2007-2008

MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

SEVENTH ANNUAL REPORT

(1st April 2007 – 31st March 2008)

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PREFACE

This is the Seventh Annual Report of the Maharashtra State Human Rights Commission for the period 1st April 2007 to 31st March 2008.

Section 2 (1) (d) of The Protection of Human Rights Act 1993 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 courts in India. In a civil society the rights of people are protected by the Sovereign State and they are uniform, indivisible, inalienable and interdependent and apply to all peoples everywhere without any bias or discrimination. The realization of these rights is essential for every human being to live a life of dignity.

We present here the Seventh Annual Report for the Year 2007- 2008 to the State Government, which is subsequently to be placed before the Legislative Assembly in accordance with Section 28 of the Protection of Human Rights Act, 1993.

The present Hon'ble Chairperson and Hon'ble Member assumed office in the Commission in September, 2013. Till then, for the reasons best known, the annual reports from 2007-08 to 2012-13 were not prepared by the then Secretary Shri Mafiul Hussain. Thereafter, the pending work of this Annual Report of the earlier period of the Commission was taken up on top priority and is being submitted now. It is made clear that the information and statistics stated in the report is based on the report prepared by the then Secretary.

Shri Bhagwantrao D More
Member

Justice Shri S R Bannurmath
Chairperson

Place: Mumbai:

Date:

CHAPTER-I

INTRODUCTION

Reminiscing into the world of Human Rights, we see how this concept has evolved over the years the world over. The story of Human Rights is the story of mankind itself. Through the ages, there were struggles for the liberation of man, these struggles were for the protection of every man's right, his basic Human Right. King John of England violated a numberof ancient laws and broke some of the oldest customs and traditions by which the country was governed. His disgruntled subjects eventually forced him to sign the "Magna Carta" in 1215, which was a Charter, which enumerated numerous rights. In the year 1689 the Bill of Rights established the concept of Human Rights. The French revolution, where the monarchy was overthrown and the Republic established gave to the world the French concepts of, "liberte, egalite et fraternite" which mean "Liberty, Equality and Fraternity."

The French Revolution also gave birth to the "Declaration of Rights of Man" in 1789. The U.S. Declaration of Independence (American Bill of Rights,1 791) through which British colonies in North America proclaimed Independence, reads, "We hold these truths to be self evident; that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and pursuit of happiness." A bloody war over slavery almost destroyed the United States of America, and eventually the rights of every man were recognised irrespective of his race. If one looks at the Indian freedom struggle carefully, one can see that it was a struggle for human rights. Many countries have had revolutions and some movements were for Independence, as people were being oppressed and exploited and their basic human rights being trampled upon. A human right is the Right of Man, which he has since birth. Human rights include all basic freedoms and are based on the demands of mankind for a dignified life, where each human being is respected and taken care of. These rights are basic and infact essential for achieving the human dignity, that is, to preserve all human beings. Human Rights are universal, uniform, indivisible, integral, inalienable, interdependent, natural and basic in nature.

1.2. Over the years, man realised that in order to protect these rights they must be properly enumerated and mechanism must be put in place in order to protect them. The United Nations in 1948 through the Universal Declaration of Human Rights enumerated certain Rights and declared that these were the basic rights of every human being, irrespective of any factor of differentiation. These rights must be guaranteed and protected by each and every State. The declaration was followed by two Covenants on Civil and Political Rights, and Economic, Social and Cultural Rights in 1966. The International Covenant on Economic, Social and Cultural Rights states that certain rights can never be limited or suspended even in an emergency situation. It recognises the right to life, including the right to education, right to adequate standard of living, right to work, right to pay for equal work, right of minorities to enjoy their own culture, religion and language. The Covenant on Civil and Political Rights talks about, the prevention of apartheid in any form and guarantees rights to people which are enjoyable by all without any discrimination on the ground of race, colour, sex, language, religion or social origin.

1.3. If we compare the Universal Declaration of Human Rights and the two Covenants with the 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 mechanisms to protect these rights. The Constitution guarantees to all its citizens, the basic rights and an egalitarian society, where all citizens are equal and free. The Constitution speaks about equality of man, his equal status before the law, the provision of equal opportunity to all men, the right to life and personal liberty, the freedom of thought, expression, speech, faith and belief. It also provides that, an aggrieved citizen may move, the Supreme Court (under Art. 32) or the concerned State's High Court (under Art. 226) to issue writs for the protection of Human Rights.

1.4. The International Bill of Human Rights, is an informal name given to International treaties and General Assembly, resolution established by the United Nations. It consists of the Universal Declaration of Human Rights (adopted in 1948), the International Covenant on Civil and Political Rights (1966) with its two Optional Protocols and the International Covenant on Economic, Social and Cultural Rights (1966). The two covenants entered into force in 1976, after a sufficient number of countries had ratified.

1.5. In the beginning, different views were expressed about the form the bill of rights. In 1948, General Assembly, planned the bill to include UDHR, one Covenant and measures of implementation. The Drafting Committee decided to prepare two documents: one in the form of a declaration, which would set forth general principles or standards of human rights; and the other in the form of a convention, which would define specific rights and their limitations. Accordingly, the Committee transmitted to the Commission, on Human Rights draft articles of an international declaration and an international convention on human rights. At its second session, in December 1947, the Commission decided to apply the term "International Bill of Human Rights" to the series of documents in preparation and established three working groups, one on the declaration, one on the convention (which it renamed "covenant") and one on implementation. The Commission revised the draft declaration at its third session, in May/June 1948, taking into consideration comments received from Governments. The declaration was therefore submitted through the Economic and Social Council to the General Assembly, meeting in Paris.

1.6. The human rights Commission, consistent with its mandate, took up issues involving human rights that are of significance, either *suo motu*, or when brought to its notice by the civil society, the media, concerned citizens, or expert advisers. Its primary focus is to strengthen the extension of human rights to all sections of society, in particular, the vulnerable groups.

CHAPTER – II

COMPLAINTS HANDLED BY THE COMMISSION

2.1. This was the seventh year of the Commission's working, and in comparison to work done in the previous year, there was a sharp rise in work done during the present year, in view of the fact that, posts of Hon'ble Members, which were vacant due to retirement of former Members, were filled up. There has been gradual increase in the number of complaints, received by the Commission each year, which reflects the growing awareness amongst the public.

STATISTICAL DATA

2.2. In the current reporting year, i.e. 2007-08, the Commission received total 6473 fresh cases. We had a pendency of 4948 complaints from the previous year. During 1st April 2007 to 31st March 2008, 5974 complaints were disposed off, 5447 complaints were pending for disposal at the end of the current year.

2.3. Recommendations/reliefs were made to the concerned Governmental Authorities in 197 matters during the current reporting year.

2.4. During the year 2007-08, 140 new complaints were sent to the Investigation Wing of the Commission. Also, 73 old cases were pending from the previous year. Out of this total of 213 cases, 198 cases were investigated during this year. 18 cases were pending at the end of the year.

2.5. The Commission took *suo-motu* cognizance in 5 matters during this year.

NATURE OF COMPLAINTS

2.6. An analytical study was conducted on the 6473 complaints received by the Commission, and they were divided on the basis of the following categories :—

ENTERTAINABLE BY THE COMMISSION AS PER THE PROCEDURES AND REGULATION

(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 ..... **(1814 matters).**

(ii) Against local self-governing bodies - This category includes complaints against Gram Panchayats, Panchayat Samitis, Zilla Parishads, Municipal Councils. Municipal Corporations, etc. ..... **(471 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 ..... **(478 matters).**

(iv) Complaints regarding atrocities to SC/ST or other minorities ..... **(108 matters).**

(v) Complaints regarding violation of human rights of Prisoners ..... **(45 matters).**

(vi) Complaints regarding violence and injustice against women – This category includes complaints of harassment, rape, molestation and other crime against women, where the complainant lodge the complaint with the proper authority, but no cognizance of the same was taken by the proper Authority ..... **(157 matters).**

(vii) Matters involving public interest ..... **(166 matters).**

NOT ENTERTANABLE BY THE COMMISSION AS PER THE PROCEDURE REGULATION

(viii) Complaints regarding service matters ..... **(638 matters).**

(ix) Complaints regarding family disputes ..... **(177 matters).**

(x) Complaints regarding land disputes ..... **(284 matters).**

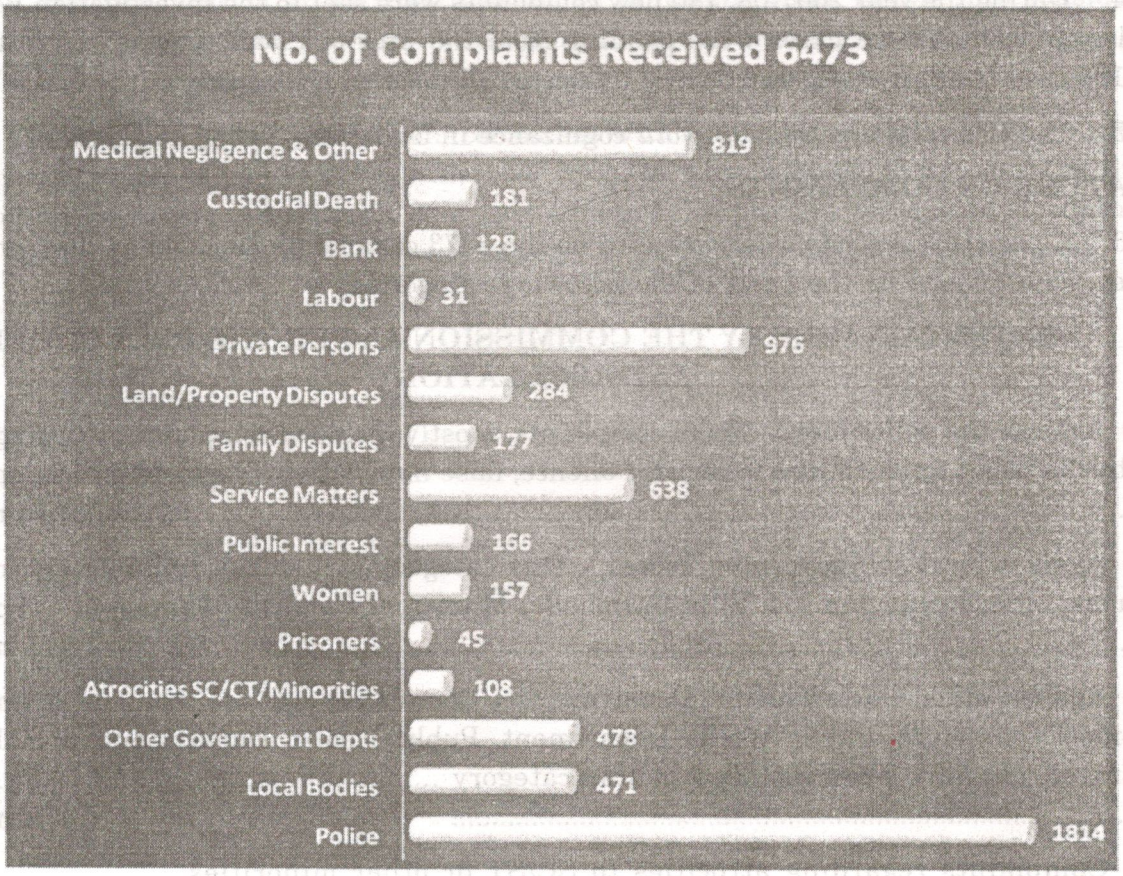
(xi) Complaints against / private persons ..... **(976 matters).**

(xii) Complaints pertaining to private employers and other labour Issues .... **(31 matters).**

(xiii) Complaints against banks, recovery agents, loans, etc. ..... **(128 matters).**

(xiv) Custodial death intimations ..... **(181 matters).**

(xv) Other complaints ..... **(819 matters).**



2.7. Over the years, it has been noticed that complaints against the police force were large in numbers and comparatively highest in number. This is quite a disturbing trend, and training and sensitization programmes are necessary.

SUO-MOTU COGNIZANCE TAKEN BY THE COMMISSION

2.8. The Commission is empowered to take *suo-motu* cognizance or cognizance on its own initiative into matters of alleged or apparent human rights violations. This power has been conferred upon the Commission under the provisions of Section 12 (a) of the Protection of Human Rights Act, 1993.

In the current reporting year, the Commission took *suo-motu* cognizance in 5 cases, a brief summary of the said cases is given below :—

Case No. 1.—An article appeared in the Marathi daily "Sakal" regarding a young boy named Veerdhaval Khade, an excellent swimmer of international standards, who was unable to acquire necessary training due to lack of monetary backing. The article alleged apathy on the part of the Government in promoting a less popular sport like swimming.

The Commission took cognizance in the matter and issued notices to the Department of Sports, Culture and Youth. It is quite heartening to note that after the Commission took note of the matter, several sponsors came forward to support the boy, as well as the appropriate Government Authority took interest in the matter.

Case No. 2.— An article appeared in the 'Times of India' dated on 03.11.2007, wherein it was alleged that a software professional was detained for a period of over 50 days for a crime which he had not committed, due to technical errors. The Commission took *suo-motu* cognizance 111 the matter, and called for reports from the Home Department. The matter was heard by a Division Bench of Hon'ble Chairperson Justice Shri. Kshitij Vyas and Hon'ble Member Shri Subhash Lalla. The Bench found the concerned Police Officer responsible for wrongful arrest as well as BHARTI AIRTEL Company responsible for framing on wrongful information. The Bench recommended Rs. 2 lakhs compensation to be paid by AIRTEL company, and leave it to State to take action against concerned police officer as he retired in the meantime.

Case No. 3.—The Chairperson of the Commission took cognizance of a news article published in the daily "Mumbai Mirror" dated. 6th November 2007 regarding allegation that a young 13 year old girl, Yogita Hindole, who was eaten by personnel of Badlapur Rural Police for a crime which she did not commit. The girl was accused of stealing a gold chain from her teacher, an employee of the Zilla Parishad, Thane.

The matter was extensively heard by the Commission, and the Commission concluded that *prima facie*, human rights of the girl had been violated. By order dated 12th December 2007, it was recommended that payment of Rs. 5,000/- each be made by the Home Department as well as the CEO, ZP, Thane to the victim and to initiate inquiry against concerned Police Officer and concerned teacher.

Case No. 4.—On the basis of the incidents of lawlessness by the workers of a local political party, where taxi drivers and other innocent people belonging to a particular region, were victimized, attacked and mercilessly beaten in Mumbai on 3rd February 2008, which was shown on television and published in daily news papers on 4th February 2008. The Chairperson exercised his *suo-motu* powers and issued notices to the Chief Secretary, ACS (Home), Director General of Police and Commissioner of Police, Mumbai, Thane and Nasik. The Respondents were asked to furnish information regarding steps taken by the Police to prevent the untoward incidents that took place in Mumbai and other parts of the State.

Reports were filed by all the Respondents and the matter was heard in detail by the Division Bench comprising of Hon'ble Chairperson, Justice Shri. Kshitij R. Vyas and Hon'ble Member, Shri. Subhash Lalla. The Commission made recommendations to take actions against the persons responsible for the incidents of 3rd February 2008, while three recommendations of preventive nature were also made.

Case No. 5.—The Chairperson took Suo-Motu cognizance of news that appeared in the Mumbai Mirror dated. 27th February 2008, quoted "Prisoners attempt to suicide to escape dreaded jailor". Two prisoners in the Adharwadi prison, Kalyan allegedly attempted suicide to escape daily torture by the Jailor.

(G.C.P.) Y 1950—4 (600—12–2014)

Detailed inquiry was conducted in the matter, and it was transpired that the prisoners had attempted suicide due to their own personal frustrations, and not due to the alleged torture of the jailor, who was only doing his duty of maintaining law and order. The Hon'ble Chairperson Justice Shri. Kshitij R. Vyas dropped the proceedings with the observation that, while maintaining law, and order and discipline, human approach should be kept in mind.

CUSTODIAL DEATH CASES

2.10. The Commission received 181 intimations regarding custodial deaths during the current reporting year. 120 pertained to deaths in judicial custody. There were 15 intimations of deaths in beggar's homes, 29 intimations regarding deaths in Children's' Homes and 17 deaths in Police custody.

CHAPTER - III

RIGHTS OF ARRESTEES : SUB-COMMITTEE

3.1. Now, in Cri. M. P. No. 12704/2001, arising out of D. K. Basu's case cited supra, by its order and directions, passed on 29th October 2001, the Supreme Court stated that :

"With a View to ensure proper compliance, we consider it now proper that 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, that task be assigned to the Human Rights Commission, constituted in various States / Union Territories".

The Supreme Court has ordered the State Human Rights Commission to constitute a "Sub-Committee" in respective Commission in the country with a view to oversee whether those requirements are being carried out or not and to take all such further necessary steps as are required to ensure that those requirements are carried out. It was also observed that, it shall be open to the Committee to make surprise checks with a view to see actual implementation of those requirements.

Accordingly, the Maharashtra State Human Rights Commission has constituted a Sub-Committee.

RESPONSE FROM CONCERNED AUTHORITIES :

3.2. According to directions of Hon'ble Commission the quarterly reports are received from District Police Superintendents of Maharashtra regarding Compliance of 11 guidelines of Hon'ble Supreme Court.

SURPRISE VISITS :

3.3. About proper compliance of the 11 guidelines of the Supreme Court, Hon'ble Chairman and Members of the Commission visited following Custodial institutions in the year 2007-08.

Sr. No. (1)	Police Station / Custodial Institutions (2)	District (3)	Date of Visit (4)	Hon'ble Members (5)
1	Yerwada Central Prison, Pune	Pune	13th February 2008	Chairperson Hon'ble Justice Shri Kshitij R. Vyas.
2	Panchvati Police Station	Nashik	26th May 2007	Hon'ble Member Justice Shri V. G. Munshi.
3	Commissioner of Police, Pune	Pune	15th June 2007	Hon'ble Member Justice Shri V. G. Munshi.
4	Remand Home, Nashik	Nashik	26th May 2007	Hon'ble Member Justice Shri V. G. Munshi.
5	Nagpur Central Prison	Nagpur	16th July 2007	Hon'ble Member Shri T. Singarvel.
6	District Jail, Satara	Satara	22nd February 2007	Hon'ble Member Shri T. Singarvel.
7	Shirdi Police Station	Ahmednagar	21st July 2007	Hon'ble Member Shri Subhash Lalla.
8	Murud Janjira Police Station	Raigad	19th August 2007	Hon'ble Member Shri Subhash Lalla.
9	Lonavala Police Station	Pune	6th September 2007	Hon'ble Member Shri Subhash Lalla.
10	Hostel	Pune	26th January 2008	Hon'ble Member Shri Subhash Lalla.

OBERVATION AND RECOMMENDATION :

3.4. Hon'ble Chairperson Justice Shri. Kshitij R. Vyas visited Yerwada Prison Pune.

The Hon'ble Chairperson wrote a letter with statements, giving details of the prisoners, offences and their period in jail to Hon'ble Chief Justice, of the High Court of the Judicature at Bombay, inviting attention and requesting him to direct the concerned Courts to expedite hearing and decide in a time bound manner, the cases of undertrial prisoners as in most of the cases, the undertrial prisoners had completed 2/3 rd period of their sentence which they could get after the trial.

CHAPTER - IV

PROMOTION OF HUMAN RIGHTS EDUCATION AND AWARENESS

The Maharashtra State Human Rights Commission is a body that works primarily to address human rights violations that are committed by public servants. The Commission has only quasi-judicial power, to pass orders that are recommendatory in nature, not mandatory. Also, keeping in mind various provisions of the Act, a number of complaints cannot be entertained.

4.2. People who have faced violations or whose rights have been denied, often have a thirst for vengeance, a burning desire to see their oppressors reprimanded. When the system fails to get them what they need, they may well turn to avenues outside the system, which may lead them to the path of lawlessness, antisocial behaviour, and ultimately to destruction.

4.3. There is therefore, a need to work directly at the grass root level, from where the victims / Complainants may approach the Commission. It is necessary to promote the education about human rights and awareness about various forums available for redressal of grievances regarding violation of human rights.

4.4. With this objective, the Commission has been undertaking various activities, participating in workshops and seminars.

AWARENESS PRESENTATIONS AT EDCCATIONAL INSTITUTIONS

4.5. Since the previous year, i.e. 2006-07, the Tata Institute of Social Sciences Mumbai, placed 2 social work students with the Commission on field placements. The Student Social Workers attend the office of the Commission and aid and assist its working, in addition to carrying out their own project work.

4.6. During the present reporting year, the Commission carried out small presentations regarding the fundamental information about the MSHRC at various educational institutions through the Student Social Workers. Graduate level students were identified as the target group for the presentations. The prime objective of identifying this target group was to reach the youth section, which were then expected to disseminate this crucial information through media like NSS activities, street theatre, discussions at academic levels, etc.

4.7. The presentations primarily focused on the factual information based on the Protection of Human Rights Act, 1993. The presentations were made simple and friendly to deliver vital information like procedure to file complaints, and other essential features. 17 colleges and educational institutions, and about 500 students could be reached through this initiative.

4.8. Excellent feedback was received from both the students as well as the institutions. They extended support and were open to further programmes and communication with the State Human Rights Commission.

4.9. The Special Rapporteur, UNO, Mr. Paul Hunt visited the Commission on 28th November 2007. He discussed his work with the Hon'ble Chairperson and Members and officers of the Commission. The Special Rapporteur's mission to India focused on the issues pertaining to maternal mortality. The purpose of his mission was to understand, in the context of the right to health and in a spirit of co-operation and dialogue, the steps taken by India to reduce maternal mortality and to make constructive recommendations. Although the sphere of work of the Commission and the Special Rapporteur were different and varied, the Special Rapporteur was given a brief overview of the working of the Commission and various issues handled by the Commission.

ACCREDITATION OF NON-GOVERNMENTAL ORGANIZATIONS -

4.10. Section 12 (i) of the Protection of Human Rights Act, 1993 empowers the Commission to encourage the efforts of non-governmental organizations and institutions working in the field of human rights. In the course of the working of the Commission, it was observed that there are

several non-governmental organizations that are aiding and assisting the public for redressal of violation of their human rights. At the same time, it is noticed that there are some unscrupulous organizations that operate with the sole objective of cheating and misguiding gullible victims for monetary gains.

4.11. The Commission was of the opinion that any kind of cheating in the name of or under the guise of human rights ought not to be tolerated. With this objective in mind, a meeting was held in the Commission on 15th November 2007. In addition to the Hon'ble Members of the Commission, the following persons were present for the meeting :—

- Shri. V K Agraval (IAS), Principal Secretary, Planning Department, Mantralaya
- Shri V Ramani (IAS), Director General, Yashada, Pune
- Dr. Nair, Yashada, Pune
- Ms Gunjan, Credibility Alliance, Mumbai
- Ms Roshani Nair, TISS, Mumbai and
- Sister Mary Alphanso, Vice Principal, Nirmala Niketan, Mumbai.

4.12. The Government of Maharashtra has empowered Yashada to identify credible volunteer agencies. These agencies voluntarily offer themselves for accreditation. Yashada was requested to prepare a list of accredited organizations, which would aid the Commission in the future.

National Conference on Relief and Rehabilitation of Displaced Persons

4.13. The Commission participated in the conference organized by the National Human Rights Commission on 24-25 March, 2008 at New Delhi. Discussions were held regarding development based displacement, displacement on account of natural disasters and displacement in respect of conflicts.

4.14. Recommendations were made for rehabilitation and resettlement in case of all kinds of displacements. Inter alia, the salient recommendations made at this Conference were :

(1) The basic principles in the National Relief and Rehabilitation Policy must be incorporated in the Rehabilitation and Resettlement Bill, 2007.

(2) There should be a mechanism to ensure equitable sharing of project benefits with the displaced people.

(3) The guiding principle in cases of development related displacement should be minimal displacement.

(4) Social impact assessment and understanding local aspirations are best captured through continuous dialogue with local people who are affected and through civil society groups.

(5) In case of conflict, natural or human-made disasters, there is a need for a larger vision, which emphasizes the "prevention" aspect of displacement.

(6) The Central Relief Fund (CRF) should be renamed as Central Relief and Rehabilitation Fund (CRRF) and finances should be set aside for rehabilitation of displaced individuals.

(7) Pre-displacement, displacement, relief and rehabilitation should be viewed from a rights based perspective rather than an administrative/governance issue that focuses on needs of beneficiaries.

(8) Authorities concerned with pre-displacement, displacement and post-displacement should be sensitized about human rights through capacity building.

WORKSHOPS FOR POLICE OFFICERS AND OTHER OFFICERS

4.15. In collaboration with Yashwantrao Chavan Open University, Nashik, the MSHRC organized workshops at Nashik.

4.16. The first workshop, held on 4th April 2007, was for Police Officers of the rank of Inspectors and Deputy Superintendent of Police from Nasik Range and police officers from the Nasik Police Commissionerate.

4.17. The second one day workshop, held on 5th April 2007, was for Executive Magistrates, Tahasildars and other officers of the Nasik Division.

4.18. Hon'ble Member of the Commission, Shri Subhash Lalla inaugurated both the workshops and remained personally present throughout the day. Both the workshops were well attended and wide publicity was received in the press, both print as well as in electronic media.

WORKSHOP ON CUSTODIAL DEATH

4.19. A workshop on custodial death was organized by the Commissioner of Police, Pune on 15th & 16th June 2007. Hon'ble Member of the Commission, Justice Shri. V G Munshi inaugurated the workshop and addressed the gathering. The workshop was attended by police officers working in the district of Pune. The importance of the 11 guidelines issued by the Hon'ble Apex Court was emphasized and the police officers were sensitized towards a more humane approach in dealing with matters of arrest and detention.

SEMINAR AT SHIVAJI UNIVERSITY, KOLHAPUR

On 19th March 2008 a Seminar was organized by Shivaji University, Kolhapur. The Hon'ble Member of the Commission Shri T. Singaravel presided over the seminar and delivered a speech on "Gender Equality and Protection of Human Rights".

CELEBRATION OF WORLD HUMAN RIGHTS DAY

4.21. World Human Rights Day was celebrated in the Commission on 10th December 2007. A high-tea function was organized and several dignitaries from the local and State level were invited. Discussions were held for improving the working of the Commission and for more effective implementation of its orders.

SHORT DOCU-DRAMA ON THE MSHRC

4.22. As mentioned earlier, the Students Social Workers, placed at the Commission, also worked on another project connected with awareness about the Commission. A short docu-drama was prepared, showing the story of a young boy and his brush with the police and the Commission. The docu- drama was also screened in some of the presentations, held at educational institutions.

CHAPTER - V

ADMINISTRATIVE MATTERS AND LOGISTICAL SUPPORT

5.1. Man is a social animal. Principles of the social justice and Human Rights have to go together as all human beings strive to stay together in a society with all their differences. It is for the individuals to consider the differences in a healthy way and avoid casual approach and attitude of differentiating nature. If all Indians do so there will be much scope to deal with the rightful Human Rights cases. This will help to minimise the cases which arises before the Human Rights Commission.

5.2. The Government of Maharashtra vide its G.R. No. HRC- 1099/378/Pol-14 dated 15th January 2000 established the Maharashtra State Human Rights Commission. The Commission became operational on 6th March 2001, and began functioning on 12th March 2001. The said resolution maintains that there would be a Chairperson and three Members of the Commission and that its Headquarters will be in Mumbai. During the course of the year Shri. C. L. Thool was the Acting Chairperson up to 21st August 2007. Justice Shri. Kshitij Vyas was appointed Chairperson on 21st August 2007 and continued in that post. This is the second time, that the Commission has appointed a Chairperson, after Justice Shri. A.V. Sawant, who worked from 12th March 2001 to 12th April 2002. Shri Subhash Lalla, Shri T. Singaravel and Justice Shri V.G. Munshi were serving as Members of the Commission during the year.

STAFF-

5.3. The staff of the Commission is, working in different wings namely the Administrative Wing, the Accounts Wing, the Investigation Wing, the Legal Wing and the Research Wing . The Secretary of the Commission was Dr. R. C. Sagar upto 28th December 2007 and thereafte Shri B. N. Raut SpI. IGP held the additional charge as Secretary. Shri B. N. Raut continues as the Special Inspector General of Police. This year the Commission has witnessed three new appointments.- Registrar, Asst. Registrar and Research Officer. Smt. Neena Khaparde continues in the post of Registrar from 16th October 2007 till date. Dr. Jaishri Patil continues in the post of Research Officer since 19th November 2007. Shri R. D. Shirsath has been in the post of Assistant Registrar since 22nd October 2007.

PREMISES -

5.4. The Government of Maharashtra vide its G.R. No. HRC- 1099/378/Pol-14, dated 15th January 2000, stated that the Headquarters of the Maharashtra State Human Rights Commission would be located at Mumbai. Accordingly, the Government offered to allot various premises such as the New Administrative Building, opposite 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 area 1380 sq. ft. in the premises of Administrative Staff College Building at 9, Hazarimal Somani Marg, opposite CST, Mumbai 400 001 to the Commission. This was earlier occupied by the State Finance Commission. The Maharashtra State Human Rights Commission continues to function in the same premises.

RESOURCES-

5.5. During the year April, 2007 to March, 2008, the State Government made available a grant of Rs. 1 crore 42 lakhs and 33 Thousand against which the total expenditure was 1 crore, 53 lakhs, 68 Thousand, 9 hundred and 15.

CHAPTER - VI

Illustrative cases :

(1) CASE NO : 3391/2007-08

Name of the Complainants :

(1) Dr. Kirit Somaiya.

(2) Shri Madhukar Dharma Khutade.

(3) Shri Harishchandra Sakharam Bhoye.

Name of the Respondent :

(1) The Government of Maharashtra.

(2) The Chief Secretary Govt. Of Maharashtra, Mantralaya.

(3) The Secretary, Food Civil Supplies and Consumer Protection Dept. Mantralaya.

(4) The Secretary, Women and Child Development Dept. Mantralaya.

Date of Order : November 14, 2007.

Quorum : Hon'ble Chairperson Shri Kshitij Vyas and Hon'ble Member Shri Subhash Lalla.

Nature of the Case : The petitioner No. l is an ex-Member of Parliament while Petitioners No. 2 and 3 are residents and downtrodden people of Thane, rural area of Maharashtra and are dependent on Government welfare schemes for their food / meals distributed through PDS. They have approached the Commission to direct the respondents on various matters. The grievance of the petitioners was that the Government supplied inferior quality of wheat, which is not fit for consumption, as declared by the Public Health Laboratories of the Government of Maharashtra.

Action Taken by the Commission : According to Shri Bakshi, Principal Secretary, the State Government was required to stop distribution for PDS with effect from 31st October 2007 and directions were given to District authorities to conduct laboratory analysis of stock lying in the State Government's godowns.

Decision : Considering the fact that a human being is required to live in a dignified manner and for the same he must be provided food which is fit for human consumption, it was recommended that the State Government shall in future, while importing wheat and/or any other food items make an endeavour to see that the same should be fit for human consumption and it meets the required standards and is in conformity with PEA rules, 1955.

(2) CASE No. : 3389/2007-08

Name of the Complainants : Shri Suresh Mangal, Balaji Mitra Mandal, Korba Mithgaon, Mahatma Phule Wadi, Wadala(E).

Name of the Respondent : The Dy. Commissioner of Police, Port Zone, Mumbai.

Date of Order : October 11, 2007.

Quorum : Hon'ble Chairperson, Justice Shri Kshitij Vyas.

Nature of the Case : The Complainant says that Sr. Police Inspector was obstructing the Balaji Mitra Mandal from celebrating navratri festival in the area situated at Korba Mithnagar, Mahatma Phule Wadi, Wadala (E) by refusing to grant permission. The inspector has submitted that the Complainant has no locus standi to file the present complaint as he is not the president of the Mandal and no application has been submitted for the same. Thus in view to maintain law and order, he has prevented the mandal to hold the function. An amicable understanding has been arrived between the parties. The Complainant has agreed to maintain law and order and shall celebrate the festival in a peaceful manner. He has agreed to submit the receipt issued by the Collectors Office for holding the function and has also agreed that the mandal shall apply for registration before the concerned Authorities before holding the next festival at the same place.

Decision : The Complainant has been permitted to celebrate the Navratri festival for 9 days at the place.

(3) CASE No. : 3890/2007-08

Name of the Complainant : Shri Robert Das Anthony, Dist. Thane.

Name of the Respondent : The Commissioner of Police, Thane.

Date of Order : 17th January 2008.

Quorum : Hon'ble Chairperson, Shri Kshitij Vyas.

Nature of the Case : The Complainant has made allegations against Senior P.I. Shri Banker, P. I. Shri Bangar and I.O. Shri Rode attached to Central Police Station, Ulhasnagar for corruption and misappropriation. It was the allegation of the Complainant that while seizing the house of the accused Shri Jagdish Bajaj, the police officers prepared false panchnama and misappropriated amount of Rs. 4 lakhs and also took bribe of Rs. 10 lakhs by deleting section 467 of IPC with a view to help the accused to get bail. Moreover the Complainant alleged that even after complaining about the said matter to Hon'ble Dy. Chief Minister, and Home Minister Maharashtra State, the Commissioner of Police, Thane. Senior Inspector, Anti Corruption Bureau, Thane, Dy. Commissioner of Police Zone IV- Ulhasnagar, nobody took any interest in the matter.

Action Taken : Based on the allegations in the present complaint, the Commission has recommended that the Dy. Commissioner of Police Zone- IV, Ulhasnagar should hold inquiry into the allegation, after giving opportunity to the Complainant as well as the concerned Police Officer. If the Dy. Commissioner found substance into the allegations, then he was asked to proceed further, in accordance with law.

(4) CASE No. : 3788/2007-08.

Name of the Complainant : Shri Murilidhar Gangaramani, Ulhasnagar, Thane.

Name of the Respondent : (1) The Municipal Commissioner, Ulhasnagar Municipal Corporation.

(2) The Commissioner of Police, Thane.

Date of Order : 9th January 2008.

Quorum : Hon'ble Chairperson, Shri Kshitij Vyas.

Nature of the Case : The Complainant, the trustees of the Rajaveer Mandir claim that they have the right to put up stair case on the west side of the mandir. They also stated that by constructing four steps of the height of 2 ft. will not disturb or cause nuisance to anybody.

Action taken : On the day of the hearing it was seen that Ulhasnagar Municipal Corporation has forwarded the complaint to the Town Planning Department and the Complainant has been conveyed the said information. The Advocate of the Complainant stated that the Complainant had in fact requested the Town Planning Department to grant permission way back in 2006, but there has been no decision taken in the matter.

Decision : The Commission has recommended that, the Complainant to file proper application supported with photographs, to the Town Planning Department, Ulhasnagar Municipal Corporation with request to grant permission to place the stairs on the west side of the mandir within 15 days from the receipt of the order. On receipt of the same the Town Planning officer shall consider it after giving opportunity of hearing to the Complainant, concerned officers of Ulhasnagar Municipal Corporation and other interested parties within 4 weeks and communicate its decision to the Complainant within 2 weeks thereafter.

(5) CASE No. : 1462/2007-08.

Name of the Complainant	:	Shri Narayan Damodar Pake.
Name of the Respondent	:	1. Collector, Raigad.
		2. Gram Panchayat, Ekdara, Raigad.
Date of Order	:	12th December 2007.
Quoram	:	Hon'ble Member, Justice V. G. Munshi.

Nature of the Complaint : The complainant is resident of village Ekdara, Tal. Murud-Janjira. He resides within the limits of Grampanchayat, Ekdara and his name appears in voters list in Grampanchayat. Government had sanctioned the scheme of water supply in year 2002-03 but it came into existence thereafter. Complainant was the resident and voter of that area, and hence was entitled to receive water through the connection. Still the Gram Panchayat for some or the other reasons did not give water to the complainant.

Action taken by the Commission : Notice was issued to the Collector, Raigad calling upon them to explain as to why the water connection was not given to the complainant. Chief Executive Officer, Zilla Parishad, Raigad filed on record the action taken report. The complainant mentioned that water connection was given to him on 2nd December 2007 and thus they got relieved and they demanded the compensation of Rs. 100 per day from Gram Panchayat as they deliberately delayed the matter.

Decision taken by the Commission : As the water connection has been given to the complainant in obedience to the show cause notice given by the Commission, so now nothing needs to be decided in this case. We hope that the complainant would get the water supply continuously and uninterrupted in future. In view of this situation the case is disposed of accordingly.

(6) CASE No. : 113/32/2005-06.

Name of the Complainant	:	Rahul Madhukar Thool, Pangadi, Tal. Kalamb.
Name of the Respondent	:	Superintendent of Police, Yavatmal (Rural).
Date of Order	:	7th September 2007.
Quorum	:	Hon'ble Member, Justice Shri V. G. Munshi, Member.

Nature of the Complaint : Complainant was present on bus stand along with his Matador. The respondents suddenly came there and beat the complainant by fists and kicks, damaged the vehicle and forcibly took Rs. 600 from the complainant. The matter was reported to the police station on 17th January 2006 at about 19-40 hrs and station diary was taken at Sr. No.48. Next day he was taken to the Hospital at Yavatmal, and he was admitted from 18th January 2006 to 26th January 2006. He was aggrieved by the police as they did not take the matter

Action taken by the Commission : Report was called from Superintendent of Police, Yavatmal. According to them it was not a cognizable offence and they have already taken preventive action against the respondent's u/s. 107 of the Cr. P.C.

Decision of the Commission : The Commission directed the Investigating Officer to complete investigation in this case and file charge sheet against the accused if any cognizable offence is made out against them.

(7) CASE No. : 3386/2007-08.

Name of the Complainant : Smt. Tanubai Ramdas Shinde, Chembur, Mumbai.

Name of the Respondent : (1) The Superintendent, Thane Central Prison.
(2) The Chief Medical Officer, Thane Central Prison.
(3) The Surgeon/Superintendent, V. S. District, Civil Hospital Thane.
(4) The Dy. Commissioner Of Police, Zone-VI, Mumbai.

Date of Order : 2nd January 2008.

Quorum : Hon'ble Chairperson, Shri Kshitij Vyas.

Nature of the Case : The Complainant has alleged in the complaint that her deceased son who had been sent to Thane Central Prison for an offence u/s. 326 of IPC was a hale and hearty young boy, aged 26, and she had raised doubts about his sad death, in jail.

Action Taken : Notice was issued by the Commission to Superintendent Thane Central Prison, and Dy. Commissioner of Police, Zone-VI, Chembur, Mumbai. In compliance to this notice they had filed report and produced medical case papers. During the course of hearing the Commission has recorded the statements of Senior Jailor as well as Chief Medical Officer of Thane Central Prison, Thane, Dr. Mrs. Ranade, Physician and D.r Padmaja of V. S. District Civil Hospital, Thane who treated the deceased. From the reports, medical case papers and the statements recorded, it was clear that the deceased had jaundice and weakness but a young boy of 26 years wouldn't die in one day. The Commission found this to be a case of negligence.

Directions : After considering the facts and circumstances of the case, the Commission found it to be just, fit and expedient that the Thane Central Prison as well as District Civil Hospital, Thane, shall pay Rs. 5000 to the Complainant. Smt. Tanubai Ramdas Shinde within 2 months. The Complainant will also be at liberty to take recourse to the remedy available by approaching the Civil Court for getting the amount of compensation.

(8) CASE No. : SUO MOTO 3/2007-08 and CASE No. 4201/2007-08

Name of the Complainant : Mohan Krishnan

Name of the Respondent : National Anti-Corruption and Crime Prevention Council.

Date of Order : 12th December 2007

Quorum : Division Bench, Hon'ble Chairperson Shri Kshitij Vyas and Hon'ble Member Shri Subhash Lalla.

Nature of the case.—Shri Ashok Dhondu Hindola, the father of the victim Yogita in his complaint has made allegations against the police constable Shri Gaikwad as well as teacher Smt. Bhavana Gorule that the victim was severely beaten with belt on the allegations that the victim Yogita sold mangalsutra of her teacher. They also alleged that the teacher used to take work from her during the school hours.

Action taken.—After perusing the papers the Commission found it necessary to hear the Addl. Chief Secretary, Home Department & Chief Executive Officer, Zilla Parishad, Thane & therefore issued, notices to the said Authorities calling upon them to submit as to why the compensation, as it may deem fit to the Commission, be not paid to the victim by the respective employers. Notice was also issued to the teacher Smt. Bhavana Gorule. However she in her affidavit filed before the Commission has denied the said allegation.

Direction.—The Commission has recommended that the Home Dept. of the State of Maharashtra as well as Chief Executing Officer, Zilla Parishad, Thane to pay Rs. 5,000 each to victim Yogita within 2 Months. The authorities can recover the amount paid to the victim from the accused after holding departmental inquiry .

(9) CASE No. : 75/8/2006-07

Name of the Complainant	:	Shri N.Y.Nawakar, Jauaji Road, Nandura Road, Kamgaur, Dist. Buldhana,
Name of the Complainant	:	The Chief Executive Officer, Zilla Parishad, Buldhana.
Date of the decision	:	July 30, 2007.
Quorum	:	Hon'ble Member Shri T. Singaravel.

Nature of the Complainant.—The Complainant gave the complaint regarding increase in salary as increased by the 5th Pay Commission, as he was denied due to some deficiency in the administration process.

Action taken by the Commission.—Notice was sent to C.E.O. of Z.P. and called for the records.

Decision of the Commission.—The Commission decided the case on the basis of the report submitted by the C.E.O. and granted increase in salary as per 5th Pay Commission.

(10) CASE No. : 88/3/2006-07/10836

Name of the Complainant	:	Smt. Surekha Vasantrao Gansare Zada, Tal. Dhamangon Railway, Dist. Amravati.
Quorum	:	Single Bench, Hon'ble Member Shri T. Singaravel.

Nature of the complaint.—The Complainant has filed complaint against the Forest Department of Amravati. On the date 28th November 2004 the father of the Complainant died due to the attack of a wild animal and it is the responsibility of the State to give compensation to the family of the person who died due to attack of wild animals. The Complainant stated that the other victim with her father had been given compensation but she had not yet received it. Hence, she had approached the Commission.

Action taken by the Commission.—The Commission had served a notice to the Principal Secretary, Forest, Mantralaya and the Deputy Conservator of Forest, Amravati. The concerned authorities submitted their report alongwith the medical report. They agreed to grant compensation as per the rules.

Decision of the Commission.—The Complainant was satisfied and hence the case was closed. Due to the intervention of the Commission the complainant got redressal.

(11) CASE No. : 26/29/2005

Name of the Complainant	:	Raindrop Harishchandra Kasalkar, At Post. Kasal, Tal. Kudal, Dist. Sindhudurg.
Respondent	:	Collector, Sindhudurg.
Date of the complaint	:	December 20, 2006.
Quorum	:	Hon'ble Member Shri T. Singaravel.

Nature of complaint.—The Complainant states that he is the elder Member of the family and his father had worked in the Zilla Parishad as the Child Welfare Officer and died on duty. Being the elder he was entitled to get job. But the Panchayat Samiti took his younger brother instead of complainant.

Actions taken by the Commission.—The Commission sent a notice to submit a report to the Zilla Parishad. In its report the Zilla Parishad said that the elder brother was living far away and also did not have any right.

Decision taken by the Commission.—On the basis of the report submitted by the Zilla Parishad the case was closed under section 17(*i*)(*b*) of the Protection of Human Rights Act, 1993.

(12) CASE No. : 13/26/2006-2007.

Name of the Complainant	:	Shri Vinod Dhondiram Dhende.
Date of Complaint	:	30th May 2006.
Quorum	:	Single Bench, Hon'ble Member Shri T. Singaravel.

Nature of the complaint.—The Complainant submitted that, the Complainants father Shri Dhandiram Bayaji Dhende transferred the land given by the Government, to another person as ENAM. Technically the land cannot be transferred but some people served drinks to Mr. Dhandiram, and got the land transferred while he was not in his senses.

Action taken by the commission.—The Commission issued a notice and called for report from the Collector. The Collector submitted his report dated, 17th December 2007 and with reference to the report submitted the judgement was passed by the Maharashtra State Human Rights Commission.

The decision given by the commission.—On the basis of the record submitted by the collector the transfer of the land was held illegal and the issue in question was thus disposed.

CHAPTER - VII

The Supreme Court has given the following 11 requirements to be followed in all cases of arrest or detention

(1) The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee be recorded in a register.

(2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest and such memo shall be attested by atleast one witness, who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter signed by the arrestee and shall contain the time and date of arrest.

(3) A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.

(4) The time, place of arrest and venue of custody of an arrestee must be notified by the police to where the next friend or relative of the arrestee lives (outside the district or town) through the Legal Aid Organisation in the district and the police station of the area concerned, telegraphically, within a period of 8 to 12 hours after the arrest.

(5) The person arrested must be made aware of his right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

(6) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.

(7) The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her, must be recorded at that time. The "Inspection Memo" must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.

(8) The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory. Director, Health Services should prepare such a panel for all Tehsils and Districts as well.

(9) Copies of all the documents including the memo of arrest, referred to above, should be sent to the area Magistrate for his record.

(10) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.

(11) A Police control room should be provided at all district and State Headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed conspicuously on the notice board.

CHAPTER - IV

PROMOTION OF HUMAN RIGHTS EDUCATION AND AWARENESS

The Maharashtra State Human Rights Commission is a body that works primarily to address human rights violations that are committed by public servants. The Commission has only quasi-judicial power, to pass orders that are recommendatory in nature, not mandatory. Also, keeping in mind various provisions of the Act, a number of complaints cannot be entertained.

4.2. People who have faced violations or whose rights have been denied, often have a thirst for vengeance, a burning desire to see their oppressors reprimanded. When the system fails to get them what they need, they may well turn to avenues outside the system, which may lead them to the path of lawlessness, antisocial behaviour, and ultimately to destruction.

4.3. There is therefore, a need to work directly at the grass root level, from where the victims / Complainants may approach the Commission. It is necessary to promote the education about human rights and awareness about various forums available for redressal of grievances regarding violation of human rights.

4.4. With this objective, the Commission has been undertaking various activities, participating in workshops and seminars.

AWARENESS PRESENTATIONS AT EDCCATIONAL INSTITUTIONS

4.5. Since the previous year, i.e. 2006-07, the Tata Institute of Social Sciences Mumbai, placed 2 social work students with the Commission on field placements. The Student Social Workers attend the office of the Commission and aid and assist its working, in addition to carrying out their own project work.

4.6. During the present reporting year, the Commission carried out small presentations regarding the fundamental information about the MSHRC at various educational institutions through the Student Social Workers. Graduate level students were identified as the target group for the presentations. The prime objective of identifying this target group was to reach the youth section, which were then expected to disseminate this crucial information through media like NSS activities, street theatre, discussions at academic levels, etc.

4.7. The presentations primarily focused on the factual information based on the Protection of Human Rights Act, 1993. The presentations were made simple and friendly to deliver vital information like procedure to file complaints, and other essential features. 17 colleges and educational institutions, and about 500 students could be reached through this initiative.

4.8. Excellent feedback was received from both the students as well as the institutions. They extended support and were open to further programmes and communication with the State Human Rights Commission.

4.9. The Special Rapporteur, UNO, Mr. Paul Hunt visited the Commission on 28th November 2007. He discussed his work with the Hon'ble Chairperson and Members and officers of the Commission. The Special Rapporteur's mission to India focused on the issues pertaining to maternal mortality. The purpose of his mission was to understand, in the context of the right to health and in a spirit of co-operation and dialogue, the steps taken by India to reduce maternal mortality and to make constructive recommendations. Although the sphere of work of the Commission and the Special Rapporteur were different and varied, the Special Rapporteur was given a brief overview of the working of the Commission and various issues handled by the Commission.

ACCREDITATION OF NON-GOVERNMENTAL ORGANIZATIONS -

4.10. Section 12 (i) of the Protection of Human Rights Act, 1993 empowers the Commission to encourage the efforts of non-governmental organizations and institutions working in the field of human rights. In the course of the working of the Commission, it was observed that there are

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