



FAQ?

FREQUENTLY ASKED QUESTIONS



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1 How are human rights defined in the Protection of Human Rights Act, 1993 ?

In terms of Section 2 of the Protection of Human Rights Act, 1993 (hereafter referred to as Act), "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed under the Constitution or embodied in the International Covenants and enforced by courts in India.

"International Covenants" means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16th December, 1966.

2 What functions have been assigned to the Commission under the Act ?

The commission shall, perform all or any of the following functions, namely:-

- (a) Inquire, on its own initiative or on a petition presented to it by a victim or any person on his behalf, into complaint of –
 - (i) Violation of human rights or 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 right pending before a court with the approval of such court;
- (c) Visit, under intimation to the State Government, any jail or any other institution of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection for the study of the living condition of the inmates and make recommendation thereon to 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) Undertake and promote research in the field of human rights;
- (g) Spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
- (h) Encourage the efforts of non-Governmental organizations and institutions working in the field of human rights;
- (i) Such other functions as it may consider necessary for the protection of human rights.

3 What powers have been vested with the Commission relating to inquiries?

While inquiring into complaints under the Act, the Commission shall have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908, and in particular the following matters:

- (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.

4

Does the Commission have its own investigation team ?

The Commission has its own investigating staff headed by a Director Investigation for investigation into complaints of human rights violations. Under the Act, it is open for the Commission to utilize the services of any officer or investigation agency of the State Government.

5

How should the complaints be filed ?

Every complaint shall state the full facts relating to the matter complained against, specifying the date of occurrence of the incident and the nature of relief sought for

- (1) Every complaint shall be submitted under the signature of the aggrieved person or of a person submitting the complaint on behalf of the aggrieved person provided that when a complaint is made through any means which does not permit the complaint to be signed, a signed copy of the complaint shall be simultaneously despatched to the Commission by post.
- (2) The complaint shall state the name and full address of the aggrieved person or each aggrieved person and if the complaint is made by any person other than the aggrieved person, the name and full address of the person making the complaint and of the aggrieved person or persons.
- (3) The complaint shall record a certificate to the effect that the subject matter of the complaint or the grievance is not subjudice before any Court or Tribunal or is not pending before a Commission including the National Human Rights Commission and is not covered by a judicial verdict or decision of any Commission.
- (4) The Commission may, if necessary, call for further information and may direct affidavits to be filed in respect of any matters arising out of or connected with the allegation.

6

Can the complaint be in any Language ?

The complaint shall be made to the Commission in writing ordinarily in English, Hindi or Odiya. The Commission may, however, entertain complaints in any other language included in the 8th Schedule of the Constitution if the complainant or the aggrieved person does not know English, Hindi or Odiya.

7

Is any Fee to be paid for filing the complaint ?

No fee shall be required for filing the complaint.

8

What kind of complaints not entertainable by the Commission ?

Complaints of the following nature shall not be entertained by the Commission and shall be dismissed in limini.

- (a) Complaints which are illegible, anonymous or pseudonymous.
- (b) Complaints which are vague, trivial or frivolous.
- (c) Complaints which do not prima-facie disclose specific violation of Human Right.
- (d) Complaints which are pending before a State Commission or any other Commission duly constituted under any law for the time being in force.
- (e) Complaints which involve any matter after expiry of one year from the date on which the Act constituting violation of Human Rights is alleged to have been committed.
- (f) Complaints relating to civil disputes such as property rights, contractual obligation and the like.
- (g) Complaints relating to deficiency in service covered by the provisions of Consumers Protection Act, 1986.
- (h) Complaints relating to service matters or labour or industrial disputes or to claim and grievances arising out of conditions of service or service rules or labour laws and the like.
- (i) Complaints relating to any matter which is subjudice before a Court or Tribunal or is covered by a judicial verdict.
- (j) Complaints relating to matters being enquired into by the National Human Rights Commission or any other Commission duly constituted under any law for the time being in force and matters covered by decision of the National Human Rights Commission or any such Commission.
- (k) Complaints addressed to any other authority, copy of which is received in the Commission.
- (l) Complaints relating to events or incidents which did not occur within the geographical limits of the State of Orissa.
- (m) Complaints relating to matters out side the purview of the Commission on any other ground.

9

How does the Commission inquire into complaints?

The Commission while inquiring into complaints of violations of human rights may call for information or report from the State Government or any organization subordinate thereto, within such time as may be specified by it; provided if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own; on the other hand, if, on receipt of information the Commission is satisfied either that no further inquiry is

required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly.

10

What steps are open to the Commission after inquiry?

The Commission may take any of the following steps during or upon completion of an inquiry.

- (1) Where the inquiry discloses commission of violation of human right or negligence in the prevention of violation of human rights by a public servant, it may recommend to concerned Government or authority for initiation of proceedings or prosecution or such other action as the Commission may deem fit against the concerned person or persons;
- (2) Approach the High Court for such directions, orders or writs as that Court may deem necessary;
- (3) Recommend to the concerned Government or authority for the grant of such compensation, relief to the victim or the members of his family as the Commission may consider appropriate.

11

What is responsibility of the authority/State Government to which reports/recommendations have been sent by the Commission?

The authority/State Government has to indicate its comment/action taken on the report / recommendations of the Commission within a period of one month in respect of general complaints.

12

What are the kinds of issues on which complaints can be filed ?

Complaints can be filed on the following issues.

Children :

- (a) Child Labour (b) Child Marriage (c) Child Prostitution (d) Exploitation of Children (e) Human Sacrifice (f) Immoral Traffic in Children (g) Cruelty to Children (h) Neglect of Children

Health :

- (a) Exploitation of the mentally retarded (b) Public Health hazards (c) Malfunctioning of medical institutions/ Medical professionals

Jail :

- (a) Custodial death (b) Custodial rape (c) Exploitation of child prisoners (d) Denial of required medical facilities to prisoners (e) Deprivation of legal aid (f) Harassment of prisoners (g) Irregularities in jail (h) Non supply of prescribed diet to prisoners (i) Unlawful solitary confinement

Criminal Gangs :

- (a) Harassment by Gangs (b) Mischief or harassment by anti-social elements

Labour :

- (a) Bonded Labour (b) Exploitation of Labour (c) Forced Labour (d) Hazardous employment (e) Slavery (f) Traffic in human labour

Minorities/ SC/ ST :

(a) Discrimination against minorities (b) Discrimination against SC/ ST

Physically handicapped :

(a) Exploitation of Physically handicapped (b) Cruelty to Physically handicapped
(c) Discrimination against physically handicapped (d) Neglect of physically handicapped

Police/ paramilitary forces :

(a) Arbitrary use of power (b) Abduction / kidnapping (c) Abuse of power
(d) Attempted murder (e) Custodial death (f) Custodial rape (g) Custodial torture
(h) Custodial violence (i) Death in firing (j) Death in encounter (k) Failure in taking
lawful action (l) False implications (m) Illegal arrest (n) Outraging of modesty in
custody (o) Police motivated incidents (p) Rape (q) Unlawful detention (r)
Victimization

Pollution :

(a) Ecological disturbances (b) Pollution affecting surroundings
(c) Environmental pollution (d) Misuse of scientific and technological
developments

Religion community :

(a) Communal violence (b) Ethnic conflict (c) Group clashes (d) Racial
discrimination (e) Disparities in employment opportunities (f) Non payment of
pension/ compensation (g) Loss of livelihood support (h) Atrocity based on
superstitious belief

Women :

(a) Abduction, rape and murder (b) Discrimination against women (c) Dowry death
or attempt (d) Dowry demand (e) Exploitation of women (f) Gang rape (g) Indignity
of women (h) Immoral trafficking of women (i) Rape (j) Sexual harassment

Miscellaneous :

(a) Disappearance (b) Unlawful actions of public servants (c) Unlawful eviction
(d) Residual matters

13**What has been focus of the Commission's Working ?**

Inquiring into complaints is one of the major activities of the Commission. In several instances individual complaints have led the Commission to the generic issues involved in violation of rights and enabled it to move the concerned authorities for systemic improvements. Moreover, the Commission actively seeks out issues in human rights which are of significance suo-motu, when brought to its notice by the media, concerned citizens, expert advisers. Its focus is to strengthen the extension of human rights to all sections of society, in particular, the vulnerable groups.

Orissa Human Rights Commission

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