

**NATIONAL HUMAN RIGHTS**  
**COMMISSION**

*KAPILDEV RAY*

# INTRODUCTION

- The National Human Rights Commission is a statutory (and not a constitutional) body.
- It was established in 1993 under a legislation enacted by the Parliament, namely, the Protection of Human Rights Act, 1993.
- The specific objectives of the establishment of the commission are:
  - a) To strengthen the institutional arrangements through which human rights issues could be addressed in their entirety in a more focussed manner;
  - b) To look into allegations of excesses, independently of the government, in a manner that would underline the government's commitment to protect human rights; and
  - c) To complement and strengthen the efforts that have already been made in this direction.

# COMPOSITION

- ❖ The commission is a multi-member body consisting of a chairperson and five members.
- ❖ The chairperson should be a retired chief justice of India or a judge of the Supreme Court and
- ❖ Members should be a serving or retired judge of the Supreme Court, a serving or retired chief justice of a high court and
- ❖ Three persons (out of which at least one should be a woman) having knowledge or practical experience with respect to human rights.
- ❖ In addition to these full-time members, the commission also has seven ex-officio members—the chairpersons of the National Commission for Minorities, the National Commission for SCs, the National Commission for STs, the National Commission for Women, the National Commission for BCs and the National Commission for Protection of Child Rights and the Chief Commissioner for Persons with Disabilities.

# APPOINTMENT AND TANUERE

- ❑ The chairperson and members are appointed by the president on the recommendations of a six-member committee consisting of the prime minister as its head, the Speaker of the Lok Sabha, the Deputy Chairman of the Rajya Sabha, leaders of the Opposition in both the Houses of Parliament and the Central home minister.
- ❑ Further, a sitting judge of the Supreme Court or a sitting chief justice of a high court can be appointed only after consultation with the chief justice of India.
- ❑ The chairperson and members hold office for a term of three years or until they attain the age of 70 years, whichever is earlier.
- ❑ They are eligible for re-appointment.
- ❑ After their tenure, the chairperson and members are not eligible for further employment under the Central or a state government.

# REMOVAL OF MEMBERS

- The president can remove the chairperson or any member from the office under the following circumstances:
  - a) If he is adjudged an insolvent; or
  - b) If he engages, during his term of office, in any paid employment outside the duties of his office; or
  - c) If he is unfit to continue in office by reason of infirmity of mind or body; or
  - d) If he is of unsound mind and stand so declared by a competent court; or
  - e) If he is convicted and sentenced to imprisonment for an offence.
- In addition to these, the president can also remove the chairperson or any member on the ground of proved misbehaviour or incapacity.
- However, in these cases, the president has to refer the matter to the Supreme Court for an inquiry. If the Supreme Court, after the inquiry, upholds the cause of removal and advises so, then the president can remove the chairperson or a member.

# FUNCTIONS OF COMMISSION

- A. To inquire into any violation of human rights or negligence in the prevention of such violation by a public servant .
- B. To intervene in any proceeding involving allegation of violation of human rights pending before a court.
- C. To visit jails and detention places to study the living conditions of inmates and make recommendation thereon.
- D. To review the constitutional and other legal safeguards for the protection of human rights and recommend measures for their effective implementation.
- E. To review the factors including acts of terrorism that inhibit the enjoyment of human rights and recommend remedial measures.
- F. To study treaties and other international instruments on human rights and make recommendations for their effective implementation.
- G. To undertake and promote research in the field of human rights.

# CONTINUED

- H. To spread human rights literacy among the people and promote awareness of the safeguards available for the protection of these rights.
- I. To encourage the efforts of nongovernmental organisations (NGOs) working in the field of human rights.
- J. To undertake such other functions as it may consider necessary for the promotion of human rights.

# WORKING OF THE COMMISSION

- The commission is not empowered to inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed. In other words, it can look into a matter within one year of its occurrence .
- The commission may take any of the following steps during or upon the completion of an inquiry:
  - a. it may recommend to the concerned government or authority to make payment of compensation or damages to the victim;
  - b. it may recommend to the concerned government or authority the initiation of proceedings for prosecution or any other action against the guilty public servant;
  - c. it may recommend to the concerned government or authority for the grant of immediate interim relief to the victim;
  - d. it may approach the Supreme Court or the high court concerned for the necessary directions, orders or writs.



# ROLE OF THE COMMISSION

- The functions of the commission are mainly recommendatory in nature.
- It has no power to punish the violators of human rights, nor to award any relief including monetary relief to the victim.
- Moreover, its recommendations are not binding on the concerned government or authority.
- But, it should be informed about the action taken on its recommendations within one month. The government cannot wash away the recommendations made by the Commission.
- The commission's role may be recommendatory, advisory, yet the Government considers the cases forwarded by it.
- Therefore, it is improper to say that the commission is powerless. It enjoys great material authority and no government can ignore its recommendation

# CONTINUED

- Moreover, the commission has limited role, powers and jurisdiction with respect to the violation of human rights by the members of the armed forces .
- In this sphere, the commission may seek a report from the Central government and make its recommendations.
- The Central government should inform the Commission of the action taken on the recommendations within three months.
- The commission submits its annual or special reports to the Central government and to the state government concerned.
- These reports are laid before the respective legislatures, along with a memorandum of action taken on the recommendations of the commission and the reasons for non-acceptance of any of such recommendations.

# ISSUES TAKEN UP BY THE COMMISSION

- The various human rights issues taken up by the Commission are as follows:
- 1) Abolition of Bonded Labour .
  - 2) Functioning of the Mental Hospitals at Ranchi, Agra and Gwalior .
  - 3) Functioning of the Government Protective Home (Women), Agra .
  - 4) Issues Concerning Right to Food .
  - 5) Review of the Child Marriage Restraint Act, 1929 .
  - 6) Protocols to the Convention on the Rights of the Child .
  - 7) Preventing Employment of Children by Government Servants: Amendment of Service Rules .
  - 8) Abolition of Child Labour .
  - 9) Guidebook for the Media on Sexual Violence against Children .
  - 10) Trafficking in Women and Children: Manual for the Judiciary for Gender Sensitisation .
  - 11) Sensitisation Programme on Prevention of Sex Tourism and Trafficking .
  - 12) Maternal Anemia and Human Rights .

# CONTINUED

- 13) Rehabilitation of Destitute Women in Vrindavan .
- 14) Combating Sexual Harassment of Women at the Work Place .
- 15) Harassment of Women Passengers in Trains.
- 16) Abolition of Manual Scavenging.
- 17) Dalits Issues including Atrocities Perpetrated on them.
- 18) Problems Faced by Denotified and Nomadic Tribes.
- 19) Rights of the Disabled Persons .
- 20) Issues Related to Right to Health.
- 21) Rights of Persons Affected by HIV / AIDS.
- 22) Relief Work for the Victims of 1999 Orissa Cyclone .
- 23) Monitoring of Relief Measures undertaken after Gujarat Earthquake (2001) .
- 24) District Complaints Authority.
- 25) Population Policy - Development and Human Rights.
- 26) Review of Statutes, including Terrorist & Disruptive Activities Act, and (Draft) Prevention of Terrorism Bill, 2000 .
- 27) Protection of Human Rights in Areas of Insurgency and Terrorism.

# CONTINUED

- 28) Guidelines to Check Misuse of the Power of Arrest by the Police
- 29) Setting up of Human Rights Cells in the State / City Police Headquarters.
- 30) Steps to Check Custodial Deaths, Rape and Torture.
- 31) Accession to the Convention against Torture, Additional Protocols to the Geneva Conventions.
- 32) Discussion on Adoption of a Refugee Law for the Country.
- 33) Systemic Reforms of Police, Prisons and other Centers of Detention.
- 34) Review of Laws, Implementation of Treaties, and the International Instruments on Human Rights.
- 35) Promotion of Human Rights Literacy and Awareness in the Educational System.
- 36) Human Rights Training for the Armed Forces and Police, Public Authorities and Civil Society .
- 37) Action Research on Trafficking.
- 38) Research through well-known academic institutions and NGOs on various issues relating to human rights.
- 39) Constitution with NGOs and experts / specialists on human rights issues.