



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

**ANNUAL REPORT
2004 - 2005**

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MAHARASHTRA STATE HUMAN RIGHTS COMMISSION



Fourth Annual Report
2004 - 2005

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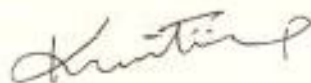
PREFACE

The Human Rights Commission concerns the grievances regarding the violation of human rights by public servants. The Human Rights Commission has an object to address these grievances to the satisfaction of the individuals and society, as per the tenets of law. The Commission has so far dealt with the cases from the angle of achieving the individual's right and provided protection under the concerned provisions of the Protection of Human Rights Act, 1993.

We are glad to achieve certain degree of satisfaction of the public as it can be seen from cases recently redressed by the Commission. We are well aware of the objectives to be accomplished during the next few years and for this the Commission will take measures to expedite the progress of disposal of cases.

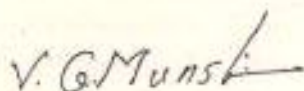
The Commission has taken all efforts for finalising its Annual Reports and we are glad to present the Annual Report for the year 2004-2005 for placing it before the Legislative Assembly in accordance with section 28 of the Protection of Human Rights, 1993.

The present members assumed office in the Commission in the year 2006-2007 and the Chairperson in the year 2007. Thereafter the pending work of this Annual Report of the earlier period of the Commission was taken on top priority and is being submitted now.



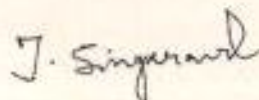
Justice Shri. Kshitij Vyas

Chairperson



Justice Shri. V.G. Munshi

Member



Shri. T. Singaravel

Member



Shri. Subhash Lalla

Member

Mumbai,

Date : 10th February 2009.

CHAPTER 1

Introduction

This is the Fourth Annual Report of the Maharashtra State Human Rights Commission covering the period 1st April 2004 to 31 March 2005.

1.2 The Maharashtra State Human Rights Commission was established on 6th March 2001. When the Hon'ble Governor of the Maharashtra State signed the warrants for the appointment of the chairperson and three members as provided under section 22 of the protection of Human Rights Act, 1993. The Commission in its full strength will have acting chairperson and members.

1.3 The Maharashtra State Human Rights Commission was set vide Government Resolution No. H.R.C. 1099/378/P10-14 dated 15th January 2000 of the Home Department. The Commission becomes operational from 6th March, 2001.

1.4 The Commission can inquire, on its own initiative (suo-motu) or on a petition presented to it by a victim of Human Rights violation, or any person on his behalf, into complaint of violation of human rights or abatement there of or into negligence in prevention of such violation by a public servant.

Composition

1.5 Hon'ble acting chairperson A.D. Mane continued to serve as the Hon'ble acting chairperson. Dr. V.S. Chitnis, Shri M.R. Patil and Shri C.L. Thool also continued to serve as a Hon'ble members of the commission. Secretary of the commission Shri Amitabha Chandra (IAS) and Inspector General of police (investigation) Shri Subhash Awate (IPS) continued serve.

1.6 The year also witnessed the departure of Shri Purohit Registrar of the Commission on 01/03/04 and Shri Belorkar took charge as Registrar of the commission on 9/3/04 and continued as Registrar of the commission.

CHAPTER 2

COMPLAINTS HANDLED BY THE COMMISSION

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

Statistical Data

2.2 In the current reporting year, i.e. 2004 - 05, the Commission received a total of 3384 fresh cases. During 1st April 2004 to 31st March 2005, 2964 complaints were disposed of.

2.3 The current reporting year saw an approximately 52% increase in the number of fresh complaints received as compared to last year's 2226 received complaints.

2.4 During the year 2004-05, 149 cases were forwarded to the Investigation Wing of the Commission, and last year's pendency is 63 and out of that 90 cases were thoroughly investigated and reports submitted to the Commission. And 122 cases are pending under investigation.

2.5 The Commission took *suo-motu* cognizance in 25 matters during this year.

Nature of Complaints

2.6 An analytical study was conducted on the 3384 complaints received by the Commission, and they were divided on the basis of the following categories -

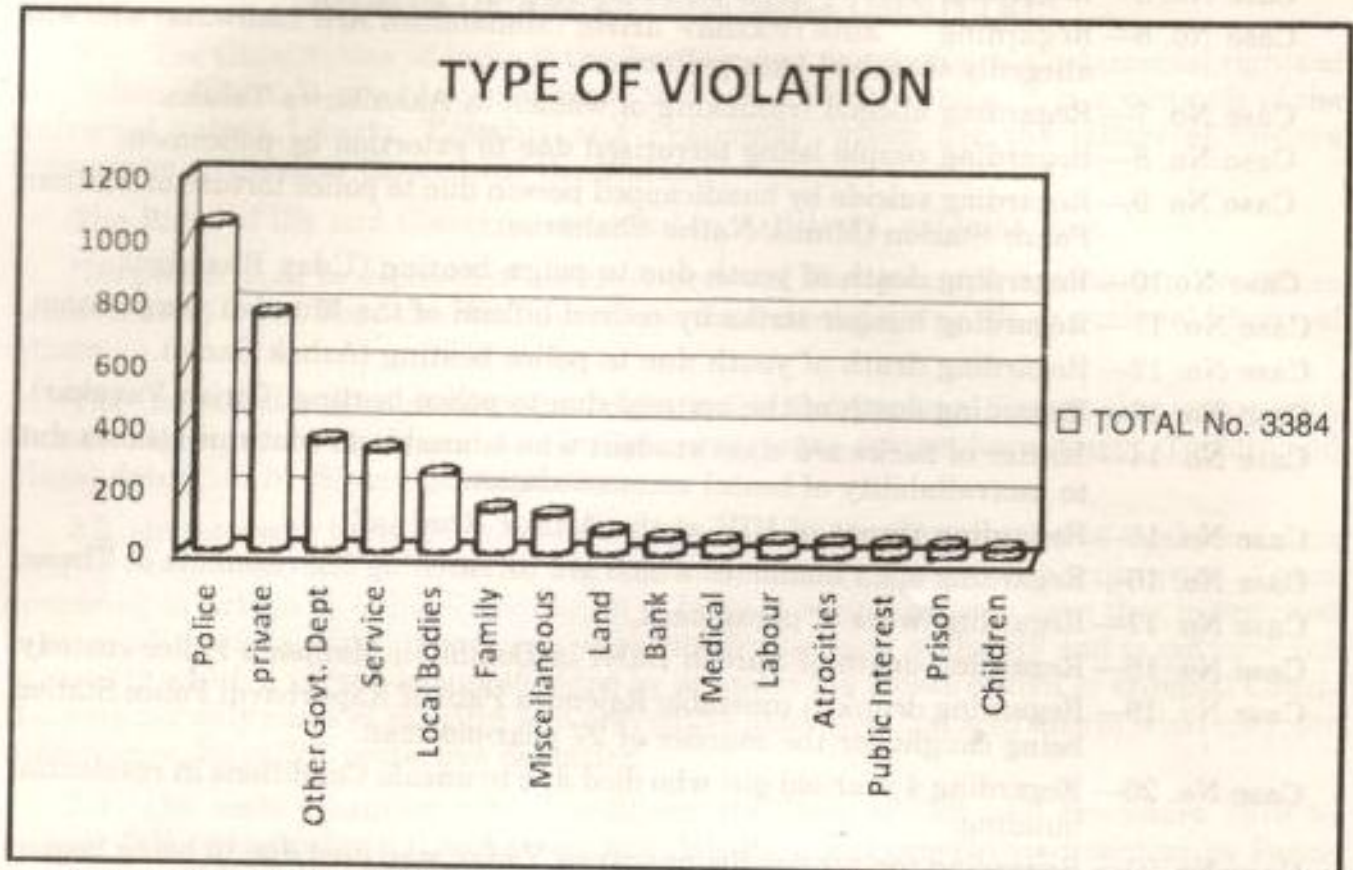
ENTERTAINABLE BY THE COMMISSION AS PER LAW

- | | | |
|---|---------|----------------|
| (i) Against the police force - These complaints mostly included complaints alleging abuse of power by the police force, failure to register offence, false implication, illegal detention, corruption, etc. | .. .. . | (1046 matters) |
| (ii) Against local self-governing bodies - This category includes complaints against Gram Panchayats, Panchayat Samitis, Zilla Parishads, Municipal Councils and Municipal Corporations. | .. .. . | (249 matters) |
| (iii) Against other governmental departments - Complaints against other departments like the Home Department, Public Works Department, Public Health Department, Social Welfare Department etc have been included in this category. | .. .. . | (355 matters) |
| (iv) Complaints regarding atrocities to SC/ST or other minorities | .. .. . | (47 matters) |
| (v) Complaints where public interest is involved | .. .. . | (42 matters) |
| (vi) Complaints regarding violation of human rights of prisoners | .. .. . | (40 matters) |
| (vii) Complaints regarding violation of child rights | .. .. . | (32 matters) |
| (viii) Complaints regarding medical negligence | .. .. . | (48 matters) |

NOT ENTERTAINABLE BY THE COMMISSION AS PER LAW

- | | | |
|--|---------|---------------|
| (ix) Complaints regarding service matters | .. .. . | (327 matters) |
| (x) Complaints regarding family disputes | .. .. . | (140 matters) |
| (xi) Complaints regarding land disputes | .. .. . | (71 matters) |
| (xii) Complaints regarding banks | .. .. . | (53 matters) |
| (xiii) Complaints against private persons | .. .. . | (761 matters) |
| (xiv) Complaints pertaining to private employers and other labour issues | .. .. . | (48 matters) |
| (xv) Miscellaneous | .. .. . | (125 matters) |

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



2.7 It is indeed shocking to note that majority of the cases entertainable by the Commission are against the police force. Serious note has been taken of the fact and training and awareness programmes for the police force as well as district level administration are being planned by the Commission.

2.8 Also, a large number of cases were received which were absolutely not entertainable by the Commission. These points towards the lack of adequate awareness about the powers and functions of the Commission. Steps are being taken to overcome this difficulty also, in as much that all Members are conducting hearings, visits and lectures etc. at district places with a view to promoting awareness about the Commission.

Suo-Motu cognizance taken by the Commission

2.9 In routine cases, the Commission acts only upon receipt of a complaint from or on behalf of an aggrieved person. However,

The Protection of Human Rights Act, 1993 has also empowered the Commission to inquire, suo-motu, or on its own initiative, into matters of human rights violations, as it represents work taken up by the Commission on its own, as opposed to cases handled after being approached by the aggrieved parties. During the current reporting year, the Commission took suo-motu cognizance in the following matters—

Case No. 1—Matter where Madhav Malshetkar, Principal of Central Primary School committed suicide due to alleged harassment by an Education Officer.

Case No. 2—Regarding alleged mental torture in schools.

Case No. 3—Regarding burning alive of Dalit women by Police Inspector, MIDC Police Station.

- Case No. 4— Matter regarding sub-standard food provided by the BMC.
- Case No. 5— Regarding death of lady pick pocket in police custody.
- Case No. 6— Regarding auto rickshaw driver (Mohammed Arif Ladiwala) who was allegedly thrashed by a policeman.
- Case No. 7— Regarding alleged trafficking of women at Akkalkuwa Taluka.
- Case No. 8— Regarding couple being terrorised due to extortion by policemen.
- Case No. 9— Regarding suicide by handicapped person due to police torture at Paithan Police Station (Manik Natha Shaharao).
- Case No.10— Regarding death of youth due to police beating (Uday Bhandge).
- Case No. 11— Regarding hunger strike by retired official of the Mumbai Corporation.
- Case No. 12— Regarding death of youth due to police beating (Ashok Sansi).
- Case No. 13— Regarding death of the accused due to police beating (Girish Vavekar).
- Case No. 14— Matter of backward class student who is unable to continue studies due to unavailability of hostel accommodation.
- Case No. 15— Regarding threat of HIV at the Arthur Road jail.
- Case No. 16— Regarding open manholes which are threatening the residents at Thane.
- Case No. 17— Regarding woes of pensioners.
- Case No. 18— Regarding death of Suresh Dalvi in Dombivili Manpada Police custody.
- Case No. 19— Regarding drunken constable Rajendra Patil of Kapurbavdi Police Station being caught for the murder of 27 year-old man.
- Case No. 20— Regarding 4 year-old girl who died due to unsafe Conditions in residential building.
- Case No. 21— Regarding tea vendor Roopnarayan Yadav who died due to being beaten by a policeman.
- Case No. 22— Regarding problems at the State hostels for scheduled caste persons being in a bad state.
- Case No. 23— Regarding death of suspended PSI Pratap Kakde who died in police custody under mysterious circumstances.
- Case No. 24— Regarding harassment caused to one Mangala Satam who was required to go to five police stations to lodge her complaints.
- Case No. 25— Regarding hawker who was brutally beaten up by Policeman for having urinated in public.

Custodial Death Cases

2.10. The Commission received a total of 310 intimations regarding custodial deaths during the current reporting year. Of the 310 intimations, 250 pertained to deaths in judicial custody. There were 23 intimations of deaths in beggar's homes, 18 intimations regarding deaths in childrens' homes and 19 deaths in police custody. Among the 310 intimations, 281 were males, 11 females and 18 children.

2.11. The Commission has disposed of number of matters. As a matter of procedure, the Commission did not take cognizance of the matters wherein the National Human Rights Commission, has taken cognizance, before the State Commission.

Analysis of complaints:

2.12. Analysis of complaints disposed of during the current year. Of the 2964 complaints disposed of during the current year, 1803 matters were dismissed in limine. 431 matters were closed on receipt of report from the concerned authorities, while 405 cases were closed after hearing. The Commission gave relief / recommendations in 325 matters during the current year.

CHAPTER 3

RIGHTS OF ARRESTEES SUB-COMMITTEE

3.1 The Constitution of India is the fountain and foundation of fundamental rights of the Indian citizen. It provides safeguards to Basic Human values. It is a triumph of the Universal values Liberty, Equality and Fraternity, which are the pillars of modern Democratic civilization throughout the World.

The Right of life and liberty is embodied in Article 21, explains that,

"No person shall be deprived of his life or personal liberty except, According to procedure established by Law" That the State functionaries cannot deprive life or personal liberty of citizen.

The Constitution also assures that right to life and personal liberty also covers with Human Dignity and respect and also includes guarantee against harassment, Torture and Illegal detention by Sovereign Authority.

3.2 In tune with these Constitutional safe guards there are a number of legal provisions codified to protect liberty, Human Dignity and Human Rights. The expression Arrest appearing in Article 22 of the Constitution of India is comprehensive term that is designed to cover all cases in which a person is apprehended by legal authority and is not confined to cases in which a person is apprehended by or under the orders of civil or criminal Court. It covers not only cases of punitive and preventive detention, but also case of what may, for convenience, be called protective detention.

3.3 The main intention behind codifying the Code of Criminal Procedure 1973 to provide fair and speedy trial and arrest and detention and preventive detention by Police Authority and Investigating Agencies to accused person. Hence there are many provisions in the code.

3.4 Even there are legal provisions and precautions; there are increasing complaints about police torture, third degree methods, custodial violence and illegal detention. It appears that the Custodial torture occurs in the process of investigation, with a view to achieve information by Investigating Agencies.

Therefore with a view to provide a check on custodial violence and to protect the right of arrestee's, the Hon'ble Supreme Court held that, "the action of the State however, must be' right, just, and fair. Using any form of torture, for extracting any kind of information would neither be right nor just and fair".

3.5 The Hon'ble Supreme Court in view to protect fundamental rights of life and personal liberty and human dignity and values, in the decision given in the case of (D.K. Basu Vs. State of West Bengal) (1997) SCC 416, laid down 11 requirements and guidelines to be followed while arresting person and further held that, the failure to comply with them, make the concerned officer not only liable for departmental action, but also liable to be punished, for contempt of Court which can be instituted in any Court.

3.6 The Hon'ble Supreme Court issued further directions and ordered the Central Government and all State Government, in the judgment dated 19 October, 2001 in CRL.M.P. Nos. 4210/1997, 4105/1999, 2660 and 2601/2000, 480/2001 and 12704/2001 in writ petition (criminal) No. 539 of 1986 and 592/87 directed the State Human Rights Commission, to constitute the Sub-Committee for monitoring and for the implementation of 11 requirements regarding arrest and detention of the person, by investigating agencies like police, custom, forest etc. The sole purpose behind these requirements is to control the custodial violence, torture, harassment and to impose the responsibility on the Officer.

3.7 Accordingly the Maharashtra State Human Rights Commission constituted. A Sub-committee comprising Members of the State Commission. The circular was issued to all concerned Agencies (Authorities), to send the reports.

Composition of the Sub-Committee

3.8 The Hon. Members of the Sub-Committee as follows

- | | | |
|----------------------|----|-------------------------------|
| (1) Shri M.R. Patil | .. | Chairman 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 concern Authority

3.9 As the circular was issued by the Commission the reports were received from the concerned Authorities. The Commission also received quarterly reports from all Superintendents of Police.

Surprise Visits

3.10 As per the orders of the Hon'ble Supreme Court the aim and object of the Sub-committee is to monitor the 11 requirements and guidelines laid down in D. K. Basu's Case and to pay visit to police Stations in State and to verify whether the compliance of 11 requirements are properly followed or not.

In 2004-2005 the following police stations were visited.

Sr. No (1)	Police station's name (2)	District (3)	Date of Visit (4)	Member's name (5)
1	Kamtee police station	Nagpur	10/04/04	Hon'ble Member Shri. C.L. Thool
2	Thane Nagar police station	Thane	20/04/04	Hon'ble Member Dr. Chitnis
3	Naupada police station	Thane	20/04/04	Hon'ble Member Dr. Chitnis
4	Dombivli police station (E) Dombivi Thane.	Thane	02/06/04	Hon'ble Member Dr. Chitnis
5	Wagale EState police station	Mumbai	02/06/04	Hon'ble Member Dr. Chitnis
6	Bhandup police station	Mumbai	15/07/04	Hon'ble Member Dr. Chitnis
7	Itwara police station	Nanded	09/09/04	Hon'ble Member Dr. Chitnis
8	Shivaji Nagar police station	Nanded	09/09/04	Hon'ble Member Dr. Chitnis
9	Vajirabad	Nanded	09/09/04	Hon'ble Member Dr. Chitnis
10	Ramnagar police station	Chandrapur	02/10/04	Hon'ble Member Dr. Chitnis
11	Valsang police station	Valsang	02/10/04	Hon'ble Member Dr. Chitnis
12	Mandrup police station	Solapur	02/10/04	Hon'ble Member Dr. Chitnis

(1)	(2)	(3)	(4)	(5)
13	Solapur Taluka Police Station	Solapur	02/10/04	Hon'ble Member Dr. Chitnis
14	Jail Road Police Station	Solapur	02/10/04	Hon'ble Member Dr. Chitnis
15	Saadar Bazar Police Station	Solapur	02/10/04	Hon'ble Member Dr. Chitnis
16	Faraskhana Police Station	Pune	17/10/04	Hon'ble Member Dr. Chitnis
17	Vishrambaug Police Station	Pune	17/10/04	Hon'ble Member Dr. Chitnis
18	Band Garden Police Station	Pune	17/10/04	Hon'ble Member Dr. Chitnis
19	Lashkar Police Station	Pune City	17/10/04	Hon'ble Member Dr. Chitnis
20	Anjani Police Station	Nagpur	18/10/04	Hon'ble Member Shri C. L. Thool
21	Ganeshpeth Police Station 01/11/04	Nagpur	18/10/04	Hon'ble Member Shri C. L. Thool
22	Arvi Police Station & Kharangana Police Station	Wardha	01/11/04	Hon'ble Member Shri C. L. Thool
23	Kalmeshwar Police Station	Nagpur (Rural)	03/11/04	Hon'ble Member Shri M. R. Patil
24	Shahuwadi Police Station	Kolhapur	21/11/04	Hon'ble Member Shri M. R. Patil
25	Parshivani	Nagpur (Rural)	27/11/04	Hon'ble Member Shri M. R. Patil
26	Gangakhed	Nagpur (Rural)	27/11/04	Hon'ble Member Shri M. R. Patil
27	Gangakhed Police Station	Parbhani	12/12/04	Hon'ble Member Shri M. R. Patil
28	Wai Police Station	Parbhani	13/12/04	Hon'ble Member Shri C. L. Thool
29	Lonawala (Rural)	Satara	24/12/04	Hon'ble Member Shri M. R. Patil
30	City Police Station	Pune	15/01/05	Hon'ble Member Shri C. L. Thool
31	Ramnagar Police Station	Chandrapur	13/02/05	Hon'ble Member Shri C. L. Thool
32	Ambejogai Police Station	Chandrapur	13/02/05	Hon'ble Member Shri C. L. Thool
33	Ambejogai Police Station	Beed	27/02/05	Hon'ble Member Shri C. L. Thool
34	Katol Police Station	Nagpur (Rural)	12/03/05	Hon'ble Member Shri C. L. Thool

Observations and Recommendations

3.11 Hon'ble Member Shri M. R. Patil.

1. Kalameshwar Police Station, Nagpur, 03/11/2004; Witnesses' signatures were not taken at the time of arrest.

2. Wai Police Station, Satara; 24/12/2004; Signature of witnesses were not taken on the arrest memos. In some cases, date and time of medical examination was not mentioned.

Hon'ble Member Shri C. L. Thool

1. Talegaon Dabhade Police Station, Pune (Rural): 12/03/2005: The Director General of Police, Government of Maharashtra has issued a circular instructing all the police stations to maintain independent register for the purpose of guidelines given in D. K. Basu's matter, but the said register was not maintained.

2. Ambejogai Police Station, Beed : 27/02/2005

(a) Board displaying 11 guidelines of the Hon'ble Supreme Court was not put up.

(b) Arrest memo was not been maintained.

(c) Reports of medical examination of the arrestee at the time of arrest and after every 48 hours thereafter were not maintained.

(d) N. C. Register and its acknowledgement register were not maintained.

(e) No record showing that intimation of arrest was given to the relatives of the arrestee.

(f) The Director General of Police, Government of Maharashtra had issued a circular instructing all the Police Stations to maintain independent register for the purpose of guidelines given in D. K. Basu's matter, but the said register was not maintained.

3. Gagngakhed Police Station, Parbhani : 13/12/2004 :

(a) The board displaying 11 guidelines of the Hon'ble Supreme Court was found to have been put up at a remote corner.

(b) The Director General of Police, Government of Maharashtra had issued a circular instructing all the police stations to maintain independent register for the purpose of guidelines given in D. K. Basu's matter but the said register was not maintained.

(c) Discrepancies in the medical reports of the arrestees were found. It was found that the Medical Officer, after examination of the arrestee and victim, did not supply the Medical Certificate to the police station and because of the same, a number of cases are lying with the police station for submitting before the Court.

4. Shauwadi Police Station, Kolhapur : 21/11/2004

(a) No regular lock-up for arrestees was found to be present.

(b) No independent arrest memo and acknowledgement slip of intimation of arrest to the nearest relatives was maintained.

(c) The Director General of Police, Government of Maharashtra had issued a circular instructing all the police stations to maintain independent register for the purpose of guidelines given in D. K. Basu's matter, but the said register was not maintained.

5. Ramnagar Police Station, Chandrapur : 02/10/2004

(a) The board displaying 11 guidelines laid down by the Hon'ble Supreme Court was totally damaged due to rain and weather.

Hon'ble Member Dr. V. S. Chitnis

(1) Pandharpur Taluka Police Station : 07/03/2005 : Register as per Supreme Court norms was maintained.

(2) Lonavla Rural Police Station Pune: 05/01/2005: Register as per Supreme Court norms was not maintained.

(3) Faraskhana Police Station Pune: 17/10/2004: Register as per Supreme Court norms was not maintained.

(4) Bund Garden Police Station Pune: 17/10/2004: Register as per Supreme Court norms was not maintained.

(5) Lashkar Police Station, Pune City: 17/10/2004: Register as per Supreme Court norms was not maintained.

(6) Mandrup Police Station, Solapur: 02/10/2004: Register as per Supreme Court norms was not maintained.

(7) Solapur Taluks Police Station: 02/10/2004: Register as per Supreme Court norms was not maintained.

3.12 The all inspected and founded recommendation of the Sub-Committee is conveyed to concerned Police Station's officers on the spot at the time of visit. The Sub-Committee is regularly receiving quarterly reports from all Districts Superintendents of police of Maharashtra about compliance of all 11 requirements and guidelines of Hon'ble Supreme Court.

CHAPTER 4

PROMOTION OF HUMAN RIGHTS EDUCATION AND AWARENESS**SEMINARS & WORKSHOPS****Seminar on Human Rights and Disability**

4.1 A seminar on "Human Rights and Disability" was organized by the Maharashtra State Human Rights Commission, in association with the India Center for Human Rights and Law, Mumbai, an NGO, on 19 October 2004 in Sahyadri Guest House, Mumbai.

4.2 About 25 senior officers, including Principal Secretaries & Secretaries of the State Government, and Human Rights activists for disabled, participated in the seminar.

4.3 Justice Anant D. Mane (Retd), Acting Chairperson, Maharashtra State Human Rights Commission delivered the inaugural address. In his address he said that the concept of human rights envisaged "Human Rights for all". Focusing on the impact of the international policy regarding education of disabled in India, he stated that Government provided practical strategies to achieve the goals of universalisation of primary education. He emphasized on the need for change in attitude and behaviour towards the disabled persons. Further, he suggested that disabled persons should be a part of the mainstream of the society and advocated an inclusive environment for the disabled persons.

4.4 Dr. Munshilal Gautam, Principal Secretary, Department of Social Justice and Cultural Affairs, Government of Maharashtra, enlightened the participants on the Action Plan of the State Government for the welfare of the disabled persons. He informed that there are both separate and mixed schools in the State for the disabled students. He observed that the quality of special school for the disabled students in urban areas was better than those in rural areas.

4.5 Dr. J. M. Pathak, Secretary, School Education Department, stated that, The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Co-operation) Act, 1995 laid down free education to disabled persons upto 18 years of age. The Government scheme of 'Sarva Shiksha Abhiyan' provided education to the disabled students.

4.6 Shri S A Datrange, President, Disabled People International, and India made the following observations :

1. Although the ratification has been given by the India to various international covenants and conventions such as ICCPR, ICESCR, CEDAW, GRC, India has not signed the ILO Convention on Vocational and Rehabilitation of Disabled Person, 1983.

2. The Protection of Human Rights Act, 1993 is silent on the rights of the disabled people.

3. Keeping in mind the rights of the disabled, a fresh look at Universal Declaration of Human Rights, 1948 was necessary.

4.7 During the open house session under the chairmanship of Shri M. R. Patil, Member, Maharashtra State Human Rights Commission, the many issues were discussed.

After a brief discussion, the house reached consensus on the following :

- (i) Ramps are necessary for the persons with disability, irrespective of the availability of wheelchairs they are also useful to the aged persons.

(ii) A time bound programme should be framed to implement the provisions of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Co-operation) Act, 1995 and this should be the responsibility of all concerned Governmental agencies and not one Department alone.

(iii) The Government should be proactive to facilitate the disabled person.

(iv) Specific entrepreneurial development of the disabled is necessary.

Workshop on Human Rights of the Mentally - ill in Prisons and Custodial Institutions.

4.8 A one-day workshop on Human Rights of Mentally-ill in Prisons and Custodians Institutions was held in collaboration with SEVAC, Kolkata, in Police Club, Mumbai on 5 August 2004 in which officers from the Prison Department and Custodial Institutions were present.

4.9 In all 31 participants attended the workshop. The workshop was divided in three sessions: the first session was reserved for the introduction and inaugural address, the second related to the identification and management of mentally-ill inmates, while the third session was allotted for case study and presentations by the participants, and valedictory address. The reading material relating to the subject of the workshop was distributed to the participants at the time of registration.

4.10 In his introductory speech Shri Subhash Avate, Spl. IGP, Maharashtra State Human Rights Commission Stated that the right to health, which is one of the basic human right, includes right to mental health. He referred to the important international instruments of human rights and the role of Maharashtra State Human Rights Commission in the protection and promotion of human rights.

4.11 Justice A D Mane, Hon'ble Acting Chairperson MSHRC regretted the poor conditions of prisons and various custodial institutions and more particularly the lack of facilities to treat the mentally ill inmates. Justice A D Mane also cited some complaints dealt with by the Commission. He appealed to the participants to protect the right to health of all mentally ill inmates in the capacity of their custodians.

4.12 Dr. Arnab Banerjee, President, SEVAC and Psychiatrist delivered a lecture on "Identification of Mental Patients". He referred to the finding of the "Operation Oasis" that the mentally ill inmates were not getting proper treatment as such as they had not been identified by the custodians as mentally-ill. He explained mental illness as a disease of the brain. He said that by observing the emotions and behaviour, mental illness could be identified by the custodians. Dr. Banerjee explained the main mental disorders i.e., Mood disorder, Schizophrenia and Delusion disorder. He advised that in case there was an attitudinal change in the inmates reflected in their unintentional behaviour and emotions and which was unacceptable then it should not be ignored but should be treated.

4.13 After the presentations by the participants, Shri C L Thool, Hon'ble Member commented on the presentations and analyzed the conclusions drawn by the participants. Shri M R Patil, Hon'ble Member delivered the valedictory address. Referring to the discussions held in second session and his own field experience, he stressed the need for sensitization of concerned officials. He appealed to the participants to perform their respective duties honestly.

Celebration Of World Human Rights Day

4.14 The Maharashtra State Human Rights Commission (MSHRC) celebrated the Human Rights Day on Friday, 10th December 2004 in its office premises at Mumbai.

Hon'ble Justice Sujata Manohar, Former Member, National Human Rights Commission, New Delhi and former Judge, Supreme Court of India was the Chief Guest and Justice R. A. Jahagirdar (Retd.) former Judge, Bombay High Court was the Guest – of Honour. The function was presided over by Justice A. D. Mane (Retd.) Acting Chairperson, Maharashtra State Human Rights Commission. The Members of the Maharashtra State Human Rights Commission (MSHRC) namely Dr. V. S. Chitnis, Shri M. R. Patil and Shri C. L. Thool were also present on the occasion. An introductory leaflet (Marathi) titled "Manavadhikar Sarvansathi" and a booklet titled "Role of the State Human Rights Commission and Human Rights Courts in Protection and Promotion of Human Rights" were distributed to all the invitees. About 200 stakeholders including representatives of NGOs were present during the function.

4.15 In his introductory speech, Shri M. R. Patil, Member stated that the Protection of Human Rights Act, 1993 had created awareness in the society about Human Rights. He mentioned that many times the Commission has taken hearings in the districts rather than calling the parties to the headquarter of the Commission. He expressed the need for orientation training programmes for the various categories of public servants.

4.16 The keynote address was delivered by Justice Sujata Manohar who with her long experience enlightened the gathering on the "Implementation of the Human Rights Act, 1993". In her address she summarised the good work done by the National Human Rights Commission. She opined that due to poverty, illiteracy and unawareness the downtrodden people remained unaware of their rights. In such a situation, the work of State Human Rights Commission in spite of numerous obstacles was really praiseworthy. The Human Rights Commissions considered issues like child labour, contract labour and women's rights.

4.17 Recognizing the major role-played by the judiciary, she quoted the landmark judgments delivered by the Supreme Court to protect and promote human rights. She recalled the Supreme Court's ruling where it was held that, it was the accepted rule of judicial construction, that regard must be had to international conventions and norms, for construing domestic laws, when there was no inconsistency between them. She stated that, through public interest litigations the Court has taken up issues of social justice.

4.18 Regarding implementation of the Human Rights Act, 1993 she pointed out some lacunas and offered some suggestions. The important suggestions were—

(i) Role of the Human Rights Courts established under the Protection of Human Rights Act, 1993 should be made clear and a general awareness should be created amongst the masses.

(ii) A link should be established amongst various types of Commissions.

Hon'ble Justice Sujata Manohar appreciated the efforts and commitment of the Maharashtra State Human Rights Commission towards the promotion and protection of human rights.

4.19 In his presidential address Justice A. D. Mane (Retd.), Acting Chairperson, explained the work done by the Maharashtra State Human Rights Commission. While explaining the purpose of celebration of human rights day he said, "to reaffirm faith in human rights law, we are observing the human rights day". Referring to the Constitution as a visionary agreement he stressed that rights enshrined in the Constitution should be

translated into effective action. Recognizing the growing importance of human rights commissions, Justice Mane Stated that, support of Governmental institutions, non-Governmental organizations and other stakeholders was essential to promote and protect human rights.

Workshop on Human Rights

4.20 A training programme/workshop was organized by Samarthan, a non-Governmental organization, in collaboration with the Maharashtra State Human Rights Commission, between 27th to 30th March 2005.

4.21 There was enthusiastic participation by activists, journalists and lawyers. The Members of the Commission, the Secretary, and the Special Inspector General were invited as Resource Persons.

The major issues covered during the workshop were:

- Basic concept of human rights
- International conventions
- Constitution of India and human rights
- Criminal justice system
- Mechanism for redressal of grievances regarding violation of human rights
- Role of the State, media, activists and lawyers in the protection of human rights

Website Of The Commission

4.22 A very important milestone in the working of the Commission was reached in this reporting year. The Commission launched its website, <http://mshrc.maharashtra.gov.in>. The website as well as the extension of the premises of the Commission were inaugurated by the Hon'ble Dy. Chief Minister and Home Minister Shri R. R. Patil on 2nd March 2005.

4.23 The website of the Commission is a step forward in increasing the outreach and accessibility of the Commission amongst the masses. A feedback section has also been included in the website, whereby people can directly contact the Commission over the internet.

4.24 Since its launch, the website has received tremendous response from the public. Also, efforts are being made to upload all data relating to ongoing as well as disposed cases of the Commission on this website.

CHAPTER-V

ADMINISTRATIVE AND LOGISTIC SUPPORT

The GOVT of Maharashtra *vide* its G. R. No. HRC 1099/378/Pol-14, dated 15 January 2000 established the State Human Rights Commission.

5.1 The Commission became operational on 6th March 2001 and its actual functioning started on 12 March 2001. The said resolution maintains that there would be a Chairperson and four members of the Commission and its head quarter will be at Mumbai. Justice Anant Mane (Retd), Member was appointed as the Acting Chairperson, on 22nd March 2001, Dr. Vijay Chitnis, Shri M R Patil and Shri C. L. Thool continued to serve as Members 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 among the three wings namely, Administration Department, headed by the Secretary, Investigation Wing, headed by the Spl. Inspector General of Police, Legal Wing, headed by the Registrar.

5.3 During 2004-05, after the departure of Ranjana Sinha, IAS, Secretary of the Commission on dated 01/06/2004, Shri Amitabh Chandra, IAS, held the office from 1st June 2004 as Secretary of the Commission. Shri Subhash Avate, IPS, continued from 19th December 2001 as Spl. Inspector General of Police, Investigation. After the departure on 1st March 2004 of Shri D. S. Purohit as a Registrar of the Commission, Shri P. R. Belorkar took the charge on 9th March 2004 as Registrar of the Commission.

PREMISES

5.4 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, Opp. Mantralaya, Worli Government Transport Service, Arun Chambers, Tardeo, Mumbai, New Administrative Building, Bandra (E), and Old Custom House, Mumbai. Finally *vide* 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, Hazarimal Somani Marg, Opp. CST, Mumbai 400 001 to the Commission. This was earlier occupied by the State Finance Commission. The Commission is functioning in the same premises.

RESOURCES

5.5 During the year 2004-05 the State Government made available a grant of Rs.1 crore 24 lakh 65 thousand 7 hundred , against which the total expenditure was Rs.1 crore 18 lakhs 91 thousand 288. Out of this 8197693/- was spent on Pay & Allowances.

CHAPTER 6

ILLUSTRATIVE CASES DECIDED BY THE COMMISSION

1] Case No.867/2003

- Date of complaint – 30th April 2003
 Complainant – Shri Jayawant Hanumant Damgude
 Respondents – (1) The Commissioner of Labor, Tardeo, Mumbai
 (2) The Commissioner, BMC, Mumbai
 (3) The Commissioner of Police, Mumbai
 (4) The P I Govandi Police Station, Mumbai
 Coram – Single Bench

Nature of complaint –

The children were engaged in hazardous jobs due to large population, poverty illiteracy, un-employment and lack of awareness about the human rights. They were employed in Zari making process/factories.

Action taken by the Commission

The Commission has issued a notice and asked to submit report on the aforesaid complaint on 25th June 2003. In respect to that notice Archana Tayagi, Dy. Commissioner of Police, Zone-6, Mumbai has submitted report on 17th September 2003. Moreover the Offence was registered against the owner of the factory Sadik Mohammed & other three. Also it was mentioned that the Statement of Complainant had been recorded.

Decision of the Commission

In a complaint received from social activist Shri Jayant Damgude about exploitation of minor children in Zari Making Process/factories, due to the intervention of the Commission, authorities such as Principal Secretary, Labour Govt of Maharashtra, the District Magistrate, Dy. Commissioner of Police, Zone-VI, Mumbai and the Commissioner for Woman & Children, Mumbai took all possible steps to protect the rights of the children who were engaged in Zari Processing work and has prosecuted the owner of Zari Work. The children were found working at Zari processing work. The children from U.P., Bihar, Nepal and Bangladesh, were released and given in custody of NGO working for protecting the interest of children. The children were sent to their parents. The Commission observed that they were engaged in hazardous jobs due to large population, poverty and illiteracy, unemployment and unawareness about the human rights. Thus, children were exploited easily due to their physical and mental vulnerability. The periodical report was also called for. In regard to rehabilitation scheme framed by the Government, it was emphasized that there should be effective implementation to minimize miseries of such unfortunate children. It was also recommended that, the Government agencies must take appropriate measures in proper co-ordination with various Departments involved in the welfare of the children for implementation of the provisions of Bounded Labour System (Abolition) Act, 1976, Juvenile Justice (Care and Protection of Children) Act, 2000 and Child Labour (prohibition and Regulation) Act, 1986 and Children Act, as well as the Scheme National Labour Project (Revised) 2003, based on International Labour Organization Directives and Government Resolution dated 29th June 2004.

The Commission directs compensation to be paid to victims who were illegally arrested; compensation to be recovered from errant police personnel.

2. Case No.1205/2003

Suo-Motu cognizance article published in the Mid-Day News papers

Date of complaint : 24th June 2003.

Complainant : - Shri Mohan Krishnan, Malad (E.), Mumbai. Respondent:- The Commissioner, Women & Child Development, M. S. Pune.

Coram:- Single Bench

Nature of the Complaint : - Regarding release of children found at railway stations, from Dongri Children Home.

Action Taken by the Commission-

The matter was referred to the Investigation Wing of the Commission for enquiry and report. The State Human Rights Commission had received complaint regarding the children found at railway station and laying in Dongri Children Home. The Commission has directed to investigate this case urgently and called detailed report in this matter, from Superintendent of Police. The Commission called the record from Probation Officer. Probationary officer (Unit No.VIII) Observation home Umer-khadi, Mumbai Stated in his report dated 30th September 2003 that proper inquiry was done in the matter and it was found that a boy who was wondering on the street on dated 18th February 2003 was taken to Tardeo Police Station. Tardeo Police Station handed-over the boy to President Balkalyan Samiti, Mumbai. The Commissioner has submitted detail report on dated 23rd June 2004.

Decision of the Commission

The Commission referred the matter for discreet inquiry to the Investigation Wing and also called for report from the Commission, Women and Child Development, M. S. Pune.

The report from the Commissioner, Woman and Child Development, Pune dated 23rd June 2004 was received. It was seen from the report that 35 childrens were admitted at remand homes, at Dongri out of which except one, all were sent to their parent's place. One boy came from Nepal and every care is taken to see that, he is also sent to his parent's place.

Special Inspector General of Police suggested the measures to be taken to combat the alarming menace of missing children from lawful custody of their parents. The Commission feels it necessary to collect necessary data from all concerned Departments dealing with custodial cases relating to rehabilitation of disappearance or missing of children and the procedure presently followed so as to recommend to the Government strategy for action.

The Secretary and the Special IGP are, therefore, requested to prepare a line of action for recommendation to the Government after collecting necessary information and the same may be put before the Commission.

With this direction, the case, stands disposed off. The Secretary was asked put up his suggestions separately for consideration of the Commission.

3] Case No.1140/03

Date of order - 17th September 2004

Complainant - Machimar Nagar, Mahim Koli

Respondent - Police Officers of Mahim Police Station, Mumbai.

Coram - Single Bench

Nature of the Complaint -

Unjustified arrest of the managing members of the CHS by the police officers of Mahim Police Station, Mumbai.

Action taken by the Commission

The arrest was illegal and contrary to guidelines furnished by National Human Rights Commission. The Commission further observes that arrest was not only unjustified but was unnecessary in non cognizable offence.

Decision of the Commission

The Commission therefore, recommended to the State Government to initiate the Departmental inquiry against the Police Inspector and pay Rs.10,000/- as compensation and to recover the same from police inspector, Shri Karande, PI, and to submit compliance report within 6 weeks.

4] Case No.1965/02

Date of complaint - 27th October 2002

Complainant - Smt. Maya Sahebrao Bhonge

Amla, Chandur Railway, Dist - Amravati.

Respondents - Supdt. of Police, Amravati (Rural)

Coram - Single Bench

Nature of complaint -

The Complainant's husband died due to electric shock with in the area of MSEB, Chandur Railway. The body of the deceased was found hanging on LT Line Pole of MSEB. Police did not take action on the complaint made to them by the widow of the deceased.

Action taken by the Commission

The Commission has issued notice dated 9/1/2003 and called for report from the Superintendent of Police, Amravati. The detail report was submitted on dated 13th May 2003 by the Superintendent of Police, Amravati, and also respondent No. 2 Superintending Engineer, MSEB, Amravati has submitted written Statement before the Commission on dated 29th October 2003, through, Shri A D Edlabadkar, Jr. Engineer, MSEB, Sub-Division, Chandur Railway, District Amravati.

Decision of the Commission

The matter was heard and by directions dated 10th December 2003, the Superintending Engineer, MSEB, Amravati was directed to submit report. The Superintendent of Police, Amravati was also directed to

reinvestigate the case in view of different stands taken by the Authority.

Significantly, Dy. Superintendent of Police (Home) for Superintendent of Police, Amravati in his report dated 7th April 2004 submitted that case at Crime No. Cr.No.31/2004 under Sect. 304(A), IPC was registered against the agriculturist named above. It is, therefore, clear that due to intervention of the Commission, justice appears to have been given to the Complainant. The matter is, therefore, pending in the Court. Hence, no further inquiry is required. The case stands closed.

5] Case No.1962/03

Date of order – 7/9/2004
 Complaint –
 Respondent – 1) The Commissioner of Police, Mumbai
 2) The Dy. Commissioner of Police Zone- Mumbai
 Coram – Single Bench

Nature of complaint –

PSI, Shri Sanap has given cruel, un-human and degrading treatment to the child below 16 years during the interrogation without any justification.

Action taken by the Commission-

Record was called from the Commissioner of Police, Mumbai. Dy. Commissioner of Police has submitted a detailed report, Stated that there was no necessity for PSI to call Smaran to the police station. He called him and gave him warnings. Since the PSI unnecessarily brought the boy to the police station, the PSI is punished and his increment of pay is withheld.

Decision of the Commission-

Mohini Shetty's Complaint was treated as a NC complaint by the police. However, PSI Shri Sanap brought Smaran to police station when his father was not at home. The Commission did not accept defense emphasizing the rights of the child guaranteed against the torture and assault. There was satisfactory evidence that Smaran, the child below 16 years was subjected to cruel, inhuman and degrading treatment during the interrogation, without any justification and that conduct of police officer needs the severest condemnation. The concept of personal liability as envisaged by Supreme Court in protecting human rights due to misuse of power and abuse of power by police officials has been considered and Commission recommended that the Government shall pay to the victim Rs.15,000/- as compensation and recover the same from police officer who was responsible. Also directed to submit compliance report within six weeks.

6] Case No.2138/2003

Date of complaint
 Complainant – Mrs. Hansabai M Suryavanshi
 Bhandup gaon, Mumbai.
 Respondents – The Commissioner of Police, Mumbai
 Coram – Single Bench

Nature of complaint –

The Police has refused to register FIR on the complaint of the Complainant in respect of cheating by merely registering her as N.C. complaint.

Action taken by the Commission

The Commission has issued a notice and called for report from the Commissioner of Police, Mumbai, the Dy. Commissioner of Police, Zone-7, Mulund (W), Mumbai. In response to the notice issued by the Commission the respondent has submitted report on 18/5/2004, stating that the allegations made against investigating officer, has no substance.

Decision of the Commission

This complaint was made by a widow regarding non action on her complaint by police in respect of cheating etc. by merely registering her case as N.C. complaint. The Complainant made a complaint at Kanjur Marg police station, Bhandup, Mumbai on 8/10/2003. In response to notice issued to the Commissioner of Police, Mumbai, the Dy. Commissioner of Police, Zone-7, Mulund (W) submitted report dated 18/5/2004 stating that as far as the allegations made against investigation officer are concerned there is no substance but at the same time, it has been Stated that due to settlement between the parties, the Complainant by her application dated 20/3/2004 has withdrawn her complaint made before the Commission. Further, it has been stated that the opposite party Shri Gurunath Tandel has agreed to return the excess amount paid by the Complainant and on that assurance the Complainant Stated that she had no complaint.

It will thus be seen that due to intervention of the Commission, justice is done and the grievances of the Complainant have been redressed. Therefore, no further inquiry was required. The case was closed under section 17 (i) (b) of the Protection of Human Rights Act, 1993.

7] Case No.898/2004

Date of complaint :-

Complainant - Shri Anjan Mruthunjay Srivastava, Andheri (W), Mumbai

Respondents - The Chief Election Commissioner & others

Coram - Single Bench

Nature of the complaint -

The Complainant states that nearly 20 lakh of voters were not allowed to vote because their names were not found in the voters list for Lok Sabha Elections. The fundamental right to vote was violated.

Action taken by the Commission:-

The Commission has issued a notice to Chief Electoral Officer.

Decision of the Commission

"State must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed. Voter's education and registration campaigns are necessary to ensure the effective exercise of rights in Art 25, by the community".

The Commission, therefore, recommended that the Election Commissioner may consider the suggestions in the light of provisions contained in International documents.

With this, the case was disposed of accordingly.

8] Case No.969/2001

Date of complaint 19/11/2001

Complainant - Dr. Leo Rebeilo
Kandivali (E), Mumbai.

Respondents - (1) Shri Promod Rane, Sr. Police Inspector
(2) Shri Prakash Vasant Bele, PSI

Coram : Full Bench

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n 18 (1), 18 (3) of the Protection
 further directed under section 18 (5)

e Government within a period of

Decision of the Commission

In conclusion, the Commission, therefore, recommends that the Director General of Prisons, Maharashtra State, Pune, shall pay to Shri Rajabhau Nana Kadam a sum of Rs.10,000/- as an immediate interim relief within the period of 6 weeks and submits his compliance report to the Commission.

The Commission further directs that the Departmental action be initiated against Shri V. B. Atre, Acting Superintendent and Senior Jailor Shri I N Pawar of Nashik Road Central Prison for their lapses in observance of practice alarm, under the rules of Maharashtra Prison Discipline Rules, 1963. The compliance report be submitted to the Commission within 8 weeks.

CHAPTER 7

FUNCTIONS OF THE COMMISSION

As provided in section 12 of the Promotion of Human Rights Act 1993, the Commission shall perform all or any of the following functions :—

(A) Inquire, *suo motu* or on a petition presented to it by a victim or any person on his behalf, into complaint of,—

(i) Violation of human rights or abatement thereof; or

(ii) Negligence in the prevention of such violation by a public servant.

(B) Intervene in any proceeding involving any allegation of violation of human rights pending before a Court with the approval of such Court.

(C) Visit under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons detained or lodged for purposes of treatment reformation or protection to study the living conditions of the inmates and make recommendations thereon.

(D) Review the safeguards provided by or under the constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation.

(E) Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures.

(F) Study treaties and other international instruments on human rights and recommendations for their effective implementation.

(G) Undertake and promote research in the field of human rights.

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

(I) Encourage the efforts of non-Governmental organizations and institutions working in the field of human rights. Such other functions as it may consider necessary for the protection of human rights.

FOCUS OF THE COMMISSION'S WORKING

The Commission's purview covers the entire range of human rights including both civil and political rights, and economic, social and cultural rights. The Commission is engaged in promoting and protecting human rights in areas concerning issues as varied as custodial death, rape and torture, systemic reforms of the police and the prisons improvement in the conditions or remand homes and mental hospitals for the mentally ill, etc.

Keeping in view its wide ranging responsibilities and the expectations for the people of the State the Commission may take up the following activities and research :—

- Steps to check custodial deaths, rape and torture.
- Systemic reforms police, prisons and other centers of detention.
- Elimination of bonded labour and child labour.
- Human Rights of persons affected by HIV / AIDS
- Public Health as a human rights issue.
- Rights of the vulnerable groups such as women and children, minorities, scheduled castes and scheduled tribes.
- Police displaced by mega projects.

Those affected by major disasters such as cyclones, earthquakes, landslides and other man-made disasters such as gas leaks, epidemics, riots etc.

Promotion of human rights literacy and awareness in the educational system and more widely in society including human rights education for the executive and the police.