the Commission was appointed as the Acting Chairperson on 7th May 2002. Dr. V. S. Chitnis and Shri M. R. Patil continued to serve as Members of the Commission. Further, on 26th December 2002 Shri C. L. Thool was appointed as the fourth Member of the Commission. The post of Chairperson remained vacant till the end of the year under report.

**Staff**

5.2 The staff of the Commission continued to be distributed amongst the three divisions namely, Administration Division headed by the Secretary, Investigation Division headed by a Spl. Inspector General of Police, and the Legal Division by Registrar.

5.3 During the year 2002-03, after the departure of Shri Gorekh Megh, IAS, Secretary of the Commission on 28th August 2002, Shri M. B. Ray, IAS held the office of the Secretary till 16th January 2003, and thereafter Smt. Ranjana Sinha, IAS took charge as Secretary of the Commission. Shri Subhash Avate (IPS) continued as Inspector General of Police (Investigation). Shri M. P. Kukday continued to be Registrar of the Commission till 15th July 2002, and on his departure, Shri J. R. Sangam, Superintendent of Police, held the additional charge of the Registrar till the end of the year under report.

5.4 Leaving aside 5 posts of Chairperson (1) and Members (4), number of sanctioned posts continued to be 43 as no new posts were created during the year 2002-03. With the appointment of one Legal Assistant and 4 Police Constables during 2002-03, out of the 43 posts, 40 posts came to be occupied.

**Premises**

5.5 The Government of Maharashtra *vide* its G. R. No HRC 1099/378/Pol-14, dated 15th January 2000 mentioned that the Maharashtra State Human Rights Commission's headquarter would be at Mumbai. Accordingly the government allotted or offered to allot various premises such as New Administrative Building, opposite Mantralaya ; Worli (Government Transport Services) ; Arun Chambers, Tardeo, Mumbai ; New Administrative Building, Bandra (East) and Old Customs House, Mumbai. However the Commission was still in search of suitable premises. Finally by its circular No. G. A./11.01/C.N. 15/2001/22, dated 20th June 2002 the Government allotted 2380 sq. ft. in the premises of Administrative Staff College Building at 9, Hajarimal Somani Marg, opp C. S. T., Mumbai 400 001 (which was earlier occupied by the State Finance Commission) to the Commission. This was found suitable by the Commission.

5.6 Initially, the Commission received possession of 9 rooms in the new premises ; subsequently by order No. G. A./11.01/C. N. 15/2001/22, dated 31st August 2002 possession of two more rooms was given, and again by Government Circular No. G. A. 11.01/C. N. 15/2001/22, dated 21st January 2003 the Commission received possession of four more rooms. With this during the year under report the Commission had in its possession an area of about 2900 sq. ft.

5.7 During 2001-02 the State Government made available a grant of Rs. 31.46 lakh; against which the total expenditure came to Rs. 58.52 lakh. During 2002-03 the Commission received initially a grant of Rs. 96.59 lakh and later additional grant of Rs. 4.81 lakh, thus totalling Rs. 101.40 lakh. Out of this Rs. 90.52 lakh was spent and of which Rs. 64.39 lakh was spent on pay & allowances.

5.8 Towards the end of the year under report the Commission received a grant of Rs. 65.07 lakh for renovation and additional construction of office premises *vide* Order No. HRC-132001/Sankirna-148/Pol-14, dated 29th March 2003 of the Home Department.

## CHAPTER 6

### ILLUSTRATIVE CASES DECIDED

For the purpose of summarizing select cases decided during the year 2002-2003, they have been sorted into the following categories:—

- (i) Arrest and detention
- (ii) Apprehension
- (iii) Atrocity
- (iv) Beaten up by Police
- (v) Claiming benefit of Government Schemes
- (vi) Corruption
- (vii) Demolition of structures
- (viii) Denial to lodge complaint in Police Station
- (ix) Equal pay for equal work
- (x) Immoral trafficking
- (xi) Inaction on the part of public servants
- (xii) Harassment
- (xiii) Non-cooperation
- (xiv) Noise pollution
- (xv) Nuisance
- (xvi) Retirement benefits
- (xvii) Right to education
- (xviii) Right to equality
- (xix) Right to livelihood
- (xx) Right of press
- (xxi) Right of disabled
- (xxii) Right of residence
- (xxiii) Threatening

#### Arrest and Detention

- (1) Case No. 835/2001  
Date of Complaint : 29th October 2001  
Complainant : Shri Munaf Barmare  
Respondent : The Commissioner of Police, Mumbai  
Quorum : Justice A. D. Mane (Retd.)

*Nature of Complaint.*— The complainant alleged that police personnel had misused their powers when the complainant was attacked and injured by one Shri M. N. Singh and some society members. The complainant stated that the concerned police personnel did not arrest the accused persons.

*Action taken by the Commission.*— The Commission called for a report from the Commissioner of Police, Mumbai and later called for hearing. In his report dated 22nd January 2002 it was submitted by the Dy. Commissioner of Police, Zone - 5 that a proper enquiry was done in the matter and it was found that the concerned police personnel admitted the complainant in the hospital after he was injured ; the complainant refused to give any statement in hospital. Further, in his statement he stated that he was beaten up by some residents ; however his neighbour stated that the complainant fell on the door of lift and in the process was injured. Considering the differences between the statements it was learned that the complainant has given this complaint only to harass the members of society and police officers.

*Date of Decision:* 27 March 2003

*Decision of the Commission.*— The Commission while deciding the matter concentrated on two points- whether non-arrest of the accused persons in a cognizable offence would violate the human rights and whether the complaint was compatible with the provision of section 12(a) of the Protection of Human Rights Act, 1993. The Commission observed that arrest- a constraint on the liberty might affect the reputation and status of the citizen therefore the police officers was competent to consider the need for arrest. In the said matter non-arrest of the accused person did not violate human rights and could not be considered as a misuse of power. Regarding the jurisdiction of the Commission it was stated that the complaint was not compatible with the provision of Section 12(a) of the Act; the case was closed.

(2) Case No. 503/2001

|                   |                                    |
|-------------------|------------------------------------|
| Date of Complaint | : 16th August 2001                 |
| Complainant       | : Shri Bhaskar Mahadeorao Bonde    |
| Respondent        | : The Commissioner of Police, Pune |
| Quorum            | : Justice A. D. Mane(Retd.)        |

*Nature of Complaint.*— The complainant brought to the notice of the Commission an article titled "Anubhav" published in Marathi daily Maharashtra Times, dated 29th June 2001 in which the author depicted an incident of illegal detention and beating of two minor mentally retarded children by police.

*Action taken by the Commission.*— The Commission called for report from the Commissioner of Police, Pune. In his report dated 18th April 2002, the Commissioner of Police stated that the police neither arrested those children nor assaulted as alleged in the complaint. Police took custody of the children as they were found in suspicious circumstances and they were kept in an adjacent room of the police chowky. The children were immediately released when the author claimed their custody.

Further, on the basis of report of the Commissioner of Police and a letter of the author dated 15th October 2001 to the Assistant Commissioner of Police, Pune, it revealed that the incident took place as long back as in 1990-91 and she had written the article by exaggerating the incident without realizing the consequences.

*Date of Decision.*— 11th September 2002

*Decision of the Commission.*— Convinced that the narration of the incident by the author in an article was far from the reality and the matter was very old, the Commission decided that no further inquiry was required. The Commission closed the case with a note of appreciation to the complainant who informed about the violation of human rights.

(3) Case No. 1140/2001

|                   |                                     |
|-------------------|-------------------------------------|
| Date of Complaint | : 18th December 2001                |
| Complainant       | : Abdul Chotabhai Sheikh            |
| Respondent        | : The Commissioner of Police, Thane |
| Quorum            | : Justice A. D. Mane (Retd.)        |

*Nature of Complaint.*— The complainant alleged that one Shri Shinde, PSI, Anti-Extortion Cell, Crime Branch, Thane had tortured and illegally detained him. He stated

that he had worked as an informer to the police and 7-8 years back he had helped police to catch one goonda. The PSI asked the complainant to produce that goonda within two days. The complainant expressed his inability; hence the PSI thrashed him and was later detained. He also stated that he was threatened by the PSI that he could be killed in a fake encounter.

*Action taken by the Commission.*— The Commission called for a report from the Commissioner of Police, Thane and later called for hearing. In his report dated 16 August 2002 it was submitted that the complainant filed a complaint under the pressure of his own party persons. He was called by the PSI only for interrogation. In an affidavit submitted by Shri Shinde, PSI, it was stated that he called complainant to get information as he worked as an informer to the police; however the complaint regarding torture and illegal detention was false. The Commission received a request letter from the complainant stating that he would like to withdraw his case as he sent complaint to the Commission due to misunderstandings with the PSI and he was unaware about the substance of his typed complaint as it was in English.

*Date of Decision.*— 28th November 2002

*Decision.*— Considering the report and request letter of the complainant, the Commission was satisfied that there was no necessity to enquire into the matter; hence the case was closed.

(4) Case No. 1105/2002

Date of Complaint : 6th June 2002

Complainant : Shri Sunil Wate

Respondent : Superintendent of Police, Gondia

Quorum : Dr. V. S. Chitnis.

*Nature of Complaint.*— Complainant, an Assistant Sub-Inspector, Wireless Message Department complained that five police personnel from Raipur (Chhattisgarh) including two women constables and his father-in-law forcibly detained him and his mother in Mahalaxmi Lodge, Gondia, and harassed them. Further the police did not allow him to contact his department and seized household articles/appliances. Due to the harassment, the mother of complainant was admitted to the women's hospital. The complainant stated this his wife was not returning from her father's house in spite of his requests and she had filed a false complaint against him and his family under section 498A/34 IPC.

*Action taken by the Commission.*— The Commission called for a report from the Superintendent of Police, Gondia. In his report the Superintendent of Police stated that complainant's wife had filed a complaint in Raipur Police Station (Chhattisgarh) against the complainant and her in-laws under section 498A regarding physical and mental harassment. Therefore as per the order of the Superintendent of police, Raipur, police personnel including two women constables came to Gondia for enquiry. During their enquiry, they arrested the mother of the complainant and therefore they took the complainant with them. For enquiry the police personnel, Raipur took assistance of police in Gondia and Gadchiroli. It was further submitted that the allegation regarding bad treatment and illegal detention in Mahalaxmi Lodge was false.

Afterwards the Commission received a request letter dated 24th February 2003 signed by the complainant and forwarded by the Superintendent of Police, Gondia conveying his satisfaction on the enquiry done by the Commission and that he did not want any further action on his complaint pending with the Commission. The letter also stated that the case was subjudice before the Court; and he would accept the decision of the Court.

*Date of Decision.*— 6th March 2003.

*Decision.*— In pursuance of request letter dated 24th February 2003 of complainant, the case was closed.

### **Apprehension**

- (5) Case No. 255/2002  
Date of Complaint : 1 February 2002  
Complainant : Shri Satish C. Walke  
Respondent : Agripada Police Station, Mumbai  
Quorum : Dr. V. S. Chitnis.

*Nature of Complaint.*— The complainant, distributor of In-Cable in Indus Ind Entertainment Private Limited, complained that he was falsely implicated in criminal cases under TADA and was further acquitted by the appropriate court; however, since last couple of months he was apprehending the danger to his life from the police machinery. He suspected that he might be involved in some false criminal case or in fake encounter by the police.

*Action taken by the Commission.*— Considering the gravity of the complaint, the Commission recommended complaint to the investigation wing. The report dated 20th June 2002 submitted by the Spl. IGP (Investigation) and the report dated 17th June 2002 submitted by the Senior Police Inspector, Agripade Police Station were revealed that the complainant was a criminal and belonged to Chhota Rajan gang. Therefore, local police were keeping surveillance on him and in his absence on his family. Further it was submitted in the report submitted by the investigation wing that the complainant had only apprehensions regarding danger to his life. There was no material support to support his apprehension.

*Date of final order.*— 7th July 2002

*Decision.*— In the light of report submitted by the investigation wing, it was accepted that no action on the part of the Commission could be called for in the matter; hence the case was closed.

- (6) Case No. 1361/2002  
Date of Complaint : 2nd July 2002  
Complainant : Abdul Razzak Mohammad Ismail  
Respondent : Deputy Commissioner of Police, New Mumbai  
Quorum : Dr. V. S. Chitnis.

*Nature of complaint.*— The complainant complained that his two sons were falsely implicated by the police; one son was acquitted on bail whereas another son was in police custody. On 29th June 2002, Shri Kolhatkar, P. S. I. asked on phone the complainant to send the keys of four places; including offices and flat and threatened that his son in custody could face the consequences. The complainant sent the keys with Mr. Yusuf, servant. As his servant did not return till midnight in spite of phone calls to Shri Kolhatkar to send back Mr. Yusuf immediately, he went to the Trombay Police Station and gave a written complaint.

*Action taken by the Commission.*— The Commission called for a report from the Commissioner of Police, Mumbai. In his report dated 21st March 2003, it was submitted

that Shri Kolhatkar called up the complainant's house and asked him to send the keys of four places only to conduct search over there as a part of investigation. The search was undertaken in the presence of Shri Yusuf, the servant, as he was sent by the complainant with keys. Further the report stated that there was no ill motive behind the search conducted by Shri Kolhatkar, PSI and other personnel.

*Date of decision.*— 25th March 2003

*Decision.*— Considering the report submitted by the Deputy Commissioner of Police, the case was closed as Shri Kolhatkar conducted the search as a part of investigation and in the presence of the complainant's representative.

### Atrocity

- (7) Case No. 801/2002  
 Date of Complaint : 15th April 2002  
 Complainant : Shri Parasnath Tiwari  
 Respondent : Deputy Commissioner of Police  
 Quorum : Dr. V. S. Chitnis.

*Nature of Complaint.*— The Complainant, a Regional Secretary, Nationalist Congress Party brought to notice an incident in which Cattle Arrest Squad of BMC & other workers had beaten by lathi the wife of Shri Balram Yadav, a cows shed owner and his two innocent sons as they restrained the squad from seizing their cows. When the two sons of Shri Balram Yadav ran towards the seaside to save their lives, the BMC staff pushed them in the seawater. On the arrival of villagers, the BMC staff ran away. The villagers informed the local police & fire brigade but they did not arrive immediately. After hours, they came and recovered dead bodies of the two sons of Balram Yadav.

Further, complainant complained that the local police were not ready to accept the incident as murder ; hence registered the incident as an accidental death.

*Action taken by the Commission.*— The Commission called for report from the Deputy Commissioner of Police. In his report, it was submitted that one Shri Gavankar, In-charge of the Cattle Arrest Squad of BMC & seven other workers asked Rs. 10,000 from Shri. Balram Yadav and on refusal for the same, Shri Gavankar told his staff to seize the cows. While seizing the cows, Shri Gavankar and his staff had beaten the two sons of Shri Balram Yadav. Therefore, the sons ran towards the sea and fell in the water and died. On the basis of complaint given by Shri Balram Yadav, all liable staff of BMC were arrested and released on bail thereafter. The report stated that the case against them was in process.

*Date of decision.*— 20th March 2003.

*Decision.*— As action was taken by police, the case was closed.

### Beaten up by Police

- (8) Case No. 93/2001  
 Date of complaint : 10 May 2001  
 Complainant : Shri Ramdeo Saha  
 Respondent : The Commissioner of Police, Mumbai  
 Quorum : Justice A. D. Mane (Retd.)

*Nature of complaint.*— The complainant alleged that one ASI beat him unnecessarily due to which his hand was fractured. He complained to the senior police officials but no action was taken.

*Action taken by the Commission.*— The Commission called for a report from the Commissioner of Police, Mumbai and later called for hearing. In his report dated 31st January 2002 submitted by the Deputy Commissioner of Police, it was stated that after an enquiry it was found that there were complaints against the complainant. The concerned ASI asked him to improve his behaviour when he came to the police station to serve tea. The complainant argued with the ASI and the ASI slapped him on the wrist and asked him to leave the place. While running, the complainant fell down and was injured. As per the Medical Officer the complainant's hand was not fractured. The complainant stated in the hospital that one unknown person had assaulted him. As the matter was not handled properly by the ASI a default report was submitted which was in process.

*Date of Decision.*— 23rd July 2002.

*Decision.*— Emphasizing Article 5 of the Universal Declaration of Human Rights, 1948, the Commission observed that the behaviour of the ASI was unpardonable as he did not follow the procedure established by law and did not take legal action which he was required to take in the matter. Relying on the preliminary inquiry done against the conduct of the ASI, he was transferred. However, the Commission found it to be inadequate and it recommended a departmental enquiry against the ASI.

*Compliance.*— Compliance is awaited

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#### **Benefits of Government Schemes**

(9) Case No. 604/2001

|                   |                              |
|-------------------|------------------------------|
| Date of Complaint | : 17th September 2001        |
| Complainant       | : Smt. Muktabai Khandagale   |
| Respondent        | : The Collector, Aurangabad  |
| Quorum            | : Justice A. D. Mane (Retd.) |

*Nature of Complaint.*— The complainant complained that the Collector Office was not giving financial assistance under 'Sanjay Gandhi Niradhar Anudan Yojana' and 'National Old Age Pension Scheme'. The complainant stated that she was old and mentally & physically unfit, hence difficult to earn her livelihood.

*Action taken by the Commission.*— The Commission called for a report from the Collector, Aurangabad and further called for hearing. In his report, it was submitted that the name of the complainant was incorrectly written on the record; therefore she was not getting the benefit under the related schemes. However, she was being regularly paid the benefits from January, 1999 to June, 2000. The report further stated that the name of the complainant has been corrected and now she would get benefits regularly. The complainant's statement was also attached with the report stating that she had no complaint.

*Date of Decision.*— 31st December 2002.

*Decision.*— Considering the report, the Commission viewed that no further enquiry was required; hence the case was closed.

(10) Case No. 630/2001

Date of Complaint : 25th September 2001

Name of the Complainant : Shri Dharmaji Kakde and others

Respondent : Collector, Aurangabad

Quorum : Justice A. D. Mane (Retd.)

*Nature of Complaint.*— The complainants alleged that their names were not included in the list of the persons below poverty line despite their request to the concerned government department. The complainants prayed to get include their names in the list of persons below poverty line for the purpose of food, rationing, etc.

*Action taken by the Commission.*— The Commission called for a report from the Collector, Aurangabad and later called for hearing to both the parties. During hearing the officers accepted that the complainants belonged to below poverty line; however, their names were not included in the list prepared by the municipal authority. Hence, their claim was not considered. The concerned officers assured that after verifying the applications submitted by the complainants, they would get the ration cards.

*Date of decision.*— 10th March 2003.

*Decision of the Commission.*— The Commission observed that it was the duty of the concerned officers to make proper survey to prepare the list of persons below poverty line. Pointing out the absence of names of eligible persons in the list, the Commission directed to submit the compliance report to the Commission and stated that no further enquiry was required. On receiving the compliance report; the case was closed on 10th March 2003.

*Compliance.*— On 21 January 2003 the Commission received a compliance report from the concerned department (Zilla Puravatha Adhikari Karyalay, Aurangabad) stating that the ration cards were allotted to the complainants on 19th January 2003.

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(11) Case No. 723/2001

Date of Complaint : 6th October 2001

Complainant : Shri Kishor Darunde

Respondent : Secretary, Irrigation Department,  
Mantralaya, Mumbai and other

Quorum : Justice A. D. Mane (Retd.)

*Nature of Complaint.*— The complainant belonged to project affected area, alleged that since 1994 no person belonged to Scheduled caste were employed in government service. The complainant, a qualified candidate enquired regarding his application and his sr. no. but he did not receive proper information. The complainant stated that he requested many times to the Collector, Yavatmal and went on a fast until death; but nothing was done.

*Action taken by the Commission.*— The Commission called for a report from the Secretary, Irrigation Department, Mantralaya, Mumbai and the Collector, Yavatmal. In his report submitted by the Deputy Secretary it was stated that as per the availability of vacancies, need of work and qualification the appointment of the complainant would be decided.

*Date of Decision.*— 10th October 2002.

*Decision.*— The Commission observed that the name of the complainant was already taken in the list of project affected persons; his name appeared at Sr. No. 385 and his educational qualification had also been corrected; hence the case was closed.

(12) Case No. 846/2001

Date of Complaint : 26th October 2001  
Complainant : Smt. Subidrabai Athawale  
Respondent : Divisional Commissioner, Aurangabad  
Quorum : Justice A. D. Mane (Retd.)

*Nature of Complaint.*— The complainant complained that since 2001 she did not receive financial assistance under the scheme of Sanjay Gandhi Niradhar Yojana. She alleged that Tahasildar, Aurangabad was not paying financial assistance intentionally to get some money from the complainant.

*Action taken by the Commission.*— The Commission called for a report from the Divisional Commissioner, Aurangabad Division, Aurangabad. In his report it was stated that the complainant was being paid the required financial assistance regularly.

*Date of Decision.*— 20th December 2002.

*Decision.*— In view of the report the case was closed.

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(13) Case No. 1069/2001 and 1070/2001

Date of Complaint : 1st December 2001  
Complainant : Shri Ashok & Bhimraj Bharti  
Respondent : The Collector, Ahmednagar  
Quorum : Justice A. D. Mane (Retd.)

*Nature of complaint.*— The complainant belonged to a nomadic tribe and below poverty line. He alleged that he did not receive a ration card. He requested the government, however his name was not included in the list. Separately the complainant's father complained that their house fell down due to rain; and the house should be reconstructed by the government.

*Action taken by the Commission.*— The Commission called for a report from the Collector, Ahmednagar and later the Secretary, Food and Civil Supplies Department, Mantralaya, Mumbai. In his report dated 14th November 2002 it was stated that the complainant's name was not included in the list of persons below poverty line; however considering the poor condition the ration card could be supplied to the complainant when he would give fresh application for the cause.

On 19th December 2002, the Commission received letter from the Food, Civil supplies Department stating that the ration cards were supplied to the complainants.

As per the report dated 22nd January 2003 submitted by the Deputy Secretary, Gram Vikas and Jal Sandharan Vibhag, the complainant's application regarding the house was not found and his name was also not found in the list. During hearing before the Commission, the complainants agreed that they would make fresh application to get house under the relevant government scheme.

*Date of Decision.*— 27th March 2003.

*Decision.*— The Commission observed that the complainant were agitating since long to get their names included in the concerned lists for eligibility to the government schemes framed specifically for the persons below poverty line. Stating that the complainants would make separate application by enclosing the ration card assigned to them and with the hope that the authorities would consider the matter; the case was closed by the Commission.

(14) Case No. 386/2001

Date of Complaint : 13th July 2001  
Complainant : Shri Shiwaji N. Sutar  
Respondent : Rationing Officer, Worli  
Quorum : Dr. V. S. Chitnis.

*Nature of Complaint.*— The Rationing Office deleted the names of the complainant and his wife from the ration card without taking necessary steps required to delete names already included in the ration card.

*Action taken by the Commission.*— The Commission called the complainant for personal hearing on 12th October 2001 and called a report from Senior Rationing Officer. In his report submitted by Rationing Officer, it was submitted that Shri Arjun N. Sutar, the main ration card holder withdrew the names of complainant and his wife and mentioned that they were transferred to their village. Further, on receipt of complaint regarding the withdrawal of his name, the Rationing Inspectors visited their place when the Inspectors found that the complainant & his brother were living separately in the same premises. Further, a report stated that when the complainant would be present in the Ration office, a ration card would be allotted to the complainant.

*Date of decision.*— 23rd July 2002.

*Decision.*— The Commission opined that through the Rationing Office, the complaint could be redressed. Accordingly the complainant was informed.

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(15) Case No. 485/2001

Date of Complaint : 18th August 2001  
Complainant : Smt. Kamalabai Chacharkar  
Respondent : The Collector, Chandrapur  
Quorum : Shri M. R. Patil.

*Nature of complaint.*— The complainant complained that she gave written application to get service on compassionate ground as her husband who was working as a peon in Soil Conservation Department died during service. The complainant's application was rejected despite her many visits to the concerned office. She had been told that she had not applied before the limitation period of one year. Thereafter her elder son applied for the same post on compassionate ground but his application was also rejected stating that the application came late by five years.

*Action taken by the Commission.*— The Commission called for a report from the Collector, Chandrapur and later called for hearing. In his report dated 11th January 2002 it was submitted that the applications regarding service on the compassionate ground submitted by the complainant were received within the limitation period. However, to consider the complainants case they had sent a request to the government.

*Date of Decision.*— 6th January 2003

*Decision:* The Commission considered it a fit case for reconsideration by the government as the application of the complainant was refused merely on technical ground. The Commission directed the government to reply the applicant directly under intimation to this Commission.

*Compliance.*— The government replied that the matter was considered with all sympathy and came to conclusion that there was no provision under which the complainant could get an appointment on compassionate ground.

(16) Case No. 513/2001

Date of complaint : 24th August 2001  
Complainant : Shri Manohar Dhatrak  
Respondent : Director, Technical Education, Mumbai  
Quorum : Shri M. R. Patil.

*Nature of complaint.*— The complainant alleged that he took voluntary retirement from the Technical Education Department, Amravati as he became handicapped to the extent of 58% due to an accident during service. However, in spite of requests to the concerned authorities his son was not appointed on compassionate ground.

*Action taken by the Commission.*— The Commission called for a report from the Director of Technical Education, Mumbai and later called for hearing. In his report he submitted that the complainant's son could be employed on compassionate ground. However this could be decided by the Government; hence a proposal was submitted to the government. The Government of Maharashtra informed the Director of Technical Education, Mumbai that the complainant had opted retirement voluntarily; no medical officer had decided that he was ineligible for the government service. Moreover, after the retirement no alternate post had been offered to the complainant. Therefore, the complainant's son was ineligible to get employment on compassionate ground.

*Date of Decision.*— 4th March 2003

*Decision.*— The Commission expressed a desire that government should send a copy of the government order dated 23rd April 2001 to the complainant and advised that if he so desired he could make representation once again to the government against the said order and the state government could consider it afresh and would pass the appropriate orders.

(17) Case No. 1111/2001

Date of complaint : 14th December 2001  
Complainant : Shri C. B. Yadav  
Respondent : The Collector, Amravati  
Quorum : Shri M. R. Patil.

*Nature of complaint.*— The complainant alleged that Shri Shahane, Office Superintendent and Shri Shahane, Personal Assistant, Social Welfare Department issued the caste certificate to one Smt. Shobha Ahir after receiving Rs. 40,000 with the help of Shri Kulkarni, Chief Officer, Social Welfare Department sans verifying the required documents. The complainant stated that these persons were converting the invalid caste certificates into valid ones and were selling them.

*Action taken by the Commission.*— The Commission called for a report from the Collector, Amravati and later called for hearing. As per the report submitted by the concerned officers, Smt Shobha Ahir submitted required documents for caste verification and thereafter the Social Welfare Department, Amravati issued conditional caste certificate to her. Moreover, the report submitted the complainant's written statement wherein he stated that he had not complained regarding caste verification and someone had misused his name.

*Date of Decision.*— 23rd December 2002

*Decision.*— Considering the report, the case was closed by the Commission. The complainant was also advised that if he would like to challenge the caste certificate then he could approach the High Court under a writ as per the Supreme Court directives.

## Corruption

(18) Case No. 1045/2001

Date of Complaint : 28th October 2001  
Complainant : Shri Uday Chitnis  
Respondent : Chief Engineer and Shri Baldawa,  
Maharashtra Jeeven Pradhikaran Works  
Department, Parbhani  
Quorum : Justice A. D. Mane (Retd.)

*Nature of the Complaint.*— The Complainant alleged that Shri P. R. Baldawa and other officers, Maharashtra Jeevan Pradhikaran Works Department committed irregularities and indulged in corrupt practice ; however no disciplinary action was taken. The complainant stated that they could destroy the evidence.

*Action taken by the Commission.*— The Commission called for a report from the Chief Engineer, Maharashtra Jeeven Pradhikaran Works Department, Parbhani and later called for hearing. In his report dated 8th March 2002 it was submitted that on receiving the complaints against Shri Baldawa, he had been transferred to another department. Replying to other allegations raised by the complainant it was stated that the department was noting the irregularities and accordingly an enquiry was initiated to find out the truth. In case they were found guilty action would be taken against them. Afterwards the complainant withdrew the complaint against the Chief Engineer. On 23rd May 2002 Shri Baldawa filed his detail reply stating that during his service he had not done any irregularities. Further the Commission received a letter dated 6th June 2002 from the complainant regarding his satisfaction with the received information from Shri Baldawa ; hence the case could be closed.

*Date of Decision.*— 20th December 2002

*Decision.*— Considering the reports and the complainant's satisfaction the Commission was satisfied that no further enquiry was required ; the case was closed.

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(19) Case No. 758/2001

Date of Complaint : 8th October 2001  
Complainant : Shri Jitendra Sinha Rana  
Respondent : Dy. Director, Krida and Yuvak Seva,  
Aurangabad  
Quorum : Shri M. R. Patil.

*Nature of complaint.*— The complainant, a student of P. E. S. College of Physical Education alleged that during the admission for M.P.Ed illegal practices were going on as one Shri I. D. Aalte and a clerk were asking for bribe to get admission in the college. The complainant stated that the students were threatened by Shri Aalte.

*Action taken by the Commission.*— The Commission called for a report from the Dy. Director, Krida and Yuvak Seva, Aurangabad. In his report dated 31st July 2002 it was submitted that an enquiry was carried out on the basis of a complaint submitted to the Commission by the complainant. It was found that the allegations made by the complainant were baseless. Later the Commission called the Registrar, Dr. Babasaheb Ambedkar Marathwada University, Aurangabad for hearing along with a report. In his report dated 29th August 2002 it was submitted that no additional fees were charged by the concerned college and staff during the admission to M.P.Ed. Moreover, during interview of students in the context of complaint they admitted that no additional amount Rs. 5000 was paid by them.

*Date of Decision:* 16 September 2002

*Decision:* Considering the enquiry report it was held by the Commission that merely on the basis of doubt no one could be held liable. However, such incidents could be happen in future therefore the Commission advised that the admission fees could be taken by demand drafts and the University should take initiative in this regard.

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### **Demolition**

(20) Case No. 1132/2001

Date of complaint : 18th December 2001  
Complainant : Shri K. P. Koli  
Respondent : Brihanmumbai Mahanagarpalika  
Quorum : Shri M. R. Patil

*Nature of complaint.*— The complainant alleged that one Bhailal, owner of a laundry, had constructed big water tanks without any cover; also no permission was taken to construct water tanks. The complainant and other residents gave an application to the concerned office; however, no action was taken.

*Action taken by the Commission.*— The Commission called for a report from the Municipal Commissioner, Brihanmumbai Mahanagarpalika. In his report dated 6th June 2002 it was submitted that on receiving the notice from the Commission, the site was visited and illegal construction was noticed. On 27th May 2002 the illegal construction was demolished.

*Date of Decision.*— 7 October 2002

*Decision.*— As the illegal construction was demolished, the case was closed.

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### **Denial to Lodge Complaint in Police Station**

(21) Case No. 55/2002

Date of Complaint : 24th December 2001  
Complainant : Smt Nanda J. Tiwari  
Respondent : Deputy Commissioner of Police, Matunga, Mumbai  
Quorum : Dr. V. S. Chitnis.

*Nature of Complaint.*— The complainant, mother of a minor son, alleged that a rickshaw driver dashed against her minor son causing fracture. The son was admitted in the Kurla Nursing Home where Dr. Anand Hajare treated her son. The complainant went to various police stations viz., Kurla, Pipe Road Police Chowki & LIG Police Chowki but they all refused to take her complaint and instead directed her to some other police station. The complainant prayed for the registration of her complaint against the rickshaw driver.

*Action taken by the Commission.*— The Commission called for report from the Deputy Commissioner of Police, Mumbai. On 17th June 2002, the Commission received report from Deputy Commissioner of Police, Zone-V, Matunga, Mumbai. In his report, it was observed that the rickshaw driver himself admitted the son of the complainant in the Kurla Nursing Home & met all expenses of his medical treatment. Therefore, the complainant did not file any complaint against rickshaw driver in the police station. Thereafter, the complainant again demanded money for medical treatment of her son,

but this time the rickshaw driver refused. The complainant filed complaint under the influence of their relative. During enquiry, the complainant told the police that she did not lodge a complaint of the accident in a police station. Further, in the report of the DCP it was stated that the minor son had no problem and was attending school; complainant also had no complaint.

*Date of decision.*— 31st July 2002

*Decision of the Commission:* Considering the facts put forward in report submitted by the respondent the case was closed.

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### **Equal Pay for Equal Work**

(22) Case No. 1067/2001

|                   |   |                                                                                                                                                       |
|-------------------|---|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| Date of Complaint | : | 1st December 2001                                                                                                                                     |
| Complainant       | : | Shri M. M. Yewale and others                                                                                                                          |
| Respondent        | : | The Principal, Viduyat Vidya Mandir,<br>Industrial Training Institute (ITI), Deputy<br>Director, Vocational Education and Training Regional<br>Centre |

Quorum : Dr. V. S. Chitnis

*Nature of the complaint.*— The Complainant and others, the employees of Viduat Vidya Mandir, ITI, complained that they are not getting the pay scale, leave, GPF and etc. as per the order of the Government and presently they were not getting salary equivalent to the other Government employees of the Government ITI. The complainant and other employees had present their demand before their Principal and ITI, Jalgaon but nothing was done so far. Further, the complainant stated that as directed by the Principal, from August, 2001 30% of the consolidated salary was deducted. On the opposition for the same, the authorities told orally that in case of dissatisfaction they could give resignation.

*Action taken by the Commission.*— The Commission called for report from the Deputy Director, Vocational Education and Training Regional Centre, Nashik. In his report dated 1 March 2002, he stated that Viduat Vidya Mandir was a private unaided institution. Therefore, the matters related to pay scale, leave, GPF etc falls inside the purview of the concerned administration and Chairperson/ Principal. Regarding the salary, the directions were already set to follow for the private un- aided institutions.

*Date of decision.*— 14th August 2002

*Decision.*— The Commission had no jurisdiction in the matter of private institutions; hence the case was closed.

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(23) Case No. 523/2002

|                   |   |                                                       |
|-------------------|---|-------------------------------------------------------|
| Date of complaint | : | 27 February 2002                                      |
| Complainant       | : | Ms. Chhaya Lokhande                                   |
| Respondent        | : | Secretary, Medical Education Department<br>and others |
| Quorum            | : | Shri M. R. Patil.                                     |

*Nature of complaint.*— The complainant alleged that since 1986 she was working with Indira Gandhi Medical College, Nagpur as Class III employee. Since then she was

getting meager salary of Rs. 290 p.m. She filed a case to the Industrial Court, Nagpur Bench to get salary as per the entitlement to other class III employees. The Court gave decision in her favour. However, her service was not regularized by the concerned authorities. The complainant stated that she applied to all the concerned authorities to get equal pay for equal work but nothing was done so far.

*Action taken by the Commission.*— The Commission called for a report from the Secretary, Medical Education Department & others and later called for hearing. In his report dated 7th May 2002 Director, Medical Education & Research submitted that the complainant could be appointed on a regular pay scale to the post of clerk as she was working with IGMCI since 1986 without break. On 5th July 2002 the complainant was appointed on a regular basis.

*Date of Decision.*— 7 March 2003

*Decision.*— Observing the corrective steps taken by the Government of Maharashtra, the case was closed by the Commission.

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(24) Case No. 1182/2002

Date of Complaint : 28th May 2002  
Complainant : Dr. Shamal Doifode  
Respondent : Director, Higher Education, Pune  
Quorum : Shri M. R. Patil.

*Nature of complaint.*— The complainant alleged that she did not receive fifth pay commission arrears from the institution where she was working as a lecturer ; she stated that all others had received the arrears.

*Action taken by the Commission.*— The Commission called for a report from the Director, Higher Education, Pune and later called for hearing. In his report dated 7th September 2002 it was submitted that the arrears were paid to all employees except those who left the institution. The complainant was one amongst them. The directions were given to the concerned institution to pay the arrears to the complainant within one month. On 26 November 2002, the Commission received a letter from the Director, Higher Education, Pune regarding the payment of arrears to the complainant.

*Date of Decision.*— 28th November 2002

*Decision.*— As the arrears were paid to the complainant, the case was closed.

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### **Immoral Trafficking**

(25) Case No. 24/2001

Date of complaint : 3rd January 2001  
Complainant : The General Secretary, Bhimrao Ambedkar Memorial and Welfare Society, Darjeeling  
Respondent : The Commissioner of Police, Mumbai  
Quorum : Shri M. R. Patil.

*Nature of complaint.*— The complainant brought to notice of the Commission that girls from Nepal were sold in red light area, Mumbai ; hence requested to take necessary steps to prevent immoral trafficking of women.

*Action taken by the Commission.*— The Commission called for a report from the Commissioner of Police, Mumbai, Secretary, Women and Child Welfare Department,

Mantralaya, Mumbai, and Secretary, Social Welfare Department, Mantralaya, Mumbai. In accordance with the notice Dy. Commissioner of Police submitted his detailed report dated 28th December 2001 stating that whenever police found cases regarding immoral trafficking they were taking necessary actions. However, the Women and Child Welfare Department submitted their inability to supply a report as the complainant had not given the specific particulars of any incident.

*Date of Decision.*— 1st July 2002

*Decision.*— As the complaint was of general nature as no person had been named whose human rights had been violated and considering the action taken by the police from time to time into the matter of immoral trafficking of women the case was closed ; however the Secretary of the concerned department in the Mantralaya was requested to look into the problem and inform the action taken by the Government to the Commission.

*Compliance.*— Action awaited from the concerned department.

### **Inaction**

(26) Case No. 665/2001

|                   |   |                                      |
|-------------------|---|--------------------------------------|
| Date of Complaint | : | 27th September 2001                  |
| Complainant       | : | Shri Shravan Kesu Mhase              |
| Respondent        | : | Superintendent of Police, Ahmednagar |
| Quorum            | : | Justice A. D. Mane (Retd.)           |

*Nature of Complaint.*— The complainant alleged that his minor daughter Kum. Saraswati delivered a baby out of illegal relationship with Shri Shivaji. The relatives of Shri Shivaji assured the complainant that they would arranged marriage of Shivaji and Saraswati ; however did not keep their assurance. The complainant filed a complaint to the police but they were not taking cognizance and on the contrary filed a false charge sheet against his daughter by hiding truth in the matter. The complainant stated that they threw newborn girl child in the field.

*Action taken by the Commission.*— The Commission called for a report from, and a hearing of the Superintendent of Police, Ahmednagar. In his report, it was submitted that Shri Vishnu Mhase registered a complaint stating that he found a newborn girl child in the field. During the investigation it was learnt that Kum. Saraswati threw her girl child who was born out of illegal relationship with Shri Shivaji who gave her promise of marriage and later retracted from his promise. The, police arrested Kum. Saraswati for throwing a newborn child and the case was pending in the Court ; the police also registered an offence against Shri Shivaji and investigation was in process.

*Date of Decision.*— 20th December 2002

*Decision.*— The Commission viewed that further no enquiry was needed as the action was already taken by the police ; hence the case was closed.

(27) Case No. 392/2002

|                   |   |                                    |
|-------------------|---|------------------------------------|
| Date of Complaint | : | 18th February 2002                 |
| Complainant       | : | Shri Suresh Parsu Sawant           |
| Respondent        | : | The Commissioner of Police, Mumbai |
| Quorum            | : | Justice A. D. Mane (Retd.)         |

*Nature of Complaint.*— The complainant alleged that his neighbours attacked him and his family by a sword as he filed a complaint against them regarding illegal cutting of trees and constructing a room. The complainant filed a complaint but no action was

taken by the authorities. The complainant stated that police officers and some government officers were involved in the matter, therefore enquiry was not done.

*Action taken by the Commission.*— The Commission called for a report from the Commissioner of Police, Mumbai. In his report dated 24th August 2002, it was submitted that the necessary action was already taken by the police.

*Date of Final Order.*— 1st October 2002

*Decision of the Commission.*— Considering the report the Commission satisfied that no further inquiry was required into the matter; hence the case was closed.

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(28) Case No. 730/2002

Date of Complaint : 26th March 2002  
Name of Complainant : Shri Ramkishore Agarwal  
Respondent : Collector, Gondia  
Quorum : Justice A. D. Mane (Retd.)

*Nature of complaint.*— The complainant alleged that his son Aditya's name was missing from the birth and death register; the concerned pages of register were missing from the register. He requested the concerned officer to note Aditya's name as per the school record but he refused to do so. The complainant stated that he lodged complaint with the police station and Tahasildar, Aamgaon but they ignored his complaint.

*Action taken by the Commission.*— The Commission called for a report from the Collector, Gondia. In his report dated 20th August 2002, he stated that the complainant and his brother filed different affidavits claiming the parenthood of Aditya. Considering the different affidavit to solve the dispute a proper enquiry was done and it was found that Shri Govindlal, brother of complainant was father of Aditya. The complainant accepted the fact and accordingly the decision was passed.

*Date of decision.*— 21st September 2002

*Decision:* Considering the decision given by the Collector which was unchallenged by the complainant, and the corrections in the register of births and deaths in accordance with the decision, the case was closed.

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(29) Case No. 990/2001

Date of Complaint : 26th November 2001  
Complainant : Smt Kiran Kothari  
Respondent : Principal Secretary, Cooperation  
Department, Government of Maharashtra,  
Mantralaya, Mumbai.  
Quorum : Justice A. D. Mane (Retd.)

*Nature of complaint.*— The complainant, a member of Laxmi Narayan Cooperative Housing Society Ltd, alleged that the said society had violated various byelaws and misappropriated money since last 15 years. She stated that she filed complaints with the concerned Cooperative Department; however no action had been taken by them.

*Action taken by the Commission.*— The Commission called for a report from the Principal Secretary, Co-operation Department, Mantralaya, Mumbai and called for hearing to both the parties. In his report dated 10 April 2002 submitted by the Divisional Jt Registrar, Cooperative Societies, Mumbai, it was submitted that the Registrar had taken

due notice of the complaints given by the complainant; action was taken on them and only some of the issues were remained to be solved and which would be solved within a short period. On 2nd March 2002, the Commission received a report from the Secretary, (Co-op) stating that required action had been taken on the complaints received from the complainant. The report stated that the complainant had not paid her dues in spite of notices served to her.

*Date of Decision.*— 2nd September 2002.

*Decision.*— Though the matter did not come strictly within the purview of the Commission, it was enquired into as the parties were cooperative to settle the dispute. Considering the action which would be taken by the administrator keeping in mind the complaints of the complainants, the case was closed by the Commission.

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(30) Case No. 444/2001  
Date of Complaint : 23rd July 2001  
Name of the Complainant : Shri Amol Rudrake  
Respondent : Commissioner of Police, Pune  
Quorum : Dr. V. S. Chitnis

*Nature of complaint.*— The complainant complained that his in-laws were not permitting him to contact his wife. He was suspicious that his wife would harm herself due to mental pressure. Hence he filed a complaint with the police station but no action was taken by the police.

*Action taken by the Commission.*— The Commission called for a report from the Commissioner of Police, Pune. In his report, it was submitted that the complainant & his wife were married against the wish of their parents. On the false pretext the in-laws of the complainant called their daughter and did not allow the complainant to contact her. The report stated that the police gave explanation to the in-laws of the complainant regarding their marriage. The wife of the complainant gave statement that she was not harassed by her family members and that she would like to live with her husband. As the wife returned to the complainant, he had no further complaint.

*Date of decision.*— 17th June 2002

*Decision of the Commission :* In light of the police report that the complainant had no complaint, the case was closed.

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(31) Case No. 45/2002  
Date of Complaint : 19th December 2001  
Name of the Complainant : Shri Ramji Maheshwari 'Sunjot', General Secretary, World Human Unity Council (India), [Maharashtra Unit]  
Respondent : The Deputy Commissioner of Police, Airport Zone, Mumbai  
Quorum : Dr. V. S. Chitnis

*Nature of complaint.*— The World Human Unity Council, NGO, brought to the notice of the Commission the published news in various newspapers regarding the death of one Rajendra Mahalle, Security Guard in Hotel Leela, Andheri (E) who set himself ablaze inside the premises of the hotel. The complainant opined that Shri Rajesh Mahalle

was in fact murdered by concerned administrative officers of Leela Hotel leading to the violation of right to life of Shri Mahalle.

*Action taken by the Commission.*— The Commission called for report from the Deputy Commissioner of Police, Sahara Airport Zone, Mumbai. In his report dated 1st March 2003 the DCP described the conflicting interests of the management and contract labourers including Shri Mahalle. The DCP attached post mortem report in which the cause of death was given as septicemic shock due to burns (un-natural).

*Date of decision.*— 2002

*Decision of the Commission.*— Satisfied by the report, the Commission closed the case as no public servant could be held liable for the death of Shri Rajesh Mahalle.

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(32) Case No. 436/2002

Date of Complaint : 25 February 2002

Name of Complainant : Shri Natwarlal Gohil

Respondent : Deputy Commissioner of Police, Zone II

Quorum : Dr. V. S. Chitnis.

*Nature of complaint.*— The complainant complained that he was stabbed with a knife by Shri Ajay Solanki and other four persons at 3-00 a.m. When he went to police station to lodge a complaint, he was not treated properly by the concerned officer. Moreover the complainant did not receive medical treatment from J. J. Hospital. Further, he stated that both his and his wife's signatures were forcefully taken by police and they were asked to go back to their house. He also stated he was being threatened as he had filed a complaint regarding his kidnapped sister.

*Action taken by the Commission.*— The Commission called for a report from the concerned Deputy Commissioner of Police. In his report dated 2nd December 2002, it was submitted that the complainant had filed a complaint regarding his missing sister. During enquiry, it was learnt that his sister had voluntarily shifted to Jaipur and did not inform her brothers to avoid any further problems from them. On 16th February 2002, the police received a phone call from the brother of the complainant informing that the complainant was stabbed and was lying in 'Deshmukh Lane'. Reaching there the police found the complainant was under the influence of alcohol. The complainant was sent to the J. J. Hospital along with his family members where the doctor opined and certified that he was under the influence of alcohol. On return to the police station, the complainant's and his wife's statements were taken in which the difference was observed. Further, the report stated that the complainant's injury were nominal. On 26th October 2002, the complainant's statement was recorded by police stating that he had no complaint against Shri Ajay Solanki.

*Date of decision.*— 7 July 2002

*Decision of the Commission.*— In light of the police report the case was closed.

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(33) Case No. 1730/2002

Date of Complaint : 11th September 2002

Complainant : Shri Keshav Sambhaji Wagh

Respondent : Superintendent of Police, Dhule

Quorum : Dr. V. S. Chitnis

*Nature of Complaint.*— The complainant complained that he and his family members were beaten and abused by his neighbour Shri Shinde on the basis of caste and had also lodged a complaint with the police station against the complainant. The complainant stated that they had been arrested by police and brought to Civil Hospital where they received nominal medical treatment and a certificate of 'normal'. On another day, the complainant's brother, whose leg was fractured was also sent back without any medical treatment by the Civil Hospital. The complainant prayed to inquire into the matter.

*Action taken by the Commission.*— The Commission called for a report from the Superintendent, Civil Hospital, Dhule and the Superintendent of Police, Dhule. In his report dated 11th November 2002 submitted by Civil Surgeon & Superintendent, Dhule, it was submitted that the complainant's allegations against the Civil Hospital were false; proper medical treatment was given to the complainant. The Superintendent of Police stated that considering the dispute of the complainant and his neighbour, both parties were kept in lock-up after due medical treatment and information to their relatives. Further, the complainant and his neighbour gave written statement to the police stating that they did not have any complaint against each other.

*Date of Decision.*— 28th January 2003

*Decision.*— On the perusal of the report submitted by Superintendent of Police, Dhule and Civil Hospital, Dhule, it appeared that the complainant had no grievance; hence the case was closed at the Commission's level.

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(34) Case No. 1909/2002

Date of Complaint : 23rd October 2002  
Complainant : Shri Virendra Bahadur Singh  
Respondent : Deputy Superintendent of Police, Kalyan  
Quorum : Dr. V. S. Chitnis

*Nature of Complaint.*— Complainant, urged to give directions to the concerned officers for the proper enquiry into the death of his daughter. He alleged that his daughter was harassed by her husband and in-laws for dowry of Rs. 1 lakh.

*Action taken by the Commission.*— The Commission called for a report from the Deputy Commissioner of Police. In his report dated 23rd December 2002, it was submitted that the daughter of the complainant was harassed mentally & physically by her in-laws for dowry which resulted into her death; the offence was registered against the in-laws. The complainant gave a statement to the police regarding his satisfaction on the action taken by police against the in-laws and stated that he had no complaint.

*Date of final order.*— 25th February 2003

*Decision.*— The Commission decided to close the case in light of the statement of the complainant attached to the police report.

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(35) Case No. 865/2002

Date of Complaint : 23rd April 2002  
Name of Complainant : Shri Ajim Khan Hamid Khan  
Respondent : Superintendent of Police (Rural), Amravati  
Quorum : Shri M. R. Patil

*Nature of complaint:* The complainant alleged that police were not enquiring into the matter of suspicious death of his sister who died after five months of her marriage.

The complainant lodged a complaint to the police station against in-laws ; however police did not take action. The complainant stated that they enquired with the concerned police personnel regarding the post mortem report of his late sister but he avoided to give any answer and instead insulted the complainant.

*Action taken by the Commission.*— The Commission called for a report from the Superintendent of Police (Rural), Amravati and later called for hearing. In his report dated 23rd September 2002 it was submitted that the matter was investigated properly and accordingly the in-laws were arrested. The report stated that as the offence was registered late by 10 months, action was being taken against the concerned Police Sub Inspector.

*Date of Decision.*— 5 December 2002

*Decision:* As action was taken against the Police Sub Inspector the case was closed.

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(36) Case No. 918/2002

Date of Complaint : 6th May 2002  
Name of Complainant : Shri Sunil Naik  
Respondent : Superintendent of Police, Raigad  
Quorum : Shri M R Patil

*Nature of Complaint.*— The complainant alleged that Shri Kawale, Police Inspector had not taken necessary action against one Shri Sagar Naik who had raped his minor daughter.

*Action taken by the Commission.*— The Commission called for a report from Superintendent of Police and later called for hearing. In his report dated 28th August 2002 it was submitted that proper enquiry was done into the matter. It was found that Shri Kawale had shunned to file a complaint of rape ; hence he was suspended from the service.

*Date of Decision.*— 4th December 2002.

*Decision.*— As the necessary action was taken by the police, the case was closed.

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(37) Case No. 582/2001

Date of complaint : 10th September 2001  
Complainant : Shri Mahadev Lonkar  
Respondent : The Collector, Yavatmal  
Quorum : Shri M. R. Patil

*Nature of complaint.*— The complainant alleged that the concerned Revenue Officers were not taking the complainant's name on record as successor after the death of his father despite of many applications to the concerned officers.

*Action taken by the Commission.*— The Commission called for a report from the Collector, Yavatmal and later called him for hearing. In his report dated 29th January 2002 it was submitted that the ownership of the field was with Shri Ahmed Abdul Aziz Dhamani, and it was given on lease to Shri Chendaku Loankar and Sonabai Chendaku Loankar. On the death of Shri Chendaku Loankar the complainant did not submit the death certificate to the concerned office. The Tahasildar, Kalamb submitted that when the complainant would give the required documents his name would be noted on the record.

*Date of Decision.*— 7 January 2003

*Decision.*— As the complainant's name was taken on the record as a successor, the case was closed.

(38) Case No. 1902/2002

Date of complaint : 23rd September 2002  
Complainant : Shri K Jayprakash  
Respondent : The Commissioner of Police, Navi Mumbai  
Quorum : Shri M. R. Patil

*Nature of complaint.*— The complainant alleged that the police officials failed to investigate the matter regarding his kidnapped son. The complainant stated that he submitted a memorandum to the Police Commissioner requesting to transfer his matter to the Crime Branch, Navi Mumbai for reinvestigation as he was not satisfied with the investigation carried out by the concerned police officials ; however the Police Commissioner directed the same police officials to reinvestigate the case.

*Action taken by the Commission.*— The Commission called for a report from the Commissioner of Police, Navi Mumbai. In his report dated 14 December 2002 it was submitted that the investigation was done properly ; however considering the grievance of the complainant, the matter was transferred to the Crime Branch, Navi Mumbai for re-investigation.

*Date of Decision.*— 6 March 2003

*Decision.*— Since that the required action had been taken by the police ; the case was closed.

### **Harassment**

(39) Case No. 764/2001

Date of Complaint : 15th October 2001  
Complainant : Smt Indutai Bhosale  
Respondent : Superintendent of Police, Baramati  
Quorum : Justice A. D. Mane (Retd.)

*Nature of Complaint.*— The complainant alleged that the political goondas and police harassed her and her family by filing false cases against them. On 14th October 2001, Shri Kakde, Police Inspector and six other police personnel raided her house at night and physically abused her daughter-in-law, a disabled, and threatened the complainant. Further, they beat up her son and took him with them in a police van.

*Action taken by the Commission.*— The Commission called for a report from the Superintendent of Police, Baramati. In his report dated 27th August 2002, it was submitted that before one year, Shri Kakde, Police Inspector did not treat the complainant properly. The complainant took this matter very seriously and told to one typist ; the typist typed an application and further sent to the Commission with the complainant's thumb impression. The report further stated that the son of the complainant had committed offences related to property, and therefore they had arrested him. It was learnt from the report that the complainant had given statement that she had no complaint.

*Date of Decision.*— 4th February 2003.

*Decision:* As from the report that the complainant had no complaint, the case was closed.

(40) Case No. 970/2001

Date of Complaint : 29th October 2001  
Name of the Complainant : Shri Pandurang Waghmare  
Respondent : Superintendent of Police, Ratnagiri and others  
Quorum : Justice A. D. Mane (Retd.)

*Nature of Complaint.*— The complainant alleged that his son had committed suicide as he was harassed and verbally abused by the lecturers on the basis of caste and demanded additional amount of Rs 10,000 apart from the required fees for the D. Ed. The complainant stated that the death of his son was recorded as accidental death by the concerned police station.

*Action taken by the Commission.*— The Commission called for a report from Superintendent of Police, Ratnagiri and later called for hearing to the complainant. In his report dated 18th January 2002 it was submitted that on the basis of the complaint filed by the complainant with the police station, an enquiry was carried out ; the concerned lecturers were arrested and charge sheet filed with the concerned court against them.

*Date of Decision.*— 21st March 2003

*Decision of the Commission.*— Observing the incidents of suicides due to the harassment made by the management and senior staff working in colleges, the Commission called it a "societal issue". It was therefore desirable to circulate the code of conduct to the management and working staff to prevent such occurrences. Since it appeared from the police report that the case was pending before the Court, the case was closed with the direction to the educational department to submit the compliance report.

*Compliance.*— It is awaited from the concerned department. Regarding the pending case before the court it was informed to the Commission that the accused were acquitted.

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(41) Case No. 1205/2002

Date of Complaint : 19th June 2002  
Name of the Complainant : Smt. Lata Pawar  
Respondent : The Commissioner of Police, Mumbai.  
Quorum : Justice A. D. Mane (Retd.)

*Nature of complaint.*— The complainant alleged that she had not been confirmed by the Mumbai Stock Exchange where she was working. She complained that junior and senior employees were confirmed except herself. The complainant stated that one Secretary, Mumbai Stock Exchange Employees' Union had asked her to meet him alone which she refused and therefore the said person collected false proofs against her causing into her disqualification for confirmation. The complainant had filed a complaint but no action had been taken so far.

*Action taken by the Commission.*— The Commission called for a report from the Commissioner of Police, Mumbai. In his report dated 7th December 2002, it was submitted that the complainant was appointed on compassionate ground on death of her husband. It appeared from the complainant's service record that she had not been confirmed due to certain default on her part. However, the allegation that an employee had asked her to meet him alone was correct and accordingly an offence has been registered against him as per the FIR filed by the complainant.

*Date of Decision.*— 28 January 2003

*Decision of the Commission:* Taking into account the police report, the Commission was satisfied that there was no need to enquire further into the matter ; hence the case was closed.

(42) Case No. 239/2002

Date of Complaint : 16th January 2002

Name of Complainant : Smt. S. S. Dhikale

Respondent : Shri P. S. Salwi, Deputy General Manager,  
State Transport

Quorum : Dr. V. S. Chitnis

*Nature of Complaint.*— The complainant, a typist in State Transport, complained that Shri Salwi, Deputy General Manager, S.T. was harassing her since last four years. On 25th May 2001, Shri Salwi verbally abused the complainant on phone. When complainant asked him the reason, Shri Salwi tried to hit her with a paper weight and broke her Mangalsutra in front of 20-25 persons. Shri Salwi went to police station with other 5-6 officers and filed a complaint against the complainant ; therefore even she had to go to the police station. The complainant stated that inspite of complaints to the concerned officers nothing had been done in her case. She alleged that Shri Salwi had used political and administrative pressures to save himself and to suppress the matter.

*Action taken by the Commission.*— The Commission called for report from Deputy Commissioner of Police, Zone -3. In his report, dated 27th July 2002, the Deputy Commissioner of Police submitted that the complainant has lodged a complaint against Shri Salwi on 25th May 2001 stating that he had abused her on phone, called her in his cabin and broke her Mangalsutra. On this, a non-cognizable offence was registered against Shri Salwi. On the basis of the police complaint, one Shri Santosh G. Mane, Security Officer, S. T. carried out a departmental enquiry in which it was found that there was no proof regarding the phone call. The present matter was a product of the misunderstanding arising out of the dispute on promotion. Further in his report it was submitted that after the departmental enquiry, the complainant was transferred. The complainant had given written statement that after the incident of 25 may 2001 she did not have any trouble from Shri Salwi.

*Date of decision.*— 27th July 2002

*Decision of the Commission.*— In the light of the report submitted by the Deputy Commissioner of Police the case was closed.

(43) Case No. 2121/2002

Date of complaint : 7th November 2002

Complainant : Smt Vimal Shingare

Respondent : Superintendent of Police, Buldhana

Quorum : Dr. V. S. Chitnis

*Nature of complaint.*— Complainant complained that one Shri Bhagaji Dhanaji Dongre, a slum goonda was harassing them mentally and physically. The complainant requested for the implementation of an order regarding his expulsion which was issued by the Police Department through Superintendent of Police in the name of the Collector.

*Action taken by the Commission.*— The Commission called for a report from the Superintendent of Police, Buldhana on 22th January 2003. He stated that the police had recommended the extortment of the said Dongre for two years and that the complainant was satisfied with the action.

*Date of decision.*— 25th February 2003

*Decision of the Commission.*— The case was closed in light of the police report.

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(44) Case No. 366/2001

Date of Complaint : 7th July 2001

Name of the Complainant : Shri. J. V. Nikose

Respondent : Chief Engineer, PWD

Quorum : Shri C. L. Thool

*Nature of Complaint.*— The complainant complained that he had been harassed by the Government of Maharashtra. The complainant was an Executive Engineer, PWD. He was posted at Bhandara and afterwards being transferred to the Zilla Parishad, Yeotmal. The complainant filed a complaint in High Court of Bombay, Nagpur Bench against the decision of the Government. The High Court gave a decision in the complainant's favour. The complainant stated that the Government of Maharashtra was disobeying the High Court's directives and had filed a false charge sheet against him. Subsequently he was suspended from the service in the year 1993. Again in 1998 the complainant was reinstated in the service sans a departmental enquiry and without details about posting. It caused irreparable loss to the complainant. Therefore, the complainant prayed to stop all the departmental enquiries which were pending for the last 8-9 years; and to regularize the suspension period and to promote him as per the seniority.

*Action taken by the Commission.*— The Commission called for a report from the Chief Executive Engineer, PWD. In his report dated 14th December 2001 submitted by the Section Officer stated that the government took decision that Shri Nikose was not suitable for promotion. Afterwards the government decided that Shri Nikose could be promoted on a temporary basis. On 15th February 2003 the Commission called the complainant for being heard personally at Nagpur.

*Date of Decision.*— 25th February 2003

*Decision.*— Considering the promotion of the complainant to the post of Superintendent Engineer (Civil), the case was closed. However, the Commission stated that to get benefits of promotion as per the seniority and regarding the departmental enquiries the complainant could approach the Commission by presenting a fresh application.

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(45) Case No. 617/2001

Date of Complaint : 16th July 2001

Name of the Complainant : Smt. Sapna Sagar

Respondent : Deputy Commissioner of Police, Ulhasnagar

Quorum : Dr V S Chitnis

*Nature of complaint.*— The complainant alleged that her father-in-law was harassing her, her husband and her daughter. She filed complaint in police station against her father-in-law but they were taking action against the complainant and her husband and not against father-in-law. According to the complainant, the police were also harassing them by threatening to implicate them in theft cases and were taking the side of her father-in-law. The complainant stated that initially they were living separately from her father-in-law but as he was living alone, they came to reside with him.

*Action taken by the Commission.*— The Commission called for a report from the Deputy Commissioner of Police. In his report, it was stated that the complainant and her husband were living separately for the last 20 years and only recently they came to reside with the complainant's father-in-law; the complainant's father-in-law filed a complaint stating that his son was harassing him. On the basis of the complaint, the complainant's husband was arrested and released on bail with due procedure of law. The report stated that actions were taken in the matter were necessary and were appropriate.

The Commission called for hearing on 22nd July 2002.

*Date of decision.*— 6th August 2002

*Decision of the Commission.*— As the complainant expressed a desire to close the matter, the matter was closed at the Commission's end.

### Noise Pollution

(46) Case No. 29/2001

Date of Complaint : 18th April 2001

Name of the Complainant : Dr. Mahesh Baldwa, Mumbai

Respondent : Deputy Police Commissioner, Borivali (W),  
Mumbai

Quorum : Dr. V. S. Chitnis

*Nature of the Complaint.*— The Commission received complaint regarding inaction of Borivali (W) Police Station on the complaint of noise pollution created by Red Rose Hotel and Bar. The complainant-Chairman of Sumer Nagar No. 3, Co-op Hsg. Society, stated that the said hotel was disobeying the Hon'ble High Court orders regarding the time limit on serving liquor, restrictions on bar dances and sound decibel of audio tapes, all of which resulted in noise pollution and disturbance to the residents of the society.

*Action taken by the Commission.*— The Commission called for a report from the concerned Deputy Commissioner of Police. In his report dated 14th September 2001, he submitted that the hotel & bar had not infringed the time limits & other restrictions directed by the Government. Further, he assured that in case of any infringement, action would be taken.

*Date of decision.*— 5th June 2002

*Decision.*— In the light of the report submitted by the DCP, Borivali, Mumbai, the case was closed.

### Nuisance

(47) Case No. 277/2002

Date of Complaint : 21st January 2002

Name of Complainant : Shri Shridhar Kadam

Respondent : Superintendent of Police, Ratnagiri

Quorum : Justice A. D. Mane (Retd.)

*Nature of complaint:* The complainant alleged that the residents of Chiplun had filed false complaints against him in the police station. They harassed, threatened and created nuisance for him. He stated that the Police Inspector and Constable both gave support to the concerned persons in all nuisance activities.

*Action taken by the Commission:* The Commission called for a report from the Superintendent of Police, Ratnagiri. In his report dated 17th June 2002 it was submitted

that the complaints filed by both the parties against each other had been registered in the police station. The cases were pending with the concerned Court. It was learnt from the report that the police under impression that he had been transferred due to the report sent the complainant therefore he gave complaint against the police to the Commission.

*Date of Decision.*— 17th March 2003.

*Decision.*— Considering the report the Commission was satisfied that there was no necessity to enquire into the matter ; hence the case was closed.

#### **Retirement Benefits**

(48) Case No. 196/2001

|                     |   |                                                          |
|---------------------|---|----------------------------------------------------------|
| Date of Complaint   | : | 2nd June 2001                                            |
| Name of Complainant | : | G G Sawant and other employees of M/s Orient Engineering |
| Respondent          | : | Regional Provident Fund Commissioner, Bandra, Mumbai     |
| Quorum              | : | Justice A. D. Mane (Retd.)                               |

*Nature of Complaint.*— The complainant alleged that the Regional Provident Fund Commissioner and his staff had not taken cognizance of their application regarding recovery of provident fund which was deducted by their employer from their salary but not deposited in their P/F account.

*Action taken by the Commission.*— The Commission called for a report from the Regional Provident Fund Commissioner, Bandra, Mumbai and later called for hearing. In his report dated 18th February 2002 it was submitted that the required settlements were done by their office and the legal action was also initiated against the said employer. Moreover, the Assistant Provident Fund Commissioner assured to the Commission that their department would take necessary action expeditiously in the said matter.

*Date of decision.*— 29th August 2002

*Decision.*— Considering the assurance of the concerned department the Commission directed it to submit the compliance report and held that no further enquiry was required.

*Compliance.*— The compliance report is awaited

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(49) Case No. 1041/2001

|                     |   |                                              |
|---------------------|---|----------------------------------------------|
| Date of Complaint   | : | 3rd December 2001                            |
| Name of Complainant | : | Shri Vinayak Suryawanshi                     |
| Respondent          | : | Divisional Commissioner, Pune Division, Pune |
| Quorum              | : | Shri M. R. Patil                             |

*Nature of complaint.*— The complainant alleged that he had been compulsorily retired from his service and departmental enquiry was held against him without giving an opportunity of being heard by the concerned authorities. He stated that he did an ideal job during his tenure ; he was going to be retired on 31st October 2000 still the said order was cancelled and gave order of compulsory retirement.

*Action taken by the Commission.*— The Commission called for a report from the Divisional Commissioner, Pune. In his report dated 22nd May 2002 it was submitted that the departmental enquiry was carried out against the complainant for the appropriate reason in which he was given opportunity to represent his own side. However, considering

the service of the complainant and though he was compulsorily retired from his service, the retirement privileges such as pension, P.F. etc had been given to him

*Date of Decision.*— 28th October 2002

*Decision:* Considering the report it was appeared that the matter was related to the service matter. The Commission recommended case to the government and the case was closed.

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### **Right to Education**

(50) Case No. 981/2001

Date of complaint : 21 November 2001

Name of Complainant : Dr. Madhukar Gumble

Respondent : The Chief Executive Officer, Zilla Parishad, Amravati

Quorum : Shri M. R. Patil

*Nature of complaint.*— The complainant brought to notice of the Commission that children, of Melghat – a Tribal area, were denied admission in school irrespective of government scheme regarding the admission of tribal children in school. The complainant stated that the request letter regarding the admission was sent to the concerned higher authorities; however they did not get admission in the school.

*Action taken by the Commission.*— The Commission called for a report from the Chief Executive Officer, Zilla Parishad, Amravati and later called for hearing. In his report dated 22nd April 2002 it was submitted that the children had been admitted and were getting education as per the scheme.

*Date of Decision.*— 9th September 2002

*Decision.*— The Commission was satisfied by report; hence the case was closed u/s 17(i)(b) of the Protection of Human Rights Act, 1993. However, the Commission suggested to the Chief Executive Officer, Zilla Parishad, Amravati that he could undertake the survey of schools belonging to tribal section to ensure that no children could remain without education and the children would get facilities to get education as guaranteed by the Constitution.

*Compliance.*— On 24th June 2003 the Commission received a report from the Education Officer, Zilla Parishad that a survey was undertaken; the schools were opened in tribal areas wherever necessary and the concerned Education Officers were instructed accordingly.

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### **Right to Equality**

(51) Case No. 646/01

Date of Complaint : 14th September 2001

Name of Complainant : Shri Ramesh Phondge

Respondent : Municipal Commissioner, Pune

Quorum : Justice A. D. Mane (Retd.)

*Nature of complaint.*— The complainant complained that his application to get additional one year of service to qualify for regular pension was rejected sans giving any reasons by the standing committee. He stated that in many matters the standing

committee had increased one year to qualify for the regular pension ; however his case was not considered properly.

*Action taken by the Commission.*— The Commission called for a report from the Municipal Commissioner, Pune and later called for hearing. In his report it was submitted that as per the Rule 6, Pension Regulations it was the discretion of the Standing Committee to increase one year of service of an employee to qualify ; the complainant's application was filed by the standing Committee ; it was not binding on the standing Committee to give reasons for their orders. Commenting on the performance of the complainant during his service it was submitted that once departmental enquiry was carried out against him and he was found guilty.

*Date of Decision.*— 8th January 2003

*Decision.*— Emphasizing the concept of pension as a reward of services rendered by the employee, the Commission observed that the principle of natural justice was not applied by the Standing Committee as it had not given any reasons for their decision taken in the case of the complainant. However, the Commission appreciated that as directed by the Commission the complainant's case was re-examined. Realizing the scope of Rule 6 of the Pension Regulations the Commission stated that except in special cases the Standing Committee could reject such requests sans giving reasons. In light of these observations, the Commission stated that the complainant could approach the appropriate forum against the decision of the standing committee. The Commission was satisfied that no further inquiry was required ; hence the case was closed.

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(52) Case No. 694/2001

Date of Complaint : 2nd October 2001  
Name of Complainant : Shri Avinash Gaikwad  
Respondent : Superintendent of Police, Pune (Rural)  
Quorum : Justice A. D. Mane (Retd.)

*Nature of Complaint.*— The complainant alleged that on the basis of caste his family had been boycotted by the villagers. The shopkeepers did not sell essential commodities to them and he had no access to the flourmill. The complainant stated that the persons belonged to Pardhi community were insecure.

*Action taken by the Commission.*— The Commission called for a report from the Superintendent of Police, Pune (Rural) and later called for hearing. In his report it was submitted that the action was taken against the atrocities committed by the villagers on persons belonging to the Applicants Community that Pardhi. Regarding the availability of essential commodities to Pardhi people, there was no problem. The village was quite peaceful ; however the police had kept watch on the activities of both communities.

*Date of Decision.*— 13th September 2002

*Decision.*— As the report indicated the peaceful atmosphere in the village, the Commission viewed that no further action was required into the complaint ; hence the case was closed.

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(53) Case No. 158/2002

Date of Complaint : 9th January 2002  
Name of Complainant : Shri Krishna Salvi  
Quorum : Justice A. D. Mane (Retd.)

*Nature of complaint.*— The complainant, a member of one Sant Shiromani Gorobakaka a registered Social Work Institution alleged that he and some other members

had been boycotted by the institution as they demanded the record regarding the construction of a temple. The complainant complained that since last 6-7 years he had been boycotted by the institution.

*Action taken by the Commission.*— The Commission called for a report from the Commissioner of Police, Pune. In his report it was submitted that they had given proper understanding to the concerned members and President of the said institution; the differences amongst them were settled. Thereafter the complainant had not been harassed. The report also stated that the complainant had no complaint.

*Date of Decision.*— 22nd August 2002.

*Decision:* On receipt of the satisfactory report, the case was closed by the Commission

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### **Right to Livelihood**

(54) Case No. 636/2001

Date of Complaint : 30th August 2001  
Name of Complainant : Shri Qazi Syed Salahuddin  
Respondent : The Chief Conservator Officer, Forest,  
Aurangabad  
Quorum : Justice A D Mane (Retd)

*Nature of complaint.*— The complainant alleged that the Deputy Conservator of Forest was not renewing his license of his saw mill for want of no objection certificate from the land lord and sealed the machinery in spite of the order given by the Conservator of Forest and Chief Conservator of Forest. The complainant stated that there was no provision of 'no objection certificate' to be submitted again and again. However, he applied for a 'no objection certificate' to the Marathwada Wakf Board, but the Board refused the same.

*Action taken by the Commission.*— The Commission called for a report from the Chief Conservator Officer and other concerned officers and further called both parties for hearing. In his report dated 26th November 2001, it was submitted that the High Court had given order that a saw mill could not be operated within a radius of 10 kms of reserved / protected forest. In compliance with this order, the license was not issued to the complainant.

*Date of Decision.*— 20 December 2002

*Decision.*— The Commission recommended that the saw mill license could be renewed by the Deputy Conservator of Forests, Aurangabad and the case was closed.

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(55) Case No. 109/2002

Date of Complaint : 10th December 2001  
Name of the Complainant : Shri Kishandas Rizwani  
Respondent : R. T. O., Nanded  
Quorum : Justice A. D. Mane (Retd.)

*Nature of complaint.*— The complainant alleged that Shri Shelke, working in R. T. O. intentionally harassed him by refusing him the vehicle fitness certificate of his passenger bus. Moreover, his bus was also seized illegally though he was a regular taxpayer and his it was fit for public transportation.

*Action taken by the Commission.*— The Commission called for a report from R. T. O., Nanded and later called for hearing of both the parties. In his report dated 11th April 2002 submitted by R. T. O. it was stated that the complainant had not paid tax and his bus was unfit for the public transportation and the matter was subjudice before the court. During hearing it was agreed that the complainant would pay the future taxes and he would get the transport permit from the concerned authority.

*Date of decision.*— 20th December 2002

*Decision.*— In view of the agreement between the parties the case was closed.

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(56) Case No. 740/01  
Date of Complaint : 15th October 2001  
Complainant : Shri Ashok Waghmare  
Respondent : Collector, Nanded  
Quorum : Justice A. D. Mane (Retd.)

*Nature of complaint.*— The complainant, a landless field worker alleged that because of his poor economic condition the concerned officers were not allotting the 'gairan' land survey no. 48 which was under his possession since 1983-1984. The complainant stated that in the year 1985-86 and 1990-91 the government had regularized the gairan land, however his requests were sidelined by all authorities with which he filed the applications.

*Action taken by the Commission.*— The Commission called for a report from the Collector, Nanded. In his report dated 19th December 2002, it was submitted that possession of the land in question by the complainant was after 14th April 1990 hence his claim was not protected as per the government guidelines. His application was therefore rejected and was filed by the concerned office. Further the report stated if the complainant was not satisfied with the decision, he could apply to the Divisional Commissioner, Aurangabad for re-examination.

*Date of decision.*— 20th December 2002.

*Decision.*— Observing the absence of any concrete documentary evidence on behalf of the complainant the Commission directed the Collector, Nanded to consider the factum of possession rights from 1978 onwards with reference to the existing condition of the land; if it was found that the complainant had been in possession of the land then as per government guidelines the complainant's plea should be considered and action taken report should be submitted to the Commission. With this direction the case was kept back.

*Compliance.*— The compliance report is awaited.

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(57) Case No. 742/2002  
Date of Complaint : 4th April 2002  
Complainant : Dr. Omprakash N. Dubey  
Respondent : Chief Officer, Nagar Parishad, Nalasopara, Vasai, Thane  
Quorum : Dr. V. S. Chitnis

*Nature of complaint.*— The President of Nalasopara Sewa Samiti, complained that on 20th April 2001, Chief Officer, Nagar Parishad, Nalasopara had assured the Sewa Samiti that when the flyover would be ready for use, he would allot place to hawkers by

charging reasonable fees. This assurance was given when the complainant and others were on fast until death demanding place for the hawkers to do their business. Despite this assurance nothing was done so far.

*Action taken by the Commission.*— The Commission called for report from the Chief Officer, Nagar Parishad, Nalasopara. In his report dated 31st December 2002, it was submitted that there was a large population of hawkers in Nalasopara and the work of allotment of license to the hawkers was in progress ; however, due to limited space below the flyover and narrow footpath, and considering the traffic and pedestrians, it would be impossible to allot place to all hawkers.

*Date of decision.*— 5th January 2003

*Decision.*— In light of report submitted by Chief Officer, Nagar Parishad, Nalasopara the case was closed on 5th Jan. 2003.

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### Right of Press

(58) Case No. 985/2001

|                   |                                      |
|-------------------|--------------------------------------|
| Date of complaint | : 19th October 2001                  |
| Complainant       | : Shri Balasaheb Ahiwale             |
| Respondent        | : Superintendent of Police, Baramati |
| Quorum            | : Justice A. D. Mane (Retd.)         |

*Nature of complaint.*— The complainant, an Executive Editor of 'Janvaras' alleged that one Shri Suresh Nalawade, Police Constable broke his camera and violated his right to collect news & right of the press when he was taking a snap of two persons in a bar. The complainant filed a complaint to the police station, however they did not take any action.

*Action taken by the Commission.*— The Commission called for a report from the Superintendent of Police, Baramati. In his report dated 8th April 2002, he stated that no such incident occurred. Moreover, the complainant was a habitual offender as per the record of the Baramati City Police Station. The complainant stated to the Police Inspector that he had no grievance against the Police Constable, Shri Suresh Nalawade.

*Date of Decision.*— 14th August 2002

*Decision.*— Considering the statement of the complainant given to the police, the case was closed.

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### Rights of persons with disabilities

(59) Case No. 467/2002

|                         |                                                                                               |
|-------------------------|-----------------------------------------------------------------------------------------------|
| Date of Complaint       | : 25th February 2002                                                                          |
| Name of the Complainant | : Shri Krushna Chavan                                                                         |
| Respondent              | : Deputy Secretary of the Chief Minister,<br>Government of Maharashtra, Mantralaya,<br>Mumbai |
| Quorum                  | : Justice A. D. Mane (Retd.)                                                                  |

*Nature of complaint.*— The complainant alleged that the Deputy Secretary of Chief Minister, Maharashtra had intentionally not allotted him the tenements on the ground floor out of the reserved quota for disabled persons. The complainant stated that he had misdirected him, therefore he would go to the fast until death.

*Action taken by the Commission.*— The Commission called for a report from the Deputy Secretary of the Chief Minister, Government of Maharashtra, Mantralaya, Mumbai and later called for hearing to the complainant.

*Date of decision.*— 7th October 2002.

*Decision.*— The Commission received a letter from the complainant stating to withdraw his case as he had accepted the allotment by the authorities; hence the case was closed.

### **Right of Residence**

(60) Case No. 861/2001 to 867/2001

|                   |   |                                                                 |
|-------------------|---|-----------------------------------------------------------------|
| Date of complaint | : | 24th October 2001                                               |
| Complainant       | : | Shri Rameshwar Paloti and others                                |
| Respondent        | : | Dy. Controller, Encroachment and Unauthorised Structure, Mumbai |
| Quorum            | : | Shri M R Patil                                                  |

*Nature of complaint.*— About seven complainants approached the Commission and alleged that their protected hutments were demolished illegally. Before demolition the complainants did not get an opportunity even to remove their household articles. The complainants prayed to get compensation for the damages caused to them due to the demolition of their protected hutments under the government scheme.

*Action taken by the Commission.*— The Commission called for a report from the Dy. Controller, Encroachment and Unauthorised Structure, Mumbai, the Tahsildar (Encroachment), Mumbai, the Naib Tahsildar, Mumbai & others and later called for hearing. In his report dated 8th January 2002 it was submitted that the demolition was undertaken as per the demolition order passed by the Tahsildar, (Encroachment) and no protected hutments were demolished during the action. On 10th January 2002 Naib Tahsildar, Mumbai submitted in his report that there were 252 hutment dwellers; out of which 29 hutments were protected; out of which 22 hutments were not demolished by any government agency and remaining 7 hutments could be eligible for reconstruction. It was also learned from the report submitted by Shri M. Y. Absur respondent No. 4 that the notices were served by the complainants to him by approaching the Civil Court.

*Date of Decision.*— 15th March 2003

*Decision.*— Considering the reports submitted by concerned respondents it was clear that the protected hutments had been demolished by the concerned department. The Commission directed the Collector, Mumbai Suburban District to give due protection to the slum dwellers as provided under the scheme of the government and ensure that protected structures were not be demolished and occupants were not removed unless alternate land was provided by the government. Further, the Commission held the government liable to provide alternate land to the holder of these protector structures, and stated that it was the responsibility of the Collector to rehabilitate them on the same encroached land unless alternate arrangement could be done. However, the request of the complainants to grant compensation for damages was not entertained by the Commission for want of evidence.

## Threat by policeman

(61) Case No. 1031/2001

Date of Complaint : 3rd December 2001

Name of the Complainant : Shri Jitendra Kothari

Respondent : Superintendent of Police, Thane (Rural)

Quorum : Justice A. D. Mane (Retd.)

**Nature of Complaint.**— The complainant alleged that one Shri V P Shirsath, Police Constable threatened him and stated that he had filed 7-8 cases against his family.

**Action taken by the Commission.**— The Commission called for a report from the Superintendent of Police, Thane (Rural). In his report dated 31st August 2002, it was submitted that the police called the complainant to the police station but he could not come ; however his brother was present. A written statement was taken from the concerned police constable. Further the report stated that the brother of the complainant was satisfied on the action taken by the police.

**Date of decision.**— 31st August 2002

**Decision.**— Considering the action taken by the police against the concerned police constable, the Commission viewed that no further enquiry was required ; hence the case was closed.

## ANNEXURE

### 11 requirements laid down by the Supreme Court in *D. K. Basu's case* :

1. The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their destinations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.
2. That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may either be a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrestee and shall contain the time and date of arrest.
3. A person who has been arrested or detained and is being held in custody in a police station or interrogation center or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or relative of the arrestee.
4. The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of eight to twelve hours after the arrest.
5. The person arrested must be made aware of his right to have someone informed of his arrest or detention as soon as he is put under arrest or detained.
6. An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.
7. The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The "Inspection Memo" must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.
8. The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the State or Union Territory concerned. Director, Health Services should prepare such a panel for all tehsils and districts as well.
9. Copies of all the documents including the memo of arrest, referred to above, should be sent to the Magistrate for his record.
10. The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.
11. A district control room should be provided at all district and State headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice board.