



ବାର୍ଷିକ ବିବରଣୀ
ANNUAL REPORT
2007-08



ଓଡ଼ିଶା ମାନବ ଅଧିକାର ଆୟୋଗ
Orissa Human Rights Commission
Bhubaneswar, Orissa

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CONTENTS

| | | |
|------|--|----|
| 1. | International Covenant on Economic, Social and Cultural Rights, 1966 | 1 |
| 2. | Functions and powers of the Commission under the Protection of Human Rights Act, 1993 | 11 |
| 3. | Provisions of the OHRC (Procedure) Regulation, 2003 | 14 |
| 4. | Classification of the incidents leading to complaints / suo-motu action | 16 |
| 5. | Composition of the Commission | 18 |
| 6. | Organization of Commission | 18 |
| 7. | Registration of the cases | 19 |
| 8. | Important Decisions of the Orissa Human Rights Commission | 20 |
| 9. | Annexure | 29 |
| i) | Annexure - I (Staffing Pattern of Human Rights Commission) | |
| ii) | Annexure - II (Classification of Cases filed during 2007-08) | 29 |
| iii) | Annexure - III (Classification of Cases filed suo-motu during 2007-08) | 30 |
| iv) | Annexure - IV (Classification of cases entertained during 2007-08) | 30 |



INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 1966

Adopted and opened for signature, ratification and accession by General Assembly Resolution 2200 A (XXI) of 16th December, 1966

Entry into force 3rd January, 1976, in accordance with Article 27.

PREAMBLE

The States Parties to the present Covenant; Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world; Recognizing that, these rights derive from the inherent dignity of the human person;

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights;

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms;

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant;

Agree upon the following articles:

ARTICLE -1

1. All people have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of non-self-governing and Trust Territories, shall promote the realization of the right of self-determination and shall respect that right, in conformity with the provisions of the charter of the United Nations.

ARTICLE -2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of



its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

ARTICLE -3

The States Parties to the present Covenant undertake to ensure the equal rights of men and women to the enjoyment of all economic, social and cultural rights set forth in the present covenant.

ARTICLE - 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

2

ARTICLE -5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.
2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or customs shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

ARTICLE -6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.
2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental, political and economic freedoms to the individual.



ARTICLE -7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work, which ensure, in particular:

- a) Remuneration which provides all workers, as a minimum, with:
 - i) fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
 - ii) a decent living for themselves and their families in accordance with the provisions of the present Covenant;
- b) Safe and healthy working conditions;
- c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holiday.

ARTICLE -8

1. The States Parties to the present Covenant undertake to ensure:
 - a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interest. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade union organizations;
 - c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.
2. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.



3. Nothing in this Article shall authorize States Parties to the International Labour Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

ARTICLE -9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

ARTICLE -10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.
2. Special protection should be accorded to mothers during a reasonable period before and after child birth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.
3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to like or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

ARTICLE -11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.
2. The States parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through International co-operation, the measures, including specific programmes, which are needed:



- a) to improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
- b) taking into account the problems of both food-importing and food-exporting countries to ensure an equitable distribution of world food supplies in relation to need.

ARTICLE -12

1. The States Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - a) the provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 - b) the improvement of all aspects of environmental and industrial hygiene;
 - c) the prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - d) the creation of conditions which would assure to all medical service and medical attention in the event of sickness.

ARTICLE -13

1. The States Parties to the present Covenant recognise the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
2. The States Parties to the present Covenant recognise that, with a view to achieving the full realization of this right:
 - a) Primary education shall be compulsory and available free to all;
 - b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
 - c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;



- d) Fundamental education shall be encouraged or intensified as far as possible for those persons, who have not received or completed the whole period of their primary education;
 - e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.
3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians, to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.
 4. No part of this Article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this Article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

ARTICLE -14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

ARTICLE -15

1. The States Parties to the present Covenant recognise the right of everyone:
 - a) To take part in cultural life;
 - b) To enjoy the benefits of scientific progress and its applications;
 - c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.
3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.
4. The States Parties to the present Covenant recognise the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.



ARTICLE -16

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.
2. (a) All reports shall be submitted to the Secretary - General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant.
(b) The Secretary General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from State Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

ARTICLE -17

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.
2. Reports may indicate factors and difficulties affecting the degree of fulfillment of obligations under the present Covenant.
3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

ARTICLE -18

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

ARTICLE -19

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with Articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with Article 18.

**ARTICLE -20**

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under Article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

ARTICLE -21

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

ARTICLE -22

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

ARTICLE -23

8

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meeting for the purpose of consultation and study organized in conjunction with the Governments concerned.

ARTICLE -24

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

ARTICLE -25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 and without unreasonable restrictions -

- a) to take part in the conduct of public affairs, directly or through freely chosen representatives;
- b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing and free expression of the will of the electors;
- c) to have access, on general terms of equality, to public service in his country.

**ARTICLE -26**

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this Article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary General of the United Nations.
5. The Secretary General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

ARTICLE -27

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary General of the United Nations of the thirty fifth instrument of ratification or instrument of accession.
2. For each state ratifying the present Covenant or acceding to it after the deposit of the thirty fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

ARTICLE -28

The provisions of the present Covenant shall extend to all parts of the federal States without any limitations or exceptions.

ARTICLE -29

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary General of the United Nations. The Secretary General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.



2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two third majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.
3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

ARTICLE -30

Irrespective of the notifications made under Article 26, paragraph 5, the Secretary General of the United Nations shall inform all states referred to in paragraph 1 of the same article of the following particulars:

- a) Signatures, ratifications and accessions under Article 26
- b) The date of the entry into force of the present Covenant under Article 27, and the date of the entry into force of any amendments under Article 29.

ARTICLE -31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in Article 26.



POWER AND FUNCTIONS OF THE COMMISSION

Definition of Human Rights 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.

Functions 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.

Powers of the commission relating to inquiries

While inquiring into complaints under the Act, the Commission shall have all the power of 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.



Investigation team of the Commission

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.

Autonomy of the Commission

The autonomy of the Commission derives, inter-alia, from the method of appointment of its Chairperson and Members, their fixity of tenure, and statutory guarantees thereto, the status they have been accorded and the manner in which the staff responsible to the Commission including its investigative agency - will be appointed and conduct themselves. The financial autonomy of the Commission is spelt out in Section 32 of the Act.

12

The Chairperson and Member of the Commission are appointed by the Governor on the basis of recommendations of a Committee comprising the Chief Minister as the Chairperson, the Home Minister, the speaker of the Assembly and the Leader of Opposition in the Assembly as members.

Procedure for inquiry 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.

Steps open to the Commission after inquiry

The Commission may take any of the following steps upon the 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 the initiation or proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons;
- 2) Approach the High Court concerned 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 immediate necessary relief to the victim or the members of his family as the Commission may consider.

Language of the complaint

They may be in Oriya, English or Hindi. The complaints are expected to be self-contained. No fee is charged on complaints. The Commission may ask for further information and affidavits to be filed in support of allegation wherever considered necessary. The Commission may in its discretion, accept telegraphic complaints and complaints conveyed through FAX or by e-mail. Complaints can also be made on mobile telephone number of the Commission.

Kind of Complaints not entertained by the Commission

Ordinarily, complaints of the following nature are not entertained by the Commission.

- a) In regard to events which happened more than one year before the making of the complaints;



- b) With regard to matters which are sub-judice;
- c) Which are vague, anonymous or pseudonymous;
- d) Which are of frivolous nature;
- e) Which pertain to service matters.

Responsibility of the authority/State/Governments 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.

Issues on which complaints have been received

Since its inception, the Commission has handled a variety of types of complaints. Lately the major types of complaints have been:

- ◆ In respect of police administration
- ◆ Failure in taking action
- ◆ Unlawful detention
- ◆ False implication
- ◆ Custodial violence
- ◆ Illegal arrest
- ◆ Other police excesses

- ◆ Custodial deaths
- ◆ Encounter deaths
- ◆ Harassment of prisoners; jail conditions
- ◆ Atrocities on SCs and STs
- ◆ Bonded labour, child labour
- ◆ Sexual harassment and indignity to women, exploitation of women
- ◆ Numerous other complaints which cannot be categorized, have also been taken by us.

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.

However, the Commission also actively seeks out issues in human rights which are of significance either suo-motu, or when brought to its notice by the civil society, 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.



PROVISIONS OF OHRC (PROCEDURE) REGULATIONS, 2003

Sub-Section (2) of the Section 10 of the Protection of Human Rights Act, 1993, provides that "the Commission shall regulate its own procedure". Accordingly, the Commission framed a set of Regulations called "Orissa Human Rights Commission (Procedure) Regulations, 2003" (herein after referred to as the 'Regulations') to regulate the procedure to be followed by the Commission in making enquiries suo-motu or on petitions presented to it and matters incidental thereto. In formulating the Regulations, the Commission had the benefit of consulting the Regulations framed by the National Human Rights Commission and certain State Commissions. Regulations framed and approved by the Commission were published in an extraordinary issue of the Orissa Gazette dated 25th September, 2003 and came into force with effect from the 15th September, 2003. The Commission also issued a press-note briefly outlining the procedure for filing complaints before the Commission for information of general public.

In accordance with the provisions of the Regulations, the Commission holds its office on all working days of the State Government. Although under the Regulations the Commission is ordinarily required to hold its sittings during the period from 1st to 7th and 14th to 21st of every month, except Saturdays, in view of the increasing workload, the Commission has been holding its sitting on all working days except Saturdays.

A victim of human rights violation or any other person acting on his behalf may file a complaint.

The Regulations provides that a complaint shall ordinarily be written in English. Hindi or Oriya but if the complainant does not know any of these languages, he or she may submit the complaint in any other language included in the 8th Schedule of the Constitution. No fee is required to be paid for filing a complaint. In the Regulations, the procedural requirements for filing complaints have been consciously kept simple. The complainants are, however, required to state particulars, which are essential for a meaningful enquiry such as gist of the grievance, date of occurrence, names and where relevant, designation of persons complained against. The complainants are not required to support their complaint by an affidavit at the stage of filing complaint but may be called upon to do so during the enquiry. Although Regulation 9 (4) (iii) of the Regulations provides that a complainant shall be required to submit 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. The Commission has decided not to reject any complaint on account of failure to comply with these requirements in the initial stage although these aspects are looked into during the enquiry. A complaint which does not comply with one or more requirements of Regulation 9 is liable to be rejected but where the Commission is satisfied that the complaint prima facie reveals violation of human rights, taking a liberal view the



Commission has been permitting the complainant to rectify the defects and to submit a proper petition afresh within such time as may be allowed.

Following the provisions of the Act, the corresponding provisions in the National Human Rights Commission (Procedure) Regulations, 1994, and Regulations framed by certain other State Commission, the Regulation 10 of the Regulations enumerates the categories of complaints which are not entertainable by the Commission and which are liable to be dismissed in limini.

These include:

- i. Complaints which are illegible, anonymous or pseudonymous.
- ii. Complaints which are vague, trivial or frivolous.
- iii. Complaints which do not prima facie disclose specific violation of human rights.
- iv. Complaints which are barred under Section 36 (1) of the Act.
- v. Complaints which are barred under Section 36 (2) of the Act.
- vi. Complaints relating to civil disputes such as property rights, contractual obligations and the like.
- vii. Complaints relating to deficiency in services covered by the provisions of Consumers Protection Act, 1986 (68 of 1986).

- viii. Complaints relating to service matters or labour or industrial disputes or to claims and grievances arising out of conditions of service or service rules or labour laws and the like.
- ix. Complaints relating to any matter which is sub-judice before a Court or Tribunal or is covered by a judicial verdict.
- x. 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.
- xi. Complaints addressed to any other authority, a copy of which is received in the Commission.
- xii. Complaints relating to events or incidents which did not occur within the geographical limit of the State of Orissa.
- xiii. Complaints relating to matters outside the purview of the Commission on any other ground.

Every complaint received by the Commission whether prima facie entertainable or not is placed before the Commission for orders regarding entertainability of the complaint and a copy of the order passed by the Commission is supplied to the complainant.



ORISSA HUMAN RIGHTS COMMISSION
SUBJECT-WISE CLASSIFICATION OF INCIDENTS LEADING TO
COMPLAINTS/ SUO MOTU ACTION

| Major Head | Sub Head |
|-----------------------------|--|
| Children | Child Labour Child Marriage Child Prostitution Exploitation of Children Human Sacrifice Immoral Traffic in Children Cruelty to Children Neglect of Children |
| Health | Exploitation of the mentally retarded Public Health hazards Malfunctioning of medical institutions/ Medical professionals |
| Jail | Custodial death Custodial rape Exploitation of child prisoners Denial of required medical facilities to prisoners Deprivation of legal aid Harassment of prisoners Irregularities in jail Non supply of prescribed diet to prisoners Unlawful solitary confinement |
| Criminal Gangs | Harassment by Gangs Mischief or harassment by anti-social elements |
| Labour | Bonded Labour Exploitation of Labour Forced Labour Hazardous employment Slavery Traffic in human labour |
| Minorities/ SC/ ST | Discrimination against minorities Discrimination against SC/ ST |
| Physically handicapped | Exploitation of Physically handicapped Cruelty to Physically handicapped Discrimination against physically handicapped Neglect of physically handicapped |
| Police/ paramilitary forces | Arbitrary use of power Abduction / kidnapping |



| | |
|--------------------|---|
| | <p>Abuse of power Attempted murder Custodial death Custodial rape Custodial torture Custodial violence Death in firing Death in encounter Failure in taking lawful action False implications Illegal arrest Outraging of modesty in custody Police motivated incidents Rape Unlawful detention Victimization</p> |
| Pollution | <p>Ecological disturbances Pollution affecting surroundings Environmental pollution Misuse of scientific and technological developments</p> |
| Religion community | <p>Communal violence Ethnic conflict Group clashes Racial discrimination</p> |
| Service matter | <p>Disparities in employment opportunities Non payment of pension/ compensation Other service disputes</p> |
| Women | <p>Abduction, rape and murder Discrimination against women Dowry death or attempt Dowry demand Exploitation of women Gang rape Indignity of women Immoral trafficking of women Rape Sexual harassment</p> |
| Miscellaneous | <p>Disappearance Unlawful actions of public servants Unlawful eviction Residual matters</p> |

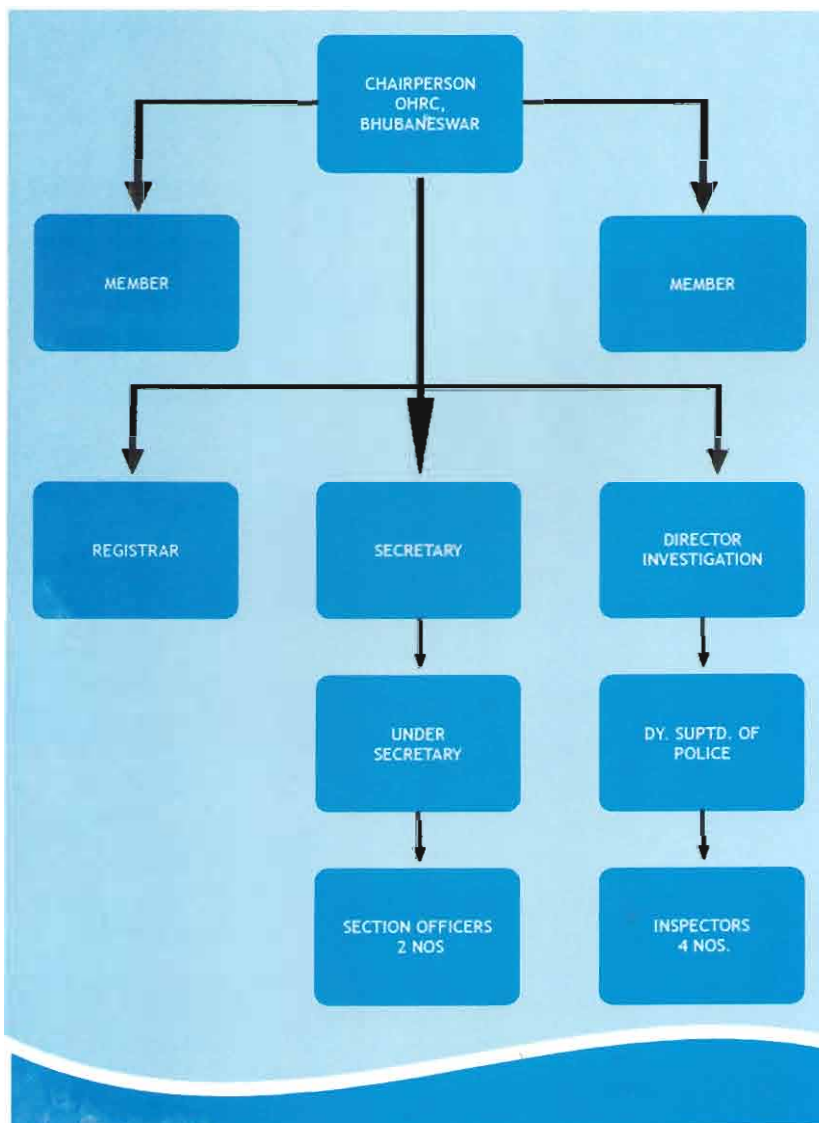


COMPOSITION OF THE COMMISSION 2007-08

| | | Date of Appointment | Date of retirement |
|--------------------------------------|--|----------------------------|---------------------------|
| Hon'ble Justice Shri D. P. Mohapatra | Chairperson | 11.07.2003 | 02.08.2007 |
| Shri Sudhansu Mohan Patnaik | Member | 11.07.2003 | 10.07.2008 |
| | Acting Chairperson (w.e.f. 03.08.2007 to 01.01.2008) | | |
| Shri Himadri Mohapatra | Member | 03.08.2004 | 03.08.2009 |
| Justice R.K. Patra | Chairperson | 02.01.2008 | Continuing |
| Dr. R.N. Bohidar | Member | 18.11.2008 | Continuing |

The staffing pattern of the State Human Rights Commission during the period under report is furnished in the Annexure-1.

ORGANOGRAM





REGISTRATION OF CASES

Since its inception, the Commission has been receiving complaints alleging violation of human rights from all districts on a variety of subjects. Besides, newspaper reports published in leading newspapers are being scrutinized on regular basis and the Commission has been enquiring suo-motu of reports which prima facie disclose violation of human rights or negligence in the prevention of such violation by the public servant.

During the period from 01 April 2007 till 31 March 2008, the Commission received 1622 number of complaint petitions out of which 872 were dismissed in limini and the balance 750 were entertained for enquiry by the Commission, which includes 149 number of cases entertained suo-motu for enquiry. During the period under report 87 numbers of cases have been disposed after enquiry in addition to 872 numbers of cases dismissed in limini. The disposed of cases 87 included a large number of instances in which the grievances of the complainants were redressed.

The statement indicating subject-wise classification of cases filed during 2007-08 is furnished in **Annexure - II**. Suo-motu cases filed during the period under report is furnished vide **Annexure-III**. Classification of cases entertained during 2007-08 is furnished in **Annexure-IV**.

Complaints taken cognizance by the Commission related to the variety of grievances including allegations of custodial death both in police stations and in jails, custodial torture, starvation death, arbitrary use of power and failure in taking lawful action by Police, child labour, cruelty to children, trafficking in human beings, environmental pollution, indignity to women, gang rape, discrimination against physically handicapped and discrimination against scheduled caste and scheduled tribe persons.



Brief outline of selected cases disposed of by the Commission

A brief outline of selected cases disposed of during the year under report is furnished below.

Case No. 1115/2005

One Baishnab Charan Sahu of village Pabitrapur in Kendrapara district submitted a petition dated 23.09.2005 alleging that even though he retired from the office of the District Transport Manager (A), O.S.R.T.C., Cuttack on 31.01.2002 on the attaining the age of superannuation, he has not received his gratuity, unutilized leave salary, duty pay for 52 months and arrear dues on account of revision of pay.

The Commission took cognizance of the petition and forwarded the complaint petition to the Chairman-cum-Managing Director, O.S.R.T.C., Bhubaneswar for a report on the grievances of the petitioner.

In pursuance of the aforesaid order the General Manager, O.S.R.T.C reported that the petitioner has received Rs. 17,505/- in installments, the last being a sum of Rs. 150/- paid on 20.09.2006. The report further indicated that the EPF amount to the tune of Rs. 45,910/- was deposited in the office of the R.P.F. Commissioner, Bhubaneswar to facilitate drawal of his pension. The stand of the corporation was that owing to

financial constraints, the dues of the petitioner and the dues of other retired employees of the Corporation could be cleared only when financial assistance was received from Government.

The Commission noted that the sum of Rs. 1, 47,346/- was due to the petitioner towards unpaid salary, revised pay and DA, Gratuity and unutilized leave salary, out of which the petitioner had been paid Rs. 17,505/- from the corporation under different heads. The petitioner was a low paid employee who retired from the service of the Corporation more than five years ago. The EPF pension of Rs. 588/- per month which he was receiving could not reasonably be accepted as adequate for meeting the basic needs of subsistence of a 67 years old former employee of the Corporation.

Considering the financial position of the Corporation, the Commission recommended that instead of one installment the outstanding dues of the petitioner should be cleared in monthly installment @ Rs. 2000/- commencing immediately.

With the above recommendation, the case was closed.

Case No. 607/2004

The news item captioned "DASA BARSARA CHAKARANI PRATI AMANUSIKA ATYACHARA" which had appeared in the daily "SAMAJ" in its issue dated 16.06.2004 and the news item captioned "AAU EKA SHISHUSHRAMIKA NIRJYATANA : LALMAHAL PARE RAYAGADARE MANJU" appeared in the daily "SAMBAD" dated 15.06.2004 came to the notice of the Commission. It was reported in the news items that Manju Sethy, a ten year old girl, who was reportedly working as a domestic help in the house of one Sri Satyajit Sethy and Smt. Snigdha Sethy was subjected to inhuman treatment and physical torture. The news paper report further indicated that a case had been registered in the Rayagada P.S. but the accused persons were said to be absconding.

The news item was forwarded for report from S.P., Rayagada.

S.P., Rayagada reported that a case No. 84 dated 14.06.2004 has been registered against Sri Sethy under sections 370/ 374/ 323/ 324/ 325/ 506/ 34 IPC and was investigated into. Investigation revealed that a girl named Manju Sethy, d/o - Dusasan Sethy of village Mohapada under Balasore Sadar P.S. of district Balasore was working as a maid servant in the house of Sri Satyajit Sethy, s/o - Debendranath Sethy of Thermal Colony, P.S.- Balasore Sadar in the district of Balasore who was working as a Junior Clerk in the D.R.D.A., Rayagada since three years. Investigation further revealed that Manju, the minor girl, was tortured by the said Satyajit Sethy and his wife regularly as she was unable to attend to domestic chores efficiently and to their satisfaction. Investigation also revealed that the girl Manju Sethy used to be assaulted by means of lathi, bread roller, broom stick and fist and kick blows. On 13.06.2004 the victim girl was assaulted by means of a Jalichatu



as a result of which one of her teeth was fractured. When the physical torture gradually increased, the girl fled away from the house of Satyajit Sethy and took shelter on the verandah of one Bhaskar Rao and narrated to him her sufferings in the house of her employer. Sri Bhaskar Rao who is a local grocer immediately reported the matter at Rayagada P.S... The victim girl was examined at District Headquarters Hospital, Rayagada by Dr. B.K. Mishra who detected as many as six injuries on her body which included bruises, burn injuries, abrasion and fracture of a tooth. Accused Satyajit Sethy and his wife were arrested on 16.06.2004 and were forwarded to court of S.D.J.M., Rayagada on the same day. The father of the victim girl arrived at Rayagada on 17.06.2004 and as here legal guardian, took the child with him. After completion of investigation, charge sheet has been submitted in Rayagada P.S. case no. 84 dated 14.06.2004 on 30.06.2004.

The Commission basing on report and documents available on record took a view that Manju Sethy, a child of ten years who was working as a domestic help in the house of one Satyajit Sethy and Smt. Snigdha Sethy was subjected to physical torture and inhuman treatment. The victim girl was assaulted with lathi, bread roller and broom stick, was kicked and was given fist blows which clearly suggested

that she was subjected to cruelty which no reasonable person could inflict on a minor girl of tender years. Medical examination revealed that the victim girl had sustained six injuries on her body including bruises, burn injuries, abrasion and fracture of a tooth. Sri Sethy in whose house the victim girl was working is a Government servant and was, therefore, required to follow certain code of conduct.

In the circumstances, the Commission felt that it was a fit case for grant of interim relief to the victim and accordingly recommended that a sum of Rs. 25,000/- be granted, as interim relief, to the victim. As the victim girl was a minor, it was further recommended that an amount of Rs. 5000/- out of the aforesaid sum be paid in cash to the mother of the victim girl which should be used exclusively for the benefit of victim girl and the balance amount should be invested in monthly income scheme in a post office and the monthly interest therefrom should be paid to the victim girl through her father which should also be used exclusively for the benefit of the victim girl, particularly her education and maintenance. The Government was also advised to provide such other benefits as may be admissible to the victim girl as a child labour for her education and further rehabilitation.

The case was closed after the orders of the Commission were complied by Government.

Case No 199/04 dated 24.4.2010.

On a grievance petition filed by one Sri Basanta Kumar Mohapatra a retired employee of OSRTC relating to non-payment of his retiral dues, notice was served on the M.D., OSRTC. The G.M.(Adm.), OSRTC submitted a report admitting that the petitioner was an ex-STC employee and that a total sum of Rs.1,24,588/- was payable to him. He further stated that with regard to the payment of gratuity, "Payment of Gratuity" case bearing No. 11/03 filed by the petitioner, under the Payment of Gratuity Act, 1972 is pending disposal before the appropriate authority. He also stated that on account of non-vacation of a room at Bus Stand belonging to OSRTC,

despite his retirement, the dues of the petitioner had been with-held. The petitioner was noticed to indicate the reasons for non-vacation of the premises occupied by him.

After perusing the report submitted by the G.M., OSRTC as well as the response filed by the petitioner, the Commission felt that the crux of the dispute lies in the claims and counter claims with regard to the right title and interest in respect of the disputed land and premises now under occupation of the complainant.

Questions of right title and interest in respect of an immovable property cannot be determined by the Commission. In the circumstances the Commission was of the view that no useful



purpose will be served by proceeding with the enquiry any further. The parties concerned were directed to seek relief in the appropriate forum. However, as regards disbursement of the arrear dues payable to the petitioner, the Commission recommended that the OSRTC should reconsider

the matter regarding payment of his retiral dues as all types of dues said to be payable to the petitioner as retiral benefits would not be adjusted or appropriated for satisfaction of other dues against a retired employee.

With these observations, the case was closed.

Case No. 1149/05 dated 24.4.2010.

One Smt. Jayanti Mishra, wife of Kamal Lochan Mishra of Mishra lane, Srikshetra Colony, Puri filed a petition alleging that on 13.9.05 she lodged a written report at Sea-Beach P.S. against Sri Bhikari Nayak and others. It was alleged that as Sri Bhikari Nayak was working in Police Department, the OIC of Sea-Beach PS did not register a case on her report. On the other hand, the accused Bhikari Nayak along with his family members were abusing and threatening the petitioner and her husband in filthy language and openly proclaiming that he being a policeman, the S.P. would help him. The petitioner, therefore, sought intervention of the Commission in the matter.

The Commission took cognizance of the matter and called for a report from the S.P. Puri to have the allegation enquired into by a senior officer not below the rank of Dy.S.P. and furnish his report to the Commission within 4 weeks.

The matter was enquired into by Sri Pramod Ranjan Mohanty, DSP (City), Puri. After enquiry Sri Mohanty reported that on examination of records he found that on the basis of the report lodged by the petitioner, a station diary entry No.276 dated 13.9.05 was made in the Sea-Beach PS and the IIC of Sea Beach PS entrusted the S.D.E. for enquiry to ASI of Police Sri D.M. Tripathi but no follow up action was taken by

Sri Tripathy on the said S.D.E. Sri Mohanty stated that on enquiry from the locality, he ascertained that there was a quarrel between the petitioner Smt. Jayanti Mishra and Smt. Bhanumati Nayak, wife of Sri Bhikari Nayak when the petitioner was playing badminton with her son. The petitioner submitted a report in the Sea Beach PS, Puri relating to the said incident. Sri Mohanty also stated that subsequent to the said incident, there had been no untoward incident between the parties. Though instruction was received for initiating a proceeding U/s 107 Cr.P.C. against the parties, if necessary, no such action was considered necessary in the circumstances.

After perusal of the papers available, the Commission was of the view that the ASI of Police, Sri B.M. Tripathi and the IIC of Sea Beach PS have failed to discharge their duties properly inasmuch as no follow up action was taken on the basis of the Station Diary Entry No. 276 dated 13.9.05 made on the basis of the report of the petitioner. The IIC of Sea Beach PS neither called upon the ASI Sri B.K. Tripathi to submit the report nor got the matter enquired into by any other officer of the PS. In the circumstances, departmental action, as considered necessary, should be taken against the ASI of Police Sri D.M. Tripathy, Sea Beach PS., Puri.

The case was closed with the above observations.

Case No. 1222/05 dated 24.4.2010.

One Sri Anup Roy, a convict lodged in the Circle Jail, Cuttack filed a petition stating that he, his wife and other co-accused persons were convicted by the ad-hoc Additional District and Sessions Judge, Mayurbhanj on 27.9.2004 and were sentenced to imprisonment for 16 years. Prior to their conviction, they were lodged in

Circle Jail, Baripada as under-trial prisoners from 17.9.1999. Following their conviction, he and his wife were transferred to the District Jail, Keonjhar on 27.11.2004. The petitioner had alleged that there was no justification for his transfer to Dist. Jail, Keonjhar and that owing to his transfer he was unable to meet his near and dear ones from his Home State of West



Bengal. The petitioner also complained of his segregation inside the Jail premises arbitrarily without any formal order of his segregation. The petitioner had further alleged that an effort was made by the Jail authorities to build up record to show that he had been segregated on account of his illness. He was allegedly examined by a Psychiatrist and since no mental disorder was detected, he was transferred to Circle Jail, Choudwar on 14.7.05. It was stated by the petitioner that he was examined by a Neurologist of SCB Medical College and Hospital, who was stated to have prescribed certain Vitamins and advised a blood test which was found to be normal. Soon thereafter the petitioner submitted a petition to the I.G. of Prisons requesting for his re-transfer to District Jail, Keonjhar. He further alleged that he submitted two petitions dated 16.9.05 and 28.5.05 addressed to the Commission through the authorities of Circle Jail, Choudwar and Dist. Jal, Keonjhar. The petitioner apprehended that these petitions had not been forwarded to the Commission by the concerned Jail authorities. The prayer of the petitioner was for his re-transfer to the District Jail, Keonjhar where his wife was said to be presently lodged, as that would facilitate interviews with his near and dear ones.

The copy of the complaint petition was forwarded to the Addl. D.G. -cum- I.G. of Prisons, Orissa, Bhubaneswar for a report on the allegation. After detailed enquiry, the I.G. of Prisons reported that the Dealing Asst. Sk. Hassan and the S.O., Sri L. Dalei did not take any action for forwarding the complaint petitions of the petitioner to the OHRC. Besides, considering the representation made and hunger strike resorted to by the petitioner Anup Roy was transferred from Choudwar Jail to Dist. Jail, Keonjhar by order dated 3.11.2005 of the Directorate of Prisons. Subsequently, the petitioner was released from Jail on being granted bail with effect from 18.12.2006.

The Commission felt that since the grievance of the petitioner relating to with-holding his representation to the Commission had been admitted by the authorities and the petitioner had been transferred to District Jail, Keonjhar and subsequently released from Jail, there was no need for proceeding further in the case and accordingly the case was closed. However, the Commission recommended that the I.G. of Prisons, Bhubaneswar should take appropriate action against Sk. Hassan, dealing Asst., Sri L Dalei, S.O. and the DIG of Prisons who are responsible for withholding the petitions submitted by the petitioner to the Commission.

Case No. 41/07 dated 24.4.2010.

The Newspaper report regarding death of an under-trial prisoner in Balasore district Jail appearing in the 'Times of India' in its issue dated 2.2.2007 under the caption "Mystery death in jail" drew the attention of the Commission. As per the newspaper report, one Sri Nirmal Mahanta (35) of village Bamani in the district of Purulia, West Bengal, was detained in Balasore Jail as a UTP. On 01.02.2007 he suffered from fever for which he was first treated in the Jail Hospital. As he did not respond to the treatment, he was shifted to the district Headquarters Hospital, Balasore where he died. While Sri R.N. Sethi, Jail Supdt. admitted that the UTP died in course of treatment, the Hospital

sources reportedly took the stand that the UTP was brought dead.

As the Superintendent's report revealed the custodial death of an UTP, the Commission took cognizance of the matter and called upon the I.G. of Prisons, Orissa to furnish a detailed factual report.

In pursuance to the said order, the Addl. I.G. of Prisons furnished the copies of the inquest report, the magisterial enquiry report, the post-mortem examination report, medical records and the copy of the report of the Supdt, Balasore Jail available in his office relating to the circumstances resulting in the death of Nirmal Mahanta. It was revealed from the copy of the Post-mortem examination report that the death of the deceased was on account of rupture of



Tubercular cavity. The medical report of the deceased revealed that although the deceased complained of pain on chest and rolled down on the floor of ward No.11 followed by frequent cough, no X-Ray examination of the chest, pathological examination of sputum, blood and other biological examination was undertaken. Though the span of his detention in Jail was short, he was treated on four occasions, until he was admitted in the Jail Hospital on 24.1.2007. The condition of the UTP became serious on 25.1.07 and he was shifted to the Dist. Headquarters Hospital, Balasore on that date but was declared dead on his arrival.

On perusal of the materials on record and on careful consideration of the facts and circumstances of the case as emerging from the records, the Commission was of the view that the UTP Sri Nirmal Mahanta suffered 'custodial death in the Balasore District Jail without proper diagnosis and treatment. In the circumstances, the Commission was of the view that the State Government should pay a sum of Rs.1 lakh (Rupees one lakh) to the next of kin of the deceased as interim compensation.

The case was closed after the orders of the Commission was complied by Government.

Case; No. 304/04 dated 24.4.2010.

One Smt. Laxmi Priya Lenka, wife of Narayan Lenka, Saliasahi, Jayadev Vihar, Bhubaneswar alleged that she was allotted a homestead land as a Green-card holder having no homestead land of her own vide notification No.34707/H dated 18.10.83. The petitioner alleged that though she had approached the Health and F.W. Department which issued the notification and the Revenue Department which allots Government land to citizens, none of them rendered any help as a result of which the petitioner and her family had not got the benefit of any homestead land.

Based on the petition, the Commission issued a letter to the Chief Secretary to cause an inquiry and submit the report. In response to the notice, Director of Estates submitted a report stating that leasehold residential plots within the B.M.C. area is allotted by Government in G.A. Department under the provisions of Government Grants Act through a specific scheme and allotment is made on the basis of drawal of lottery among the eligible applicants. It was further stated that there is no provision for allotment of leasehold residential plot in Bhubaneswar to green-card holders. However, as per the guidelines issued by Revenue Department vide order No. 29085/R dated 10.6.98, if a green-card holder is a homestead less person as per the Orissa Government Land Settlement Rules, then he/she is eligible for

settlement of Ac.0.010 of homestead land in rural areas only. The resolution of Health & F.W. Department dated 19.10.83 provides that the parents in the age group of 15-48 years having two children or less who would go for terminal method of family planning, would be given a Green Card and will be entitled to 08 decimals of land free of premium 'Salami'

Balancing the needs of the beneficiaries and the priorities of the State and keeping the Constitutional provisions and the human rights issues in view, which emphasizes on a right to shelter and livelihood as implicit in the right to life, the Commission took the view that if the beneficiaries in an urban area are earning a living residing in such area, they can be settled with homestead land in close proximity of the area to which they belong if not in urban locations.

The Commission accordingly recommended to the State Government to issue appropriate direction for settlement of the petitioner, the green-card holder, and the persons similarly placed with homestead lands in close proximity in which they reside and draw up a scheme for the purpose of keeping the interest of the beneficiaries in view. This order should cover all the similarly placed applicants holding green cards in the matter of allotment of homestead land as declared by the Government.

With the above direction, the case was closed.

**Case No. 1337/05****12.5.10**

One Jamuna Muduli of village Benupur under Balianta P.S. of Khordha district submitted a petition complaining of non-payment of her salaries for three years and three months during the period when she worked as a Sweeper in a P.H.C. The Commission took cognizance of the petition and called for a report from CDMO, Khordha. The CDMO submitted a report dated 27.1.2007 appending the written statement of Dr. Ajit Kumar Dalei working in Balianta PHC. In his written statement Dr. Dalei had denied having engaged the petitioner as Sweeper. Dr. Dalei further pointed out that the complainant filed a case in the Labour Court, Bhubaneswar which as on the date of his statement was sub-judice, that the claims of the petitioner were thoroughly enquired into by the Labour and Employment Department of Government of Orissa and that Department held that neither the CMO nor the Medical Officer had ever engaged the complainant and there was no employer and employee relationship between the parties.

The complainant, to whom the report of the doctor was sent, admitted that she had filed a case before the Labour Court, Bhubaneswar claiming her unpaid remuneration. The complainant also produced a copy of the order of the Labour Court dated 2nd February 2007 where it was concluded that the claim of the applicant had not been found to be tenable in the facts as well as in the eyes of law and the Misc. case had accordingly been dismissed on contest.

As per Regulation 10(I) of the Orissa Human Rights Commission (Procedure) Regulations, 2003, complaints relating to any matter which are sub-judice before a court or tribunal or are covered by a judicial verdict are not entertainable by the Commission and such complaints are liable to be dismissed in limine. Since the complainant had filed a Misc. case claiming unpaid wages before the Labour Court in 2003, long before she filed a complaint before the Commission on 30.11.2005, the Commission held that the complaint petition filed by the petitioner was not entertainable and hence the case was closed.

Case No. 1384/04

One Smt. Pratima Kumar Sethi, wife of Bijay Kumar Patnaik of Pallashpali, Bhimtangi, Bhubaneswar alleged that one Sri Bijay Kumar Patnaik having induced her and kidnapping her from Rourkela contracted a marriage with her at Bhubaneswar. On getting information after the marriage, the relations of Bijay (husband of the petitioner) abused Bijay and threatened the petitioner and also instigated Bijay to torture her. Pursuant to such instigation Bijay treated the petitioner with cruelty and threatened to murder her and throw her body on the rail track. After subjecting the petitioner to cruelty, Bijay left Pratima in a rented house and absconded. The petitioner reported the matter at Sarankul P.S. and Mahila P.S., Bhubaneswar, Women Commission and S.P. Nayagarh but no action had been taken.

The Director, Investigation to whom the matter was entrusted for investigation conducted the enquiry. During the course of enquiry he contacted the OIC of Sarankul P.S. who denied of having received any report from the petitioner. There was no station diary entry on her information. On the contrary the OIC stated that in the year 2004 the petitioner visited the P.S. along with her brother and had informed him that she had lodged an FIR at Mahila P.S., Bhubaneswar against her husband and requested him to render necessary assistance to the Mahila P.S. for arresting the accused. It transpired during the enquiry of the Director, Investigation that the grievance of the petitioner was duly redressed. The Inspector, HRPC, Nayagarh on enquiry stated that Abhimanyu Sethi, brother of the petitioner had appeared before the S.P., Nayagarh on 30.07.2004 and filed a petition wherein he had



alleged harassment by his co-villagers in various civil disputes and partisan behaviour of the local police. A case bearing Sarankul PS case No. 22 dated 23.3.04 u/s 341, 342, 294, 506, 34 of IPC and u/s 3 (i) (x) of the SC&ST(PA) Act had been registered and charge sheet had been submitted in the case. The S.P., Nayagarh was of the view that since the criminal case had already been filed in Mahila P.S., Bhubaneswar, no action was warranted at their end and advised the petitioner to file a case for maintenance under Section 125 Cr. P.C.

Having considered the grievance of the petitioner borne out in her petition, the responses furnished by her and the evidence tendered on her behalf, the Commission was of the view that the petitioner's grievance of inaction of the police had been mitigated and the dispute between the parties being sub-judice, the Commission was precluded from intervening any further in the matter. Accordingly the case was closed.

Case No.585/04

One Sri M.K. Divakaran, resident of Maniyantra House, P.O. Engandigur, Thrissur district, Kerala had alleged that he was a retired Mechanical Gr.II of Maintenance Division of Balimela Plover Project of OSEB. He retired from service with effect from 31.3.96. His grievance relates to the delay in disbursement of his monthly pension, arrear gratuity, and arrear revised pay. The petitioner stated that even though he raised the matter before the concerned authorities of the GRIDCO, no action had been taken.

Pursuant to the Commission's order, the Joint Secretary, Department of Energy furnished a copy of the statement of the Senior General Manager (Electrical), Balimela Hydro Electric Project, Balimela showing the payments of dues to the petitioner. A copy of the statement was sent to the petitioner for his response. In his response, the petitioner stated inter alia that revised gratuity had not been paid to him and

he had submitted the papers for sanction of EPF pension but no order had been communicated to him.

Considering the statement made in the petition, a copy of the petition was forwarded to the Director (HRD), OHPC, Bhubaneswar with a request to furnish a report to the Commission about payment of EPF pension. The G.M., HRD, OHPC furnished a report indicating that the petitioner had already been sanctioned pension vide order No. 673 dated 25.11.06 and the same was remitted regularly to his pension account from November, 2006. His arrear pension for the period from 1.4.96 to 31.10-.2006 had also been paid along with the regular pension for Nov. 2006.

Since the grievance of the petitioner regarding non-disbursement of his EPF pension had been redressed, the Commission considered that further intervention in the matter was unnecessary. Accordingly the case was closed.

Case No.82/04

A news item captioned "GRAMSABHARA SAMANTBADI NYAYA : JHIARA CHARITRAKU SANDEHAKARI GAN LOKE BAPAKU LANDA KALE" which appeared in the daily 'Samaj' in its issue dated 16.1.04 came to the notice of the Commission. A copy of the same was forwarded to the S.P., Puri for an enquiry and report.

The S.P. Puri submitted a report stating that on getting information that one of the daughters

of Upendra Barik, son of Gobinda Barik of village Badagaon, PS: Gop, Dist. Puri had been detained at Mahila PS Bhubaneswar the villagers became angry and directed him to deposit Rs. 5000/- as fine. Upendra Barik reported the matter at Gop PS on 12.1.2004 stating that the case was amicably settled and he reported to OIC Gop PS in writing that the news item published in the Newspaper was completely baseless. Being dissatisfied with the report of S.P., Puri, the



Commission deputed one of the Inspectors of the Commission to enquire into the matter. It was revealed from the report of the Inspector that though on 12.1.04 Upendra Barik lodged a written report before the OIC, Gop P.S. against the co-villagers alleging illegal demand of Rs. 5000/- and threat to shave his head in the event of non-payment of demanded sum, the OIC entered the fact in the station diary entry No. 333 dt. 12.1.04, and within eight days of giving the report on 20.1.04 Upendra compromised the matter with the villagers and submitted a report that he had resolved the dispute and was

unwilling to proceed with the case. He further stated that the villagers did not shave his head and the news published in the Newspaper was without basis. Despite efforts by the Inspector of Police attached to the Commission, not a single villager supported the version given in the news published in the daily 'Samaj' in its issue dated 16.1.2004.

After receipt of the report of the Inspector of the Commission, the Commission was inclined not to proceed further with the enquiry and accordingly the case was closed.

Case No. 49/07

It was reported in 'Dharitri' in its issue dated 9.2.07 under the caption "ANNAHARARE BRUDHANKA MRITYU ABHIJOG" about starvation death of one Angad Pradhan in Talcher Block FCI Munda Market on 8.2.07 which drew the attention of the Commission. The matter was sent to the Collector, Angul for enquiry.

The Collector furnished the report stating that the allegation made in the Newspaper report was duly enquired into by the BDO, Talcher. It was ascertained in course of the enquiry that Angada, the deceased, was suffering from fever for the last 15 days and was admitted to the S.D. Hospital, Talcher on 8.2.07 and he passed away on the same day at about 10.30 P.M. A G.R. card No. 59981 had been issued to Angada and 10Kgs. of rice was supplied to him on

31.3.07, a few days before his death. Angada was survived by his wife and five sons. In course of the enquiry, the Sarpanch, Jagannathpur G.P. and the family members of Angada gave statements that Angada died of illness. The SDMO, Talcher was of the opinion that the death of the deceased was due to general weakness. The enquiry further revealed that out of 5 sons of Angada, four were working as painters and were earning their livelihood. The youngest son Budhia Pradhan was mentally deranged and was afflicted with leprosy. The Collector further reported that widow of Angada Smt. Adi Pradhan and her handicapped son had been assisted with sanction of monthly pension at the rate of Rs.200/- to each one of them w.e.f. Feb., 07.

In view of the findings of the enquiry, the Commission held not to proceed further in the matter and the case was closed.

Case No. 745/05

One Sri Sudhir Mohanty, son of late Bimbardhar Mohanty of Jilanashi, P.O. Talabandh, P.S. Kujanga, dist. Jagatsinghpur alleged that one Tikuna Mohapatra alias Pravat Mohapatra and his fellow men had forcibly occupied one acre of his land and were taking away the fruits from the cashew, guava, mango and lemon plantations. They were also alleged to be cutting

and removing Chakunda, Akasia, Mango and Gamari trees and selling them away. Eventhough the petitioner reported the incident at Kujanga P.S., the police was not taking any action.

The petition was sent to the S.P., Jagatsinghpur for enquiry. The Addl. S.P., Paradeep submitted his enquiry report which revealed that the dispute cropped up between the petitioner and



the villagers on account of the encroachment of a piece of 'Anabadi' land by the former near his house, which was claimed as the common property of the villagers and was used for shelter during the natural calamities. Following an unanimous decision, the villagers took back the Government land from the petitioner. The Addl. S.P. further reported that the petitioner was an antisocial being involved in two dacoity cases of Tirtol P.S. The petitioner misbehaved and outraged the modesty of women at the bathing ghat which referred to Kujanga P.S. case No. 36 dated 10.3.05 u/s 341, 294, 506, 509 and 354 IPC. On that issue there was a commotion in the village. The petitioner was arrested in connection with that case, and was taken to custody. After his release on bail, it was reported

that the petitioner continued his anti-social activities. On 19.5.05 Bhimsen Biswal, the brother-in-law of the petitioner and the other members of his family being vexed with the activities of the petitioner brutally assaulted him in an attack to commit his murder which gave rise to Kujanga P.S. case No. 68 dated 19.5.05 u/s 147/148/294/323/325/307/506/149 of IPC. However, the petitioner was acquitted of the charge of assault and outraging modesty of females.

On a careful review of the matter, the Commission felt that most of the allegations made by the petitioner were far fetched and did not call for any order or direction from the Commission. Accordingly the case was closed.

Case No. 322/05

One Sri Kabiraj Parida, son of Banchha Parida, Vill. Potalampur, Dist. Ganjam, made a grievance before the Commission alleging that on 14.9.04 at about 3 P.M. when Pratima, the married sister of the petitioner was observing fasting, the members of her in-laws family namely two of her sisters-in-law and their husbands, maternal father-in-law Nanda, and his mother attacked Pratima with fist blows as a result she died. After her death, they hastily cremated Pratima with a view to destroying the evidence. After receipt of the petition, the Commission called for a report from the Director General and I.G. of Police, Orissa, Cuttack.

In pursuance with the order of the Commission, Sri D.K. Das, the then IIC of Chhatrapur P.S. and presently IIC of Laxmisagar P.S. submitted a report dated 8.2.07 wherein he had stated that Chhatrapur PS case No. 57/05 and G.R. 72/05 u/s 498 A/306/201/34 IPC pertaining to the death of Pratima, the married sister of the petitioner, had since been committed to the court of Session on 27.11.06. He further reported that on getting direction of Addl. D.G. of Police, HRPC, he registered the case.

As the case had already been sub-judice, the Commission felt that it was precluded from intervening further in the matter under Regulation 10(i) of the OHRC (Procedure) Regulations, 2003. As such the case was closed.



ANNEXURE – I

Staffing pattern of OHRC during the year 2007-08

| | | | |
|-----|------------------------|---|---|
| 1. | Chairperson | - | 1 |
| 2. | Member | - | 2 |
| 3. | Secretary | - | 1 |
| 4. | Director Investigation | - | 1 |
| 5. | Registrar | - | 1 |
| 6. | Joint Secretary | - | 1 |
| 7. | Dy.S.P. | - | 1 |
| 8. | Under Secretary | - | 1 |
| 9. | P.S. to Chairperson | - | 1 |
| 10. | Inspector of Police | - | 4 |
| 11. | Section Officer | - | 2 |
| 12. | Personal Assistant | - | 6 |
| 13. | Senior Assistant | - | 1 |
| 14. | Accountant Cum Cashier | - | 1 |
| 15. | Stenographer | - | 5 |
| 16. | Constable | - | 3 |
| 17. | Driver | - | 4 |
| 18. | Computer Operator | - | 1 |
| 19. | Despatch Cum Typist | - | 2 |
| 20. | Jr. Assistant | - | 2 |
| 21. | Peon / Class IV | - | 8 |

29

ANNEXURE – II

Subjectwise classification of cases registered & disposed off during year 2007-08

| Sl. | Classification of cases | No. of cases |
|-----|---|--------------|
| 1. | Children | 22 |
| 2. | Health | 40 |
| 3. | Jail | 30 |
| 4. | Anti Social Activities | 26 |
| 5. | Labour | 32 |
| 6. | Minorities ST/SC | 36 |
| 7. | Physically Handicapped | 10 |
| 8. | Police, Paramilitary force | 620 |
| 9. | Pollution | 10 |
| 10. | Religion / Community | 75 |
| 11. | Service Matter | 122 |
| 12. | Women | 85 |
| 13. | Misc. | 514 |
| 14. | Total No. of cases received during the year 2007-08 | 1622 |
| 15. | Dismissed in limini | 872 |
| 16. | Entertained during the year 07-08 | 750 |
| 17. | Cases pending from previous year | 2514 |
| 18. | Total no. of cases | 3264 |
| 19. | Disposed of on hearing | 87 |
| 20. | Total no. of cases pending of the year | 3177 |

**ANNEXURE – III**

Total number of suo moto cases instituted - 149

| Sl.No. | Classification of cases | No. of cases |
|--------|----------------------------|--------------|
| 1. | Children | 11 |
| 2. | Health | 8 |
| 3. | Jail | 25 |
| 4. | Anti Social Activities | 7 |
| 5. | Labour | 12 |
| 6. | Minorities ST/SC | 6 |
| 7. | Physically Handicapped | 3 |
| 8. | Police, Paramilitary force | 37 |
| 9. | Pollution | 5 |
| 10. | Religion / Community | 2 |
| 11. | Service Matter | 13 |
| 12. | Women | 9 |
| 13. | Misc. | 11 |
| | Total | 149 |

ANNEXURE – IVSubject wise classification of cases entertained during the year
2007-08

| Sl.No. | Classification of cases | No. of cases |
|--------|----------------------------|--------------|
| 1. | Children | 11 |
| 2. | Health | 3 |
| 3. | Jail | 46 |
| 4. | Anti Social Activities | 25 |
| 5. | Labour | 14 |
| 6. | Minorities ST/SC | 80 |
| 7. | Physically Handicapped | 10 |
| 8. | Police, Paramilitary force | 443 |
| 9. | Pollution | 11 |
| 10. | Religion / Community | 20 |
| 11. | Service Matter | 17 |
| 12. | Women | 48 |
| 13. | Misc. | 57 |
| | Total | 750 |

