



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

**ANNUAL REPORT
2005 - 2006**

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Annual Report
(April 2005—March 2006)

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We submit our Annual Report for the year 2005-2006 to the State Government which subsequently to be placed before the legislative Assembly, in accordance with Sec. 28 of Protection of Human Rights Act, 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 Kishan Vyas

Chairperson

Justice Shri V.G. Munshi

Member

Shri T. Singaravel

Member

Shri Subhash Lalla

Member

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February 2009

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PREFACE

In a civil society the rights of the people are protected and their interests safeguarded by the sovereign State. These rights are uniform, indivisible, integral, inalienable, inter-dependable, natural and basic in nature. These rights are the necessary rights of man, his rights as a human.

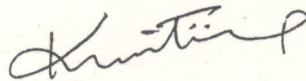
The United Nations through the Universal Declaration of Human Rights in 1948 recognised these rights and laid down a common standard of achievement for all people. The declaration was followed by two Covenants on Civil and Political Rights, and Economic, Social and Cultural Rights in 1966.

If we compare the Universal Declaration of Human Rights and the two Covenants with Indian laws we realise that our Constitution also lays down these primordial rights of man, as his Fundamental Rights in Part-III and provides for mechanism to protect these rights. Furthering the cause of protection of Human Rights, Parliament passed the Protection of Human Rights Act, 1993 and laid down the foundation of the National Human Rights Commission and provided that there be a State Human Rights commission in every state which will aim to protect the rights of the people. Section 2(1)(d) of the Act also defines Human Rights as "the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the international Covenants and enforceable by the Courts of India."

With a view to supplementing the efforts of the judiciary and the executive to protect Human Rights the Government of Maharashtra *vide* its Resolution of the Home Department (No. HRC-1099/278/Pol-14) dated 15th January 2000 decided to set up a State Human Rights Commission. The Maharashtra State Human Rights Commission, functioning from 2001, has tried to achieve all its objectives by performing its functions as provided in section 12 of the Protection of Human Rights Act. It has left no stone unturned to ensure that the people do get justice. Victims of Human Rights abuse come in from all over the state to be heard by the Commission for redress. This only shows the faith they have in the judicial role played by the Commission.

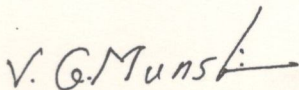
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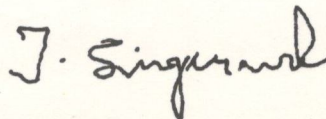
Justice Shri Kshitij Vyas

Chairperson



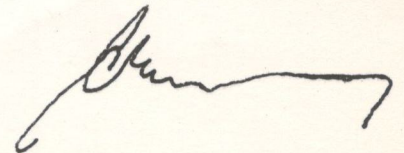
Justice Shri V.G. Munshi

Member



Shri T. Singaravel

Member



Shri Subhash Lalla

Member

Mumbai,
Dated 10th February 2009.

CHAPTER -1

Introduction

The Maharashtra State Human Rights Commission works for the protection of Human Rights. It has proved its ability in working for the benefit of the people. This is the Fifth Annual Report of The Maharashtra State Human Rights Commission covering the period 1st April 2005 to 31st March 2006.

1.2 The Maharashtra State Human Rights Commission was established on 6th March 2001 when the Hon'ble Governor of Maharashtra 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 United Nations through its instruments in international and regional institutions seeks to promote, protect and implement human rights in a uniform manner throughout the world. The human rights 'instruments' embody political commitment by member states to modify their domestic policies.

1.3 In the proceeding year, the Commission in its full strength will have acting chairperson and three members. The Commission was set vide Government No. H.R.C. 1099/378/P10-14, dated 15th January 2000 of the Home Department. The Commission became operational from 6th March 2001.

1.4 The Commission can inquire *suo-motu* or on a Complaint, 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 thereof or into negligence in prevention of such violation by a public servant. It can also intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court.

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 Hon'ble members of the Commission.

1.6 The Secretary of the Commission Shri Amitabha Chandra (IAS) also continued to serve as a Secretary and Inspector General of Police (Investigation) Shri Subhash Awate (IPS) continued till his departure on 31st May 2005 and then after Shri Sunil Vaidya took charge as Inspector General of Police and Shri P. R. Belorkar continued to serve as a Registrar of the Commission.

CHAPTER- 2

COMPLAINTS HANDLED BY THE COMMISSION

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 person who approached us with their problems.

Statistical Data

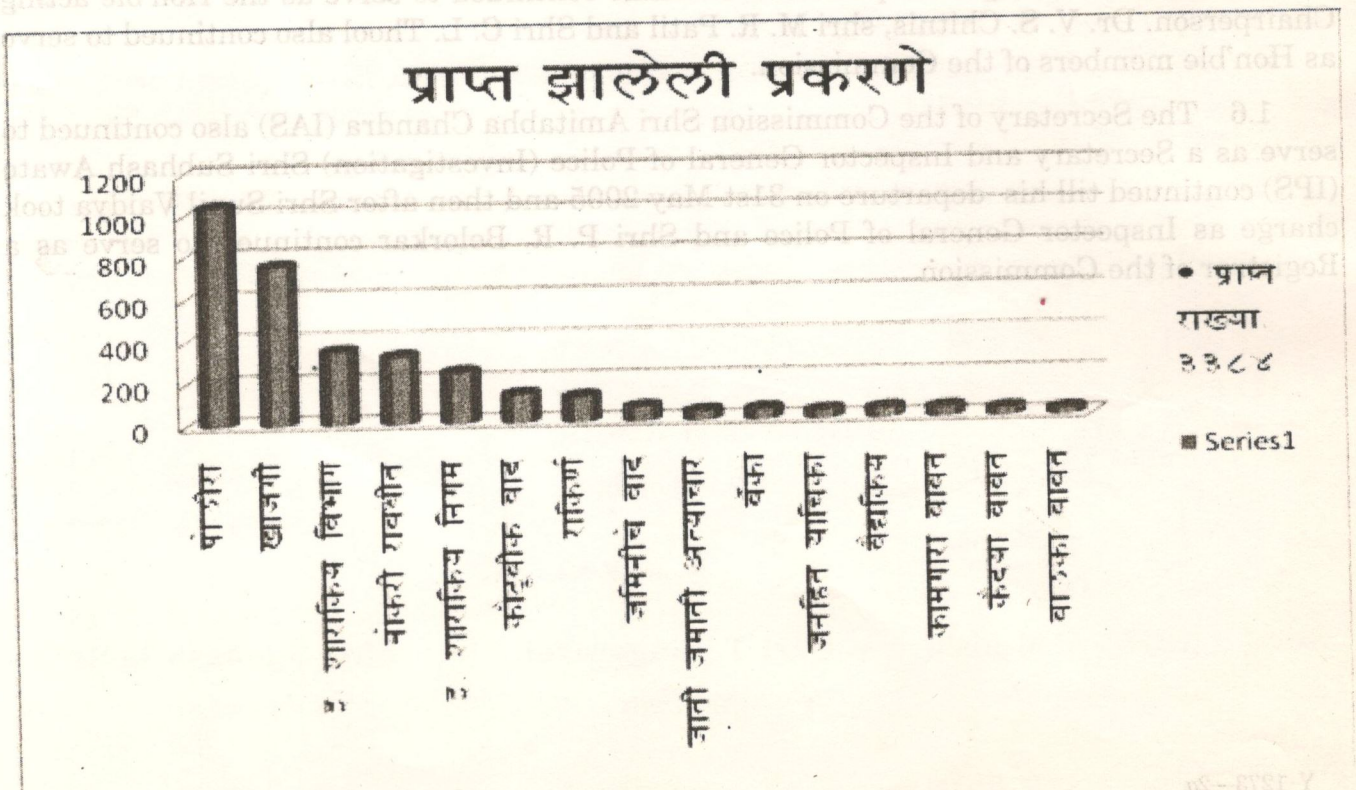
2.2 In the current reporting year, i.e. 2005-06, the Commission received a total of 5585 fresh cases. During 1st April 2005 to 31st March 2006, 4004 complaints were disposed off in all. Out of that, 2466 cases were dismissed in limine. After receiving report from concern authorities the matters disposed 455 cases, and after hearing the matter disposed 696. The Commission gave recommendations in 387 cases during the current year.

2.3. The current reporting year saw an approximately 50% increase in the number of fresh complaints received as compared to last year 2201 complaints.

2.4 During the year 2005-06, 109 cases were forwarded to the Investigation Wing of the Commission, and last year pending cases were 122. Out of that 85 cases were thoroughly investigated and reports submitted to the Commission. 146 cases were pending for investigation in the said reporting year.

2.5 The Commission took suo-motu cognizance in 26 matters during this year

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



Nature of Complaints

2.6 An analytical study was conducted on the 5585 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. (1409 matters).

(ii) *Against other Government authorities.*—This category includes complaints against Gram Panchayats, Panchayat Samitis, Zilla Parishads, Municipal Councils and Municipal Corporations, Public Works Department, Public Health Department, Social Welfare Department etc. have been included in this category. (1028 matters).

(iii) Complaints regarding atrocities to SC/ST or other minorities.(118 matters).

(iv) Complaints where public interest is involved.(54 matters).

(v) Complaints regarding violation of human rights of prisoners.(29 matters).

(vi) Complaints regarding violation of child rights and child labour etc.(32 matters).

(vii) Complaints regarding medical negligence(34 matters).

(viii) Violation of Human Rights of students regarding education schools and colleges(82 matters).

(ix) Complaints of disabled persons.(20 matters).

(x) Complaints related to election voter list.(12 matters).

(xi) Violation of human rights of farmer suicides.(6 matters).

NOT ENTERTAINABLE BY THE COMMISSION AS PER LAW :—

(xii) Complaints regarding criminal matters.(372 matters).

(xiii) Complaints against local bodies company, firm, private employers, organizations, etc.(141 matters).

(xiv) Complaints regarding service gratuity, pension etc.(143 matters).

(xv) Complaints regarding family disputes(207 matters).

(xvi) Complaints regarding land disputes.(252 matters).

(xvii) Complaints regarding banks.(63 matters).

(xviii) Complaints against private person.(1322 matters).

(xix) Complaints pertaining to private employers and other labour issues.(18 matters).

(xx) Miscellaneous.(202 matters).

(xxi) Complaints related to women(41 matters).

2.7 It is indeed shocking to note that majority of the cases entertainable by the Commission are against the police force. Serious notes 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. This 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, 1933 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 26 cases suo-motu cognizance in the following matters :—

Suo-Motu Cases 2005-06

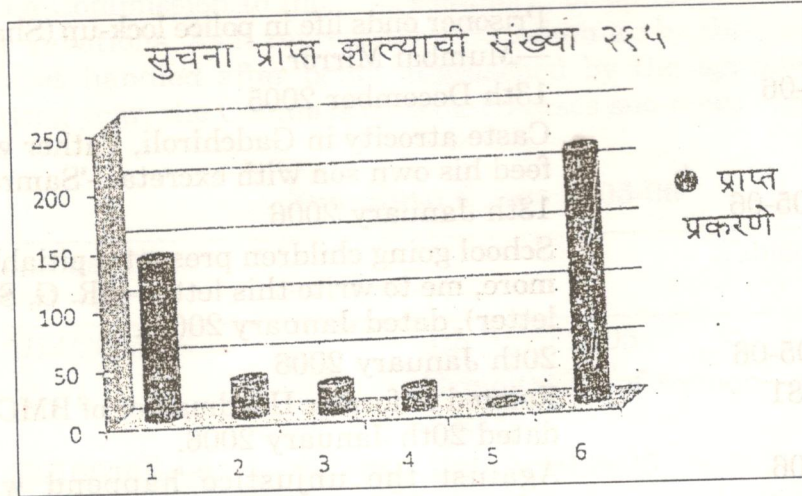
Sr.No. (1)	Case No. (2)	Subject (3)
1	1/14/2005-06	4th April 2005 Exploitation of women—cutting from Appasaheb Sutar.
2	33/16/2005-06	13th April 2005 Girl fall into manhole dies—Indian Express dated 11th April 2005.
3	44/16/2005-06	A part of skeleton (that is hand) come under feet.
4	45/16/2005-06	Cop raped teenage girl in chowky.—The Times of India, dated 22nd April 2005.
5	123/16/2005-06	Non-Payment of PF—Times of India, dated 5th May 2005.
6	5/11/2005-06	Alleged Baxal Shankar Perikumar killed in police firing — Indian Express, dated 5th May 2005.
7	24/19/2005	13th June 2005 A Patient who has been wrongly presumed to be dead and sent to Mortuary when he died of shock. Loksatta—dated 7th May 2005.
8	555/16/2005	31st August 2005 Insulted ACP doles out ICU punishment Antop Hill resident is thrashed for calling ACO Arun Desai a hawaldar.
9	566/16/2005	2nd September 2005 Adults run riot in children's remand home Mumbai —Mirror, dated 2nd September 2005.
10	658/16/2005	19th September 2005 Film fraternity Protests actors abuse by cops. The Times of India dated 16th September 2005.
11	110/17/2005	21st September 2005 Despite 5 days having passed no action is taken on the PI of Khapa.

Sr.No. (1)	Case No. (2)	Subject (3)
12	775/16/2005	19th October 2005 Girl raped Policeman (Pawar), Sahara Airport as on 18th January 2005—The Indian Express.
13	302/30/2005-06	Bar Girl Raped by Policeman (Kazi) as on 11th October 2005—The Times of India.
14	995/16/2005-06	2nd December 2005 Prisoner ends life in police lock-up (Shakal Jaiswal)—Mumbai Mirror.
15	19/11/2005-06	13th December 2005 Caste atrocity in Gadchiroli, Father was forced to feed his own son with excreta—'Samrat'
16	1210/16/2005-06	13th January 2006 School going children present a pitiable sight that more, me to write this letter—(R. G. Sindhkar letter), dated January 2006).
17	1260/16/2005-06 Mumbai 1181	20th January 2006 Related to former Headmaster of BMC.—Loksatta dated 20th January 2006.
18	112/3/2005-06	Against the injustice happend with Milind Athawale. Title—'Aaj RPI cha Morcha'—Deshonnati dated 13th January 2006.
19	44/2/2005	25th January 2006 Related to death by taking poison shri Mudhukar Shikare dated 1st January 2006—(Lokmat. dated 19th January 2006 Akola).
20	33/16/2005	12th January 2006 Disatisfied against Bank Manager—Deshonnati.
21	1298/16/2005	30th January 2006 Cement Plant at children's Home—Mumbai Mirror, dated 17th January 2006.
22	1415/16/2005	14th February 2006 Hostel roof collapses kill's labour (Lingaya Mangar)—Indian Express, dated 13th February 2006.
23	241/17/2005-06	20th February 2006 Operation Metal Asylum : LT impact Probe ordered into misdeeds, Lokmat Times (Nagpur)—dated 19th February 2006.
24	132/3/2005-06	22nd February 2006 beating to the student Kishor Bhaskar Gaikwad in Vadgaon Rajdeet—'Sakal, dated 13th February 2006'
25	104/08/2005-06	7th March 2006 Former Headmaster not given lacks of Rupees of the students Scholarship (Ex-Principal, Mr. Ganesh Suresh Varangaonkar)
26	108/28/2005-06	18th March 2006 Outrage in House over Stripping of Dalit Woman The Indian Express, dated 17th March 2006.

Custodial Death Cases

2.10 The Commission received a total of 215 intimations regarding custodial deaths during the current reporting year. Of the 215 intimations 137 pertained to deaths in judicial custody. There were 19 intimations of deaths in beggar's homes, 25 intimations regarding deaths in children's homes, 32 deaths in police custody and 2 deaths in leprosy home.

The chart is showing the given figure of custodial death cases :



CHAPTER - 3

RIGHTS OF ARRESTEE'S SUB-COMMITTEE

The right to life or personal liberty is enshrined in Article 21 of the Constitution of India. It encompasses right to live with human dignity and includes an inbuilt guarantee against torture or assault by the state or its functionaries. Article 22 of the Constitution provides protection against arrest and detention in certain circumstances. In tune with these constitutional safeguards number of statutory provisions seek to protect personal liberty, dignity and basic human right of the citizens.

3.2. The Hon'ble Supreme Court has observed in *D. K. Basu versus State of West Bengal* (AIR 1997 SC-610).

"The precious right guaranteed by Art 21 of the Constitution cannot be denied to convicts, undertrial detenues and other prisoners in custody, except according to the procedure established by law by placing such reasonable restriction as permitted by law. Any form of torture or cruel, inhuman and degrading treatment would fall within the ambit of Art. 21 of the Constitution whether it occurs during investigation, interrogation or otherwise. Transparency of action and accountability are two possible safeguards which the Court insisted upon".

3.3 The Supreme Court has given certain guidelines to achieve these objectives, while effecting arrest of an individual in order to achieve this objective.

The Supreme Court, with a view to ensure proper compliance for further monitoring of the case to see that the 11 "requirements", spelt out in *D. K. Basu's* case besides other statutory safeguards, are implemented in letter and in spirit directed that the task be assigned to the human Rights Commissions constituted in various States.

It was directed to constitute Sub-Committees in Human Rights Commissions with a view to observe whether these requirements are being carried out or not and to take all such further necessary action as are required to ensure that these requirements are carried out properly.

3.4 According to the Directions of Hon'ble Apex Court, the Maharashtra State Human Rights Commission has constituted a sub-committee for the purpose of monitoring 11 guidelines of the Hon'ble Supreme Court.1.

Composition of Sub Committee

3.5 The Hon'ble Members of Sub-committee as follows :—

- (1) Shri M. R. Patil Chairperson of the Sub Committee.
- (2) Dr. V. S. Chitnis Member.
- (3) Shri. C. L. Thool Member.

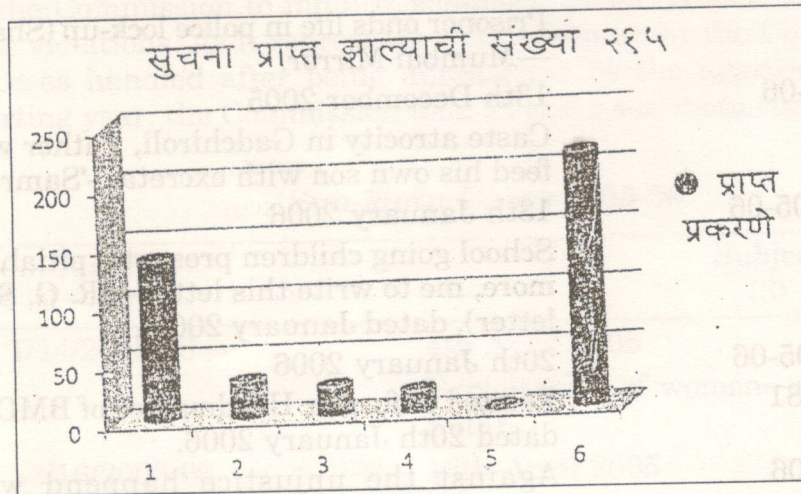
Surprise Visits to Police Stations, Summary of observations and Recommendation.

3.6 As per the orders of the Hon'ble Supreme Court of India main function of the Sub-Committee is to monitor compliance of the guidelines given in *D. K. Basu Versus State of West Bengal* by the Supreme Court and to pay visits to the police stations in the state to

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verify the compliance on the spot. In accordance with these orders Sub-Committee has performed its function and visited various police stations in Maharashtra State. In the year 2005-06 police Stations, have been visited.

3.7 During the visits all the data pertaining to the arrest, medical examination, information of arrest of the person to the relatives etc. has been examined. Arrest memo as envisaged by the Hon'ble Supreme court is also seen to verify whether the signature of the arrestee is on record and whether it is attested by the witness and whether it bears the signature of the arresting officer. The observations and recommendations given by the Sub-Committee are summarized as below :—

Sr.No.	Police Station's Name	District	Date	Member who visited
(1)	(2)	(3)	(4)	(5)
1	Bhosari	Pune	17th April 2005	Hon'ble Member Shri M. R. Patil.
2	Phulambri	Aurangabad	3rd May 2005	Hon'ble Member Shri M. R. Patil.
3	Mahuli Jahagir	Amravati	4th June 2005	Hon'ble Member Shri M. R. Patil.
4	Lonawala Police Station	Pune	11th June 2005 & 12th June 2005	Hon'ble Member Shri M. R. Patil.
5	Bhdravati	Chandrapur	29th June 2005	Hon'ble Member Shri M. R. Patil.
6	Warora	Chandrapur	29th June 2005	Hon'ble Member Shri M. R. Patil.
7	Phulambary	Aurangabad	3rd September 2005	Hon'ble Member Shri M. R. Patil.
8	Rajapur and Frazerpura	Amravati	12th September 2005	Hon'ble Member Shri M. R. Patil.
9	Ambazari Police Station	Nagpur	18th September 2005	Hon'ble Member Shri M. R. Patil.
10	Haveli Police Station	Pune	23rd September 2005	Hon'ble Member Shri M. R. Patil.
11	Bundgarden	Pune	24th September 2005	Hon'ble Member Shri M. R. Patil.
12	Kalamb	Yeotmal	30th September 2005	Hon'ble Member Shri M. R. Patil.

Observation and Recommendations :—

Sr. No	Name of the Police Station	Date	Observations	Remarks
(1)	(2)	(3)	(4)	(5)
1	Murud Police Station	28th May 2005	Hon'ble member Dr. V. S. Chitnis visited Murud Police Station, Raigad and Found that the register showing arrestees name not mentioned.	Instructed accordingly.
2	Ambazari Police Station	18th September 2005.	Hon'ble Chairperson of sub committee Shri M. R. Patil visited Ambazari Police Station and it was found that there was no arrest memo prepared.	Instructed accordingly.
3	Warora Police Station	29th June 2005.	Hon'ble Chairperson of sub committee Shri M. R. Patil visited Warora Police Station.	Instructed accordingly.
4	Lonawala Police Station and Bund Garden Police Station	5th June 2005. 17th October 2004.	Hon'ble Member Dr. Chitnis visited Lonawala rural Police Station and Lashkar Police Station Pune and found that register as per supreme Court norms was not maintained.	Instructed accordingly.
5	Haveli Police Station	2crd September 2005.	Hon'ble Chairperson of sub committee Shri M. R. Patil visited Haveli Police Station Pune and found that arrest memo was prepared but was not in printed form.	Instructed for corrective measures.
6	Phulambri Police Station (Aurangabad)	3rd May 2005.	Hon'ble Chairperson of sub committee Shri M. R. Patil visited Phulambri Police Station Aurangabad and found arrest memo was not properly prepared.	Instructed for corrective measures.

3.8 All recommendations of the Sub Committee are conveyed to the officers of the concerned police stations on the spot. the Sub Committee has been receiving quarterly reports from all district superintendent of police of Maharashtra State and the proper implementation of 11 requirements is being monitored.

CHAPTER - 4

PROMOTION OF HUMAN RIGHTS EDUCATION AND AWARENESS

For the promotion of human rights Education and Awareness. The Hon'ble Chairperson of the Commission Justice A. D. Mane had delivered several lecture in different programs arranged by various NGO's, Colleges, Canters and organizations etc. in the Maharashtra.

4.1 These institutions have not realized their initial expectations, there are experienced personnel and other resources that could be utilized by the new Commission. One of the lessons of legal and institutional reform is that you do not necessarily resolve a problem by creating a new institution or by passing a new law. The real challenge is to appoint to these institutions persons with the vision, commitment, energy and administrative will to ensure that these institutions fulfill the powers and responsibilities that have been entrusted to them.

The United Nations Charter on Human Rights has identified several factors that are relevant to the effective functioning of national Human Rights Commission. The First consideration is independence. This independence should be ensured through legal, operational and financial autonomy, clear appointment and procedure and the composition of the Commission. In this regard it has been suggested that the criteria for appointments to the Commission be that members have "proven expertise and competence in the field of protecting and promoting human rights."

The second consideration relates to a clearly defined jurisdiction and dequate powers. With regard to jurisdiction, Amnesty International and other commentators have expressed concern with regard to the Commission's powers, under section 13(b), to investigate complaints of human rights abuses by non state actors as a result of an act which may constitute an offence under the PTA. There are not conceptual and practical concerns that need to be considered.

The third consideration is accessibility. This includes awareness of the institution physical accessibililty, and accessibility by ensuring that the Commission, through its composition, represents all components of civil society. In this regard, consideration should be given to the establishment of regional Sub-Commissions and regional and district offices of the Commission.

The fourth consideration is the requirement of co-operation. The Commission should develop co-operative relationship with inter Governmental organizations. Other national human rights Commissions and related institutions, and with non-Governmental organizations directly concerned with the promotion and protection of human rights.

The fifth issue is that of operational efficiency. This includes the provision of adequate finances and the ability to recruit impartial and efficient staff. The Commission must also adopt its own working methods and rules of procedure to maximize operational efficiency.

The final issue is the question of accountability. The Commission must develop reporting obligations that are linked to its mandate and its goals.

Website of The Commission

4.2 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 premises of the Commission were inaugurated by the Hon'ble Dy. Chief Minister and Home Minister Shri R. R. Patil on dated 2nd March 2005.

4.3. 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.

4.4. Since its launch, the website has received tremendous response from the public. The Commission intends to ameliorate the user-friendliness and effectiveness of the site with constant updates. Also efforts are being made to upload all data relating to ongoing as well as disposed cases of the Commission on this website.

Staff

5.1 The staff of the Commission continuously working among three wings namely, Administrative Wing, headed by the Secretary, Investigation Wing headed by the Inspector General of Police, Legal Wing headed by the Registrar.

5.2 During the year 2005-2006, the Secretary Shri Amitabh Chandra continued to work as a Secretary of the Commission. Shri Shubhash Awate, IPS, continued from the date 19th December 2001 as Inspector General of Police, Investigation. After the departure on dated 1st March 2004 of D. S. Purshit as a Registrar of the Commission, Shri P. R. Bolekar took the charge on dated 9th March 2004 as the Registrar of the Commission.

Premises

5.3 The Government of Maharashtra vide its G.R. No. HRC/1099/37/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, Tradeo, Mumbai, New Administrative Building, Bandra (E), and Old Custom House, Mumbai finally vide its Circular No. G. A/11/6/MC/N.15/2001 dated 20 June 2002, the Government allotted 2380 sq. ft. in the premises of Administrative Staff College Building at 9, Hazratnagar, Sonant 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

5.4 During the year 2005-06, the State Government made available a grant of Rs. 1 crore 40 lakhs 9 thousand, against which the total expenditure was Rs. 1 crore, 99th lakhs, 9 thousand. Out of this Rs. 84,320 was spent on Pay and Allowances.

CHAPTER - 5

ADMINISTRATIVE MATTERS AND LOGISTIC SUPPORT

The Government of Maharashtra *vide* its G. R. HRC.No.1099/378/Pol-14, dated 15th January 2000 established the State Human Rights Commission which became operational on 6th March 2001. The said resolution is mention's that there would be a Chairperson and three Members of the Commission and its head quarter will be at Mumbai. Justice Anant Mane, Member was appointed as the acting Chairperson, in 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

5.1 The staff of the Commission continuously working among three wings nemely, Administrative Wing, headed by the Secretary, Investigation Wing headed by the Spl. Inspector General of Police, Legal Wing headed by the Registrar.

5.2 During the year 2005-2006, the Secretary Shri Amitabha Chandra continued to work as a Secretary of the Commission. Shri Shbhash Awate, IPS, continued from the date 19th December 2001 as Inspector General of Police, Investigation. After the departure on dated 1st March 2004 of D. S. Purohit as a Registrar of the Commission, Shri P. R. Belorkar took the charge on dated 9th March 2004 as the Registrar of the Commission.

Premises

5.3 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, Tradeo, 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 20 the 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

5.4 During the year 2005-06, the State Government made available a grant of Rs. 1 crore 40 lakhs 9 thousand, against which the total expenditure was Rs. 1 crore, 29th lakhs, 9 thousand. Out of this 86,84,320 was spent on Pay and Allowances.

CHAPTER - 6

ILLUSTRATIVE CASES DECIDED BY THE COMMISSION

1. Case No. 2193/2004/10812.—

Complainant : Mr. Bapurao Gopalrao Kanhekar.

Respondent : The Secretary, Irrigation Department, Mantralaya, Mumbai.

Quorum : Single Bench.

Nature of Complaint.—The complainant had retired from Government service and made the grievance that he has not been paid pension and other benefits.

Action taken by the Commission.— The Commission called the report from the respondent, the Secretary, Irrigation Department, Mantralaya, Mumbai as per the report submitted to the Commission on 17th June 2005, it was stated that the Department needs to get proper documents which had been sealed by Anti-corruption Bureau. The Department felt that his pension could not be assessed.

Decision of the Commission.— The Commission did not find any reason for not finalisation of benefits on his retirement on 31st March 2005. It is a matter of regret that his pay has also not been fixed though he is under suspension for 12 year, as the file was pending in the Anti-corruption Bureau. The Commission directed that, the concerned department to take action. And the action taken report should be sent within 8 weeks.

With this direction the case was disposed off.

2. Case No. 3514/2004-05/10811.—

Date : 4th February 2005

Complainant : Shri Anand Sherkhane

Respondent : 1. The Secretary, Irrigation Department, Mantralaya, Mumbai.
The Registrar-in-charge, Debts, Recovery Tribunal.

Quorum : Single Bench.

Nature of Complaint.—The complainant received on 4th February 2005 from the Recovery Officer of Debts Recovery Tribunal, Aurangabad for alleged violation of human rights, and humiliation of the complainant, being a member of scheduled caste community.

Action taken by the Commission.— The Commission called for the remarks from the Presiding Officer, Debts Recovery Tribunal and also from the Registrar of the Tribunal on 3rd March 2005. Both the respondents have submitted their respective reports.

Decision of the Commission.— The Commission thought it appropriate to direct that the case be transferred to the National Human Rights Commission, New Delhi, for disposal as the serious allegation made by the complainant in the Complaint, which are no doubt refuted by the respondent. The State Commission is precluded from entertainnig the case. The Registrar of the Commission to act accordingly and with direction the case standes disposed off.

3. Case No. 103/17/05/1432

Complainant : Shri Kiran Devravji Patil

Respondent : (1) Director, Medical Education and Research, Mumbai.

(2) The Superintendent of Hospital Marg, HSP.

Quorum : Single Bench

Date : 2nd March 2006.

Nature of Complaint.—This is a case of violation of human Rights of a newly born Child. The wife of the complainant was admitted in the hospital for the delivery, and the wife delivered a baby girl. But it was a pre-matured baby. The new born baby was kept in warmer for post operative case and the attending nurse has failed to monitor the baby, as a result, the baby sustained burn injuries. The baby is permanently disabled.

Action taken by the Commission.—Notice was issued to the Director of Medical Education and Research, Mumbai and also to the Superintendent of the Hospital. In response to the notice report submitted by respondent and it was pointed out that the Committee consisting of doctors were constituted to inquire the case of negligence for fixing the responsibility on the attending staff.

Decision of the Commission.—The Commission recommended that the Director Medical Education and Research, Government of Maharashtra, Mumbai shall pay to the complainant a sum of Rupees Two Lacs within a period of six weeks and submit the compliance report to the Commission within a period of two weeks.

4. Case No. 1138/16/2005

Complainant : Smt. Sunanda Tukaram Sakare

Name of Victim : Daughter of Complainant.

Smt. Sujata Nikalje

Respondent : The Commissioner of Police, Mumbai.

Date of Order : 24th January 2006.

Quorum : Full Bench.

Nature of Complaint.—The Complaint was against the Police, at the time of arrest police not followed the norms given by the Supreme Court. Also the grievances were about unnecessary police harassment and torture.

Action taken by the Commission.—The Commission directed the D.C.P. to submit a factual report along with all concerned document. Shri Dhananjay Kamalkar, D.C.P., The Dy. Commissioner of Police submitted his report on 12th January 2006. The Police Inspector and A.C.P. submitted an affidavit.

Decision of the Commission.—The Commission had given the recommendation that severe departmental action should be taken against Shri Vinayak Kadam, A.C.P. and Shri Nagesh Lohar, Sr. P.I. by the Government of Maharashtra as per order contained in paragraph 36 of the judgement of the Hon'ble Supreme Court of India in D. K. Basu's Case.

The Commission further directed the Secretary of the Commission to send a copy of this order to the Additional Chief Secretary, Home Department, Mantralaya, Mumbai for further action as per section 18(5) of the Protection of Human Rights Act, 1993.

5. Case No. 3747/4039/4051/2004-05/10814

Complainant : (1) SHri Sanjay Amre and others

Respondent : (1) The C.E.O., SRA.

(2.) Municipal Commissioner, BMC

(3) Deputy Collector, Encroachment Department.

Quorum : Single Bench

Nature of Complaint.—The Complaint was against BMC, which relates to distribution of tenements of the complainants under the slum rehabilitation scheme. The complainants society were given alternate accommodation in transit camp on demolition of their houses. They were shifted to the transit camp. The complainants state that 54 members of the society were staying in the transit camp since last four and half years, though they were entitled to permanent houses in newly constructed building by SRA, in accordance with demolition priority list. The complainant also alleged that as much as nearly 80 rooms are ready for allotment.

Action taken by the Commission.—The Complaint took cognizance and issued notice to the respondents. Commission also directed the respondent to submit their report along with demolition priority list.

Decision of the Commission.—Each member, whose names appears in demolition priority list should be entitled for allotment of tenement and no injustice should be caused to them.

The Commission recommended that SRA to act in accordance with demolition priority list which had been submitted to the Commission.

6. Case No. 2149/2004/10940

Date of Complaint : 6th October 2004

Complainant : Shri Dahatraya Murlidhar Chavan

Respondent : The Commissioner of Police, Nashik.

Quorum : Single Bench

Nature of Complaint.—The Complainant, in his complaint dated 6th October 2004 made a grievance of false implication in cases by Panchavati Police Station. He stated that two policemen demanded illegal gratification for which he made a complaint to the Anti Corruption Bureau and they were arrested. According to the complainant, the Panchavati Police had subjected him, his wife and son to harassment.

The complainant states that, he was arrested on the false charge, and that order was quashed. So the case was against harassment.

Action taken by the Commission.— The notice was issued and a report was called from the respondents. In response to the notice commissioner of Police, Nashik had submitted his report. The complainant had filed the rejoinder in response to the report.

Decision of the Commission.— The Commission therefore recommended that, the Commissioner of Police, Nashik may instruct the concerned Investigation Officer to record supplementary statement of the complainant's wife and collect further evidence if any, and on satisfaction may submit the supplementary charge sheet for other offences, if *prima facie* the case is made out.

7. Case No. 2354/2004/11033

Date of Complaint.—30th June 2005.

Complainant.— Shri Suryakant Mahadeo Padharkame.

Respondent.— (1) The Collector of Raigad-Alibag.

(2) The Superintendent of Police, Raigad.

Quorum.— Single Bench.

Nature of Complaint.— This complaint is against the police. PSI Shri Shashikant Sawant of Shriwardhan Police Station did not record properly the complaint of assault. And the complainant and his associates have been threatened by the PSI to involve them in offence in which they would be confined in Jail for about 2 years.

Action taken by the Commission.— The Commission has issued a notice and called for report from S.P., Raigad. In response to the notice issued to the Superintendent of Police, Raigad, he has submitted his comments on 16th March 2005 answering each allegation. Commission had fixed the matter for hearing.

Decision of the Commission.— The Commission recommended that the Collector, Raigad shall review the grant of licence to the complainant and his elder brother. The Collector was directed to submit his action taken report to the Commission within 4 weeks.

8. Case No. 77/3/2005/1952

Date of Complaint.—14th March 2006.

Complainant.— Dr. Nalini Shamkant B. Harade.

Respondent.— (1) Vice Chancellor, Nashik Maharashtra Health Services, Nashik.

(2) Principal, Pandit Jawaharlal Nehru Memorial Institute of Homeopathy Medical College Badnera Stn., Amravati.

(3) The Commissioner, Regional Provident Fund, Nagpur.

Quorum.— Single Bench.

Nature of Complaint.— The Complaint was against injustice for not giving her proper salary and post. The Complainant was a diploma holder in homeopathy and joined the college J. N. M. I. H. M. S., Amravati from 1976. According to her, between 1978 to 1985 she was a lecturer and from 1985 to 1996 she worked as a Medical Superintendent and till 1999 she worked as a Professor. There had been injustice for not giving her proper salary and post.

Action taken by the Commission.—The Commission called for the report from Dr. Dhole and Principal of the institute. In respect of the notice the Principal had submitted the report. The Vice-Chancellor also submitted his report.

Decision of the Commission.—The Commission given decision in the matter and recommended that the Principal Pandit Jawaharlal Nehru Memorial Institute of Homeopathic Medical College, Badnera Road, Amravati to give appointment to the complainant as a Medical Superintendent in the revised pay skill with back wages with effect from September 2002. The compliance report was to be submitted to the Commission.

8. Case of Suo-Motu No. 2/2004 with Case No. 537/2004/1032.

Date of Complain :

Complainant.—(1) Dr. Harish Shetty and Others.

Respondent.— (1) The Secretary, School Education and Sport Department, Mantralaya, Mumbai.

(2) Director of Education, Pune.

(3) The Principal, Parle Tilak Vidhyalaya.

(4) The Principal, Bal Mohan Vidhyalaya, Dadar (W.).

(5) The Principal, Raja Shivaji Vidhyalaya, Dadar.

Order Date.— 27th June 2006.

Quorum.—Single Bench.

Nature of Complaint.— The Complaint was regarding the rights of the school going children and the question relating to their segregation, based on their academic performance in some schools in Mumbai.

Action taken by the Commission.— The Commission issued a notice to the Chief Secretary, Government of Maharashtra and the Director of Education, Pune. In response to the notice the Secretary, School Education Department, Mantralaya, Mumbai, submitted his report.

Decision of the Commission.— The Commission feels that the piecemeal reform effort cannot change the beliefs, relationships and organisational structures reflecting the current system. Furthermore the recurring cycle of piecemeal reforms regularly exposes children, especially poor children, to great instability. School closures, high teacher turnover and frequent programme terminations, without tackling the underlying issues. Instead reforms struggles are needed that draw people into the larger ongoing struggle for total system change. The Human rights framework demands that educational resources must be distributed across communities according to need to ensure that children from different socio-economic backgrounds and with different economic, social and emotional capabilities are all able to receive a quality education. Human rights can strengthen the struggle for equity and quality in education because they bring all these issues together under one framework. The Commission hoped that the Government would give full attention to what had been observed, to prepare students to excel in the 21st Century by enabling them to achieve high academic technology and social goal through quality intercultural education which was dreamed by our Constitution makers. It is expected that the schools will follow the Government Resolution. However, to build into the system is an expectation and the expectation would fail to meet if there is no implementation of the Government Resolution. The Commission, therefore, recommended that the Government should establish an Independent Task Force for observing the compliance of the Government Resolution. With this, the case was disposed off.

9. Case No. 169/16/2005/323.

Complainant.—Sau Sunita Sitaram Satam.

Respondent.—(1) The Municipal Commissioner, Mumbai.

Date of Order.—10th January 2006.

Quorum.—Single Bench.

Nature of Complaint.— The Complainant's grievance was that due to collusion between her neighbour and officers of Municipal Corporation, she was not getting regular water supply and also some mischief was played to her water connection, though she was having an independent water connection provided by the BMC.

Action taken by the Commission.— In response to the notice issued to the Commissioner, Bombay Municipal Corporation has submitted its report.

Decision of the Commission.— The Assistant Engineer, Water Works Division, agreed to shift the booster pump from 4th Floor to 1st Floor level so that the Complainant would get regular water supply. The complainant however, apprehends that in future trouble may also be repeated but Shri Madan, Assistant Engineer assured that in case of repairs the proper instruction would be issued to the plumber for not disturbing the complainant's water supply. Due to the intervention of the Commission the grievances of the complainant was redressed.

10. Case Number—3304/2004-05/10802.

Name of the Complainant : Shri Hanumant Rao Sahib Khandekar.

District : Satara.

Respondent : (1) Director General of Police, Mumbai.

(2) Superintendent of Police, Satara.

Date of order : 24th June 2005.

Quorum : single bench.

Nature of the Complaint :—The complaint was regarding the missing of complainants father who has contested the election of Gram Panchayat, against his rival Shri Raja Ram Tatoba Anute. The complainant suspects foul play about the death of his father and at the instance of Raja Ram Tatoba.

Action taken by the Commission : The Commission issued notice and called for report from the respondent. The respondent has submitted a report to the Commission.

Decision of the Commission : The Commission was satisfied that the case was to be investigated by State Crime Branch, CID, and it would not be possible for the Commission to give justice in the matter.

The Commission recommended that the Director General of Police Maharashtra State, Mumbai should entrust the present case to State CID Crime, for investigation and report to the Commission within six weeks. Also they were directed to submit the action taken report to the Commission.

11. Case No. : 2695/2004/10662

Complainant : Prakash Sambhajirao Nagatilak

District : Lathur

Respondent : 1. The Collector, Lathur

2. The Chief Executive Officer,

Zilla Parishad, Lathur.

Date of Order : 15th June 2005

Coram : Single Bench.

Nature of the complaint.—The Complainant is a Scheduled Caste and is below poverty line, He has been educated upto MA. MPhil. B.P.ED. He is also the eligible candidate for the selection list of physical teacher issued by the District Selection Committee, Lathur. As per the advertisement, the candidate was eligible for the post. His claim of appointment was denied by the Collector and the Chief Executive Officer, Zilla Parishad, as well as Education Officer and Secretary of District Selection Committee, Zilla Parishad, Lathur.

Action taken by the Commission.—The Commission issued a notice and called for a report from the Collector as well as the Chief Executive Officer, Zilla Parishad, Lathur. In response to the notice issued, the Chief Executive Officer has filed his response report to the Commission.

Decision of the Commission :—On hearing Shri Kadu Patil, CEO, Lathur and Education Officer, they submitted that the claim of the complainant be considered in the next available vacancy for the appointment of general teacher or physical teacher as the case may be as per the classification. They also submitted that there was a likelihood of vacancy in the near future and that his claim would be considered in the next available vacancy.

The Complainant agreed to this submission. The Commission recommended that the case of the Complainant be placed before the Chairman of the Selection Committee to appoint the complainant in next available vacancy as physical teacher in any of the schools under Zilla Parishad and also directed to submit the action taken report to the Commission within six weeks.

12. Case No. 433/2003/10450

Complainant : Tulshi Ram Aakoba Chauhan,

District : Pune.

Respondent : 1. District Magistrate Pune,

2. Superintendent of Police, Pune,

3. The Commissioner of Labour.

Date of order : 9th June 2005.

Quorum : Single bench.

Nature of the Complaint : The Complainant was a bonded labour employed by his employer Shri Popet Rao Burungale, of village Malegaon, Taluka Baramatti.

Action taken by the Commission : The notice was issued and called report from District Magistrate, Pune. In response to the notice, District Magistrate submitted his response report on 17th September 2004. The Superintendent of police also submitted his report on 22nd September 2003. The complainant responded saying that his complaint was not about bonded labour but non payment of wages. He had made a complaint to the Labour Commissioner, Pune as well as filed the dispute before the labour court. A enquiry conducted by the District Magistrate revealed that this was not a case of bonded labour.

Decision of the Commission : The Commission has recommended that, the Commissioner of Labour, Pune, should dispose the application within a period of four weeks and should submit his action taken report to the Commission.

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