

**INSTITUTE OF NURSING EDUCATION, MUMBAI**

**Sir.J.J Hospital Campus Byculla Mumbai-08**

# **VISIT REPORT ON HUMAN RIGHT COMMISSION**



**Resp. Registrar Dr. Swarupa Dholam and Students**

## **Objectives:**

Upon the completion of Visit to Human right commission, the learner will acquire knowledge and skill related to-

1. Observe the physical set up
2. Know the Organization set up.
3. Know the staffing pattern.
4. Observe the daily routine activity
5. Know job description of various services and scheme.
6. Know about the Health prevention and promotion programme implemented
7. Know about various act regarding human right

## **ABOUT THE ORGANISATION**

The National Human Rights Commission (NHRC) of India was established on 12 October, 1993. The statute under which it is established is the Protection of Human Rights Act (PHRA), 1993 as amended by the Protection of Human Rights (Amendment) Act, 2006. It is in conformity with the Paris Principles, adopted at the first international workshop on national institutions for the promotion and protection of human rights held in Paris in October 1991, and endorsed by the General Assembly of the United Nations by its Regulations 48/134 of 20 December, 1993.

The NHRC is an embodiment of India's concern for the promotion and protection of human rights. Section 2(1)(d) of the PHRA 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.

## **ORGANIZATION CHART**

1. Chairperson Justice K. K. Tated
2. Member Shri M. A. Sayeed
3. Member Shri Bhagwant D. More
4. Secretary Shri Tukaram Mundhe, IAS
5. Spl. Inspector General of Police
6. Registrar Swarupa Dholam
7. Superintendent of Police Shri Sachin Pandkar

## **VISION & MISSION**

The National Human Rights Commission, India has been set up by an Act of Parliament under the Protection of Human Rights Act, 1993 for the protection and promotion of human rights. The functions of the Commission as stated in Section 12 of the Act and apart from enquiry into complaints of violation of human rights or negligence in the prevention of such violation by a public servant, the Commission also studies treaties and international instruments on human rights and make recommendations for their effective implementation to the Government.

The Commission is responsible for spreading of human rights awareness amongst the masses and encouraging the efforts of all stake holders in the field of human rights literacy not only at the national level but at international level too. NHRC is a unique institution because it is one of the few National Human Rights Institutes (NHRIs) in the world whose Chairperson is the former Chief Justice of the country. The world looks at NHRC of India as a role model in promoting and monitoring effective implementation of promotion and protection of human rights. Section 2(1) (d) of the PHR Act 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. The NHRC, India plays an active role in coordinating with other NHRIs of the world to enhance awareness from the perspective of human rights. It has also hosted delegations from UN Bodies and other National Human Rights Commissions as well as members of civil society, lawyers and political and social activists from many countries.

## **SCA Accreditation**

The National Human Rights Commission, India has retained its 'A' status of accreditation with the Global Alliance of National Human Rights Institutions, GANHRI for the fourth consecutive term of five years. It is given to those NHRIs, which, after a rigorous process of review every five years, are found fully compliant with the UN mandated Paris Principles. Mr. Justice H.L. Dattu, Chairperson, NHRC was presented the certificate to this effect on the occasion of the ongoing annual meeting of GANHRI in Geneva, Switzerland from the 21st to 23rd February, 2018. NHRC Member, Mr. Justice P.C. Ghose and Secretary General, Mr. Ambuj Sharma were present on the occasion.

The Accreditation confers international recognition and protection of the NHRI. 'A' status accreditation also grants participation in the work and decision-making of the GANHRI, as well as the work of the Human Rights Council and other UN mechanisms. The NHRC, India got 'A' status of accreditation first time in 1999 which it retained in 2006 and 2011 reviews. It was under the process of review for 2016, which was deferred to second session of 2017, when the Sub Committee on Accreditation of GANHRI recommended giving 'A' status again to the NHRC, India in November, 2017. The accreditation is given after a rigorous process of review of the NHRI by the GANHRI through its Sub Committee on Accreditation (SCA). The United Nations' Paris Principles provide the international benchmarks against which national human rights institutions (NHRIs) can be accredited. Adopted in 1993 by the United Nations General Assembly, the Paris Principles require NHRIs to protect human rights, including by receiving, investigating and resolving complaints, mediating conflicts and monitoring activities; and promote human rights, through education, outreach, the media, publications, training and capacity building, as well as advising and assisting the Government.

The Paris Principles set out six main criteria that NHRIs require to meet. These are: Mandate and competence, Autonomy from Government, Independence guaranteed by a Statute or Constitution, Pluralism, Adequate resources; and adequate powers of investigation. The GANHRI found the NHRC, India perfect on all these counts to be given 'A' status of accreditation with it. The Office of the High Commissioner for Human Rights (OHCHR) is a permanent observer on the Sub Committee on Accreditation, SCA and serves as the secretariat to the GANHRI and its SCA. The

GANHRI accreditation system has evolved and been strengthened over the past years. Measures that the GANHRI adopted to improve the process include: a system by which NHRIs are reviewed on a periodic basis of 5 years; an appeal process for NHRIs to ensure greater transparency and due process; a more rigorous review of each application; more focused recommendations; and wider distribution and greater knowledge of SCA recommendations by NHRIs and other stakeholders, so that they can follow up in-country and contribute to the accreditation process.

## **CONSTITUTION OF NHRC**

The Commission consists of a Chairperson, five full-time Members and seven deemed Members. The statute lays down qualifications for the appointment of the Chairperson and Members of the Commission

## **SPECIALIZED DIVISIONS AND STAFF**

There are five Divisions in the Commission. These are

1. Law Division,
2. Investigation Division
3. Policy Research, Projects and Programmes Division
4. Training Division
5. Administration Division

## **LAW DIVISION**

The Law Division of the Commission handles registration and disposal of around one lakh cases each year, registered on the complaints of human rights violation made to it either by the victim or any other person on behalf of the victim or on receipt of intimation from authorities concerned, regarding custodial death, custodial rape, death in police action, or on suo motu cognizance by the Commission or on a direction or order of any court. The Division also receives intimations

regarding deaths in police/judicial custody, deaths in the custody of defence/ para military forces and custodial rapes. Suo motu cognizance of serious matters taken by the Commission is also dealt with by the Division. During the year 2017-2018, 77,589 complaints were received in the Commission. All complaints received in the Commission are assigned a diary number and thereafter scrutinized and processed using the Complaint Management and Information System (CMIS) software especially devised for this purpose. After registration of complaints, they are placed before the Commission for its directions and accordingly, follow up action is taken by the Division in these cases till their final disposal. Cases of important nature are taken up by the Full Commission and matters pertaining to deaths in police custody or police action are considered by the Division Benches. Some important cases are also considered in sittings of the Commission in open court hearings. The Division has also been organizing camp sittings in different State capitals to expedite disposal of pending complaints and sensitize the State functionaries on the human rights issues. The Commission has also been organizing open hearings regarding atrocities on Scheduled Castes in the country to have direct interaction with the affected persons belonging to Scheduled Castes. The Division further provides its views / opinion on various Bills/draft legislations referred to it for better protection and promotion of human rights. The Law Division has come out with few important publications like “NHRC & HRDs: The Growing Synergy”, etc. There is also a Focal Point for Human Rights Defenders who is accessible to HRDs round the clock through (i) Mobile No. 9810298900, (ii) Fax No. 24651334, and (iii) E-mail: [hrc-nhrc@nic.in](mailto:hrc-nhrc@nic.in) The Law Division is headed by a Registrar (Law), who is assisted by Presenting Officers, a Joint Registrar, a number of Deputy Registrars, Assistant Registrars, Section Officers and other secretarial staff.

## **INVESTIGATION DIVISION**

The Investigation Division is headed by an officer of the rank of Director General of Police, assisted by one DIG and three Senior Superintendents of Police. Each Senior Superintendent of Police heads a group of investigative officers (comprising of Deputy Superintendents of Police and Inspectors). The functioning of Investigation Division is multi dimensional, details of which are as follows:

**Spot Enquiries:** The Investigation Division conducts spot enquiries and recommends suitable action in the cases revealing human rights violation. The spot enquiries conducted by the Investigation Division not only bring out the truth before the Commission, but also send a message to all concerned – complainants, public servants, etc. The Commission orders a Spot enquiry in a range of cases concerning a variety of public authorities – from illegal detention, extra judicial killing, etc. by the police to the lack of facilities in a hospital leading to avoidable deaths. Spot enquiries enhance the confidence of general public too and instill their faith in NHRC’s role in protection of Human Rights. The Investigation Division also gives its comments / observations, whenever sought, in the cases of advice / analysis, besides monitoring cases whenever referred to it.

**Custodial Deaths:** As per the guidelines issued by the Commission to the State authorities, the latter are supposed to intimate the Commission in case of any death occurring in custody (whether in police or judicial custody) within 24 hours. The Investigation Division, on receiving such intimations, analyzes the reports in order to find out if there was any human rights violation involved. In order to make the analysis more professional and accurate, Investigation Division seeks help from the forensic experts on the panel of NHRC.

**Fact Finding Cases:** The Investigation Division also calls upon different authorities to submit reports in “Fact Finding” Cases as directed by the Commission. The Investigation Division critically analyzes these reports with a view to assist the Commission in deciding whether there is any violation of Human Rights or not. In cases where reports received are misleading or not factual, the Commission orders a spot enquiry as well.

**Training:** The officers of the Investigation Division deliver lectures in training institutes and other forums, wherever they are invited to spread human rights literacy and promote awareness of the safeguards available for the protection of the human rights.

**Rapid Action Cell:** From the year 2007, the Investigation Division has taken the initiative of making a Rapid Action Cell functional in the Commission. Under RAC cases, the Investigation Division deals with cases which are of a very urgent nature e.g. the allegation may be regarding child marriage likely to be performed the very next day; the complainant fears that a relative or

friend picked up by the police may be killed in a false encounter, etc. In all such cases, the Investigation Division takes up the urgent follow up required by the Commission. It may include speaking to authorities/complainants personally over telephone to ascertain facts, faxing the complaint to various authorities for reference and asking them to send their replies expeditiously. During the period 01-04-2017 to 31-03-2018, the Investigation Division has dealt with 515 such Rapid Action Cases where immediate intervention by the Commission was able to prevent not only Human Rights violation but also threats to human life & liberty in a number of cases.

**Debate Competition for Personnel of Central Armed Police Forces:** In order to promote human rights awareness and spread sensitization towards it among the personnel of the Central Armed Police Forces, the Investigation Division has been regularly organizing a debate competition on such issues, every year, since 1996. Moreover, since 2004, as directed by the Honorable Chairperson, zone-wise debate competitions have also been organized as a run up to the final competition, for larger participation of the CAPFs all over the country. The semi-final and the final rounds of teams selected during the zonal competitions are subsequently organized in the Capital. Each year, this event sees enthusiastic participation and an outstanding level of debate.

**Debate Competition for Personnel of State Police Forces:** The police today are duty bound to conform to the principles of Human Rights in discharging their duties. The lower and middle levels in the police forces are extremely crucial from the viewpoint of Human Rights because they directly come into contact with general public while discharging their duties. Since the year 2004, an attempt has been made by the Investigation Division of National Human Rights Commission to increase the level of human rights awareness among the police officials by providing necessary financial assistance to State/UTs Police Forces for conducting Debate Competitions for State Police Force personnel. At present Commission is providing amount of `15000/- for holding debates in States/UTs.

**Visits to Places of Detention:** There are a large number of complaints related to the living condition in jails and other institutions where persons are detained or lodged for the purpose of treatment, reformation or protection. The IOs of the Investigation Division visit Jails and other institutions in different states, as and when directed by the Commission and submit reports presenting the facts regarding specific allegations or the general condition of prisoners or inmates



with regard to their human rights based on which needed follow-up action is pursued by the Commission.

## **POLICY RESEARCH, PROJECTS AND PROGRAMMES DIVISION**

The Policy Research, Projects and Programmes Division (PRP&P Division) undertakes and promotes research on human rights and organizes conferences, seminars and workshops on important human rights issues. Whenever the Commission, on the basis of its hearings, deliberations or otherwise, arrives at a conclusion that a particular subject is of importance, it is converted into a project/programme to be dealt with by the PRP&P Division. Besides, it reviews policies, laws, treaties and other international instruments in force for the protection and promotion of human rights. It facilitates in monitoring the implementation of NHRC recommendations by the Central, State and Union Territory authorities. It further helps the Training Division in spreading human rights literacy and in promoting awareness about the safeguards available for the protection of human rights. The work of the Division is handled by Joint Secretary (Training & Research) and Joint Secretary (Programme & Administration), a Joint Director (Research), Section Officer, Assistant, Research Consultants, Research Associates, Research Assistants and other secretarial staff.

### **Training Division**

The Training Division is responsible for spreading human rights literacy among various sections of the society. As such, it trains and sensitizes various government officials and functionaries of the State and its agencies, non-government officials, representatives of civil society organizations and students on different human rights issues. For this purpose, it collaborates with the Administrative Training Institutions/Police Training Institutions and Universities/Colleges. Besides, it conducts internship programmes for college and university students. The Division is headed by a Joint Secretary (Training & Research), who is supported by a Senior Research Officer (Training), an Assistant and other secretarial staff. Coordination Section, under the Training Division, deals with all the international matter, including international treaties and conventions.

Besides, it coordinates with Camp Commission Sittings/Open Hearings in various States/UTs, organizes Commission's annual functions, viz., Foundation Day and Human Rights Day. It is also tasked with taking care of protocol duties as well as organizing visits of Chairperson/Members/senior officers of the Commission, both at the national and international levels. Coordination Section consists of an Under Secretary, Section Officer, Assistants, Research Consultant and other secretarial staff.

### **Administration Division**

The Administration Division looks after the establishment, administrative and related requirements of the Chairperson and Members of the NHRC. Besides, it looks into personnel, accounts, library and other requirements of the officers and staff of the NHRC. The work of the Division is handled by the Joint Secretary (P&A) who is assisted by a Director, Under Secretaries, Section Officers, Assistants and other secretarial staff.

The Media and Communication Unit under the Administration Division disseminates information relating to the activities of the NHRC through the print and electronic media. It brings out a bilingual monthly Newsletter 'Human Rights'. The Publication Unit, responsible for bringing out all the publications of the Commission, is another crucial Unit of the NHRC. The Annual Report, NHRC English and Hindi Journal, "Know Your Right" Series are a few of the salient publications brought out by this Unit. Furthermore, it looks into applications and appeals received under the Right to Information Act, 2005.

## **MAHARASHTRA STATE HUMAN RIGHTS COMMISSION**

### **Establishment of the State Commission:**

The Maharashtra State Human Rights Commission was established on 6th March, 2001 as per International Covenants and Protection of Human Rights Act, 1993, for the protection and promotion of human rights.

**Composition of the Commission:**

The Maharashtra State Human Rights Commission is an Autonomous and Statutory Body comprising of:

- a) A Chairperson who has been a Chief Justice of a High Court.
- b) One Member who is, or has been a use of a High or District Judge in the State District Judge
- c) One Member to be appointed among having knowledge of, or practical expats in, matter to human rights.

**The Functions of the Commission:**

The main function of the Commission is to keep watch & enquire into violation of Human Rights by the Public Servants. As provided in Section 12 of the Act the Commission shall, perform all or any of the following functions namely:

- a) Inquire, suo motu or on a petition presented to it by a victim or any person on his behalf (or on a direction or order of any Court, into complaint of
  - (1) Violation of human rights or abetment thereof; or
  - (ii) Negligence in the prevention of such violation by a Public Servant;
- b) Intervene in any proceeding involving any allegation of violation of Human Rights pending before a Court with the approval of such Court
- c) Visit, notwithstanding anything contained in any other law for the time being in force, any Jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and make recommendations there on to the Government;

- d) Review the safeguards provided by or under the Constitution or any law for the time being in force for the Protection of Human Rights and recommend measures for their effective implementation;
- e) Review the factors, including acts of terrorism that inhibit the enjoyment of Human Rights and recommend appropriate remedial measures;
- f) Study treaties and other International Instruments on Human Rights and make recommendations for their effective implementation;
- g) Undertake and promote research in the field of human rights;
- h) Spread Human Rights Literacy among various sections of Society and promote awareness of the safeguards available for the Protection of these rights through publications in the media, seminars and other available means;
- i) Encourage the efforts of Non-Governmental Organizations and Institutions working in the field of Human Rights:
- j) Such other functions as it may consider necessary for the Protection of Human Rights.

### **Who are Public Servant**

As defined under spot Le Serial C "Public servant denotes the State Government who holds a public office or who is in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government." All the local self government bodies including Municipal Corporations, Municipalities, Zilha Parishad. Government Medical Hospitals etc.

### **How the complaints can be made?**

- a) The complaint may be written in Marathi, Hindi or English language by any victim of Human Rights Violation or any other person on his behalf, to be presented in person or by Post.
- b) No fee is charged on complaint. No Court fee stamps are required.no need to engage lawyer.
- c) The complaint against any Public Servant required to be addressed to the Chairperson/Secretary of the Commission and should mention following information:

1. The Complainant's full name
- 2 Postal address of the complainant
3. Date & Place of incident
4. Time of incident
5. Specify details of violation of Human Rights
6. Complaint against which Public Servant/Government Department/Government Organization/Government Authority
7. Whether the matter is pending in any Courts, National Human Rights Commission, New Delhi, Tribunals or any other Statutory Forums
8. Relief prayed for.

**Complaints which are generally not entertained:**

The complaints of the following nature are generally not entertained by the Commission namely:

- a) Vague, anonymous, Pseudonymous, illegible, trivial or frivolous:
- b) Barred under sub-section (1) of section 36 of the Protection of Human Rights Act, 1993, when the dispute is pending before any Other Commission:
- c) Barred under sub-section (2) of section 36 of the Protection of Human Rights Act, 1993, when the complaint is presented after one year from alleged violation of Human Rights;
- d) Barred under sub-section (5) of section 21 of the Protection of Human Rights Act, 1993, when the complaint does not pertain to State subject viz Railways, Defence Postal Department etc:
- e) Relate to civil dispute such as property rights/ contractual obligations/family/ matrimonial disputes
- f) Relate to service matters or labour or industrial disputes:
- g) Allegations are not against any public servant:
- h) Allegations do not make out any specific violation of Human Rights;
- i) Matter is subjudiced before a Court or Tribunal;

- j) Matter is covered by Judicial Verdict or decision of the State Commission;
- k) Where a copy of the Complaint addressed to some other authority is received by the Commission; or
- l) Matter is outside the purview of the Commission.

### **What procedure is followed by the Commission?**

1. Registration;
2. Scrutiny of cases by Legal Wing;
3. Placed before the Chairperson/ and or/ Member to decide regarding maintainability:
  - a) If not maintainable, order rejecting the complaint will be passed and complainant will be informed accordingly
  - b) If maintainable:
    - i) Call for report from the concerned authority:
    - ii) On receipt of the report, the Chairperson/ and or/ Member looks into the same and if satisfied that no further inquiry is required. may close case under section 17(1)(b) of the Act
    - iii) If further enquiry is to be made a copy of the report to be sent to the complainant and call for rejoinder, if any
    - iv) If necessary, the Commission may independently investigate the case by the Investigation Wing of the Commission: Call for the report from special I.G.P (MSHRC) v) On receipt of all records/reports post for hearing and final order.

### **What are the Powers of the Commission relating to inquiries?**

The Commission has all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 which includes among others:

1) (a) Summoning and enforcing the attendance of witnesses and examining them on oath;

(b) Discovery and production of any document;

(c) Receiving evidence on affidavits;

(d) Requisitioning any public record or copy thereof from any court or office:

(e) Issuing commissions for the examination of witnesses or documents:

(f) Any other matter which may be prescribed.

2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to. The Subject matter of the enquiry and any persons so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code.

3) The Commission or any other officer, not below the rank of a gazette officer, specially authorized in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies there from subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable.

4) The Commission shall be deemed to be a civil court and when any offence as is described in section 175, 178, 179, 180 or 228 of the Indian Penal Code is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of the Criminal Procedure, 1973.

5) Every proceeding before the Commission shall be deemed to be Judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code, and the Commission shall be deemed to be a Civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

6) Where the Commission considers it necessary or expedient so to do it may by order, transfer any complaint filed or pending before it to the State Commission of the State from which the complaint arises, for disposal in accordance with the provisions of this Act; provided that no such complaint shall be transferred unless the same is one respecting which the State Commission has jurisdiction on to entertain the same.

7) Every complaint transferred under sub-section (6) shall be dealt with and disposed of by the State Commission as if it were a complaint initially filed before it.

#### **What steps are open to the Commission after enquiry?**

The Commission may take any of the following steps under section 18 upon the completion of an inquiry:

1. Where the inquiry discloses the commission of violation of human rights or negligence in the prevention of violation of human rights by a public servant, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons;
2. Approach the Supreme Court or the High court concerned for such may be found, and may seize any such document or take extracts or copies there from subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable. directions, orders or writs as that Court may deem necessary;
3. Recommend to the concerned government or authority for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;
4. Subject to the provisions of clause (5) provide a copy of the inquiry report to the petitioner or his representative;



5. The Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission.

6. The Commission shall publish its enquiry report together with the comments of the concerned government or authority, if any and the action taken or proposed to be taken by the concerned government or authority on the recommendations of the Commission

### **The Wings of the Commission:**

There are three wings of the Maharashtra State Human Rights Commission namely

1. Administrative Wing headed by an officer of the Rank of Secretary to the State Government who is also the Chief Executive Officer of the Commission;
2. Legal Wing headed by the Registrar Complaint processed by the Legal Wing of the Commission
3. Investigating headed by an Inspector General of Police on the direction Commission to investigate into the complaints of Human Rights Violation.

### **What will be the focus of the Commission working?**

The Commission endeavors to reach out to the people of the State and ensure Protection and Promotion of Human Rights, as mandated in the Act.covering a wide range of following issues:

Social aspects

Illegal detention and Bonded labour

Women and Children

Rights of Physically and Mentally handicapped

Training of law students and NGO's on Human Rights Right to shelter

Health and Environment

Senior Citizens

Implementation of various schemes of the State Government

Spread Human Rights Awareness amongst the members of the public

**What will be the Advantage of approaching the Commission?**

The Act ensures Institutional Autonomy and immunities for the Chairperson and Members hence independence is guaranteed Easy approachability complaint can be on a plain piece of paper in any 3languages (Marathi, Hindi and English)

No fees charged

Less cumbersome procedure

Speedy Justice

Assistance of Professional lawyer is not required. The complainant can argue his case before the Commission and even in his absence, the Commission itself steps into his shoes and consider the case from his point of view.