



ବାର୍ଷିକ ବିବରଣୀ
ANNUAL REPORT

2009-10



ଓଡ଼ିଶା ମାନବ ଅଧିକାର ଆୟୋଗ
Orissa Human Rights Commission
Bhubaneswar, Orissa

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Orissa Human Rights Commission

Bhubaneswar, Orissa



CONTENTS

1.	Universal Declaration of Human Rights, (December 10, 1948)	1
2.	Functions and powers of the Commission under the Protection of Human Rights Act, 1993	6
3.	Provisions of the OHRC (Procedure) Regulation, 2003	9
4.	Classification of the incidents leading to complaints / suo-motu action	11
5.	Composition of the Commission	13
6.	Organization of Commission	13
7.	Registration of the cases	21
8.	Important Decisions of the Orissa Human Rights Commission	22
	Annexure	
i)	Annexure - I (Staff Position of Human Rights Commission)	35
ii)	Annexure - II (Classification of Cases filed during 2009-10)	35
iii)	Annexure - III (Classification of Cases filed suo-motu during 2009-10)	36
iv)	Annexure - IV (Classification of cases entertained during 2009-10)	36



UNIVERSAL DECLARATION OF HUMAN RIGHTS, (DECEMBER 10, 1948)

PREAMBLE

Whereas 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,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law, Whereas it is essential to promote the development of friendly relations among nations, Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realisation of this pledge.

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

ARTICLE - 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

ARTICLE - 2

- 1) Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as: race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- 2) Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether this territory be an independent trust, non-self-governing territory, or under any other limitation of sovereignty.

**ARTICLE - 3**

Everyone has the right to life, liberty and the security of person.

ARTICLE - 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

ARTICLE - 5

No one shall be subjected to torture or to cruel inhuman or degrading treatment or punishment.

ARTICLE - 6

Everyone has the right to recognition everywhere as a person before the law.

ARTICLE - 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

ARTICLE - 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

ARTICLE - 9

No one shall be subjected to arbitrary arrest, detention or exile.

ARTICLE - 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

ARTICLE - 11

- 1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.
- 2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

ARTICLE - 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

ARTICLE - 13

- 1) Everyone has the right to freedom of movement and residence within the borders of each state. 2) Everyone has the right to leave any country, including his own, and to return to his country.

**ARTICLE - 14**

- 1) Everyone has the right to seek and to enjoy in other countries asylum from persecution. 2 This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

ARTICLE - 15

- 1) Everyone has the right to a nationality.
- 2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

ARTICLE - 16

- 1) Men and women of full age, without any limitations due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- 2) Marriage shall be entered into only with the free and full consent of the intending spouses.
- 3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

ARTICLE - 17

- 1) Everyone has the right to own property alone as well as in association with others.
- 2) No one shall be arbitrarily deprived of his property.

ARTICLE - 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

ARTICLE - 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

ARTICLE - 20

- 1) Everyone has the right to freedom of peaceful assembly and association.
- 2) No one may be compelled to belong to an association.

ARTICLE - 21

- 1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- 2) Everyone has the right of equal access to public service in his country.
- 3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

**ARTICLE - 22**

Everyone, as a member of society, has the right to social security and is entitled to realisation, through national effort and international co-operation and in accordance with the organisation and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

ARTICLE - 23

- 1) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
- 2) Everyone, without any discrimination, has the right to equal pay for equal work.
- 3) Everyone who works has the right to just and favorable remuneration insuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- 4) Everyone has the right to form and to join trade unions for the protection of his interests.

ARTICLE 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

ARTICLE - 25

- 1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
- 2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

ARTICLE - 26

- 1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- 2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- 3) Parents have a prior right to choose the kind of education that shall be given to their children.

ARTICLE 27

- 1) Everyone has the right to freely participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.



- 2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

ARTICLE 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised.

ARTICLE 29

- 1) Everyone has duties to the community in which alone the free and full development of his personality is possible.
- 2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
- 3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

ARTICLE 30

Nothing in this Declaration 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 and freedoms set forth herein.



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) Study treaties and other international instruments on human rights and make recommend for their effective implementation;
- (g) Undertake and promote research in the field of human rights;
- (h) Spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media seminars and other available means;
- (i) Encourage the efforts of non-Governmental organizations and institutions working in the filed of human rights;
- (j) 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.

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 up.

❖ **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



	<ul style="list-style-type: none">Abuse of powerAttempted murderCustodial deathCustodial rapeCustodial tortureCustodial violenceDeath in firingDeath in encounterFailure in taking lawful actionFalse implicationsIllegal arrestOutraging of modesty in custodyPolice motivated incidentsRapeUnlawful detentionVictimization
Pollution	<ul style="list-style-type: none">Ecological disturbancesPollution affecting surroundingsEnvironmental pollutionMisuse of scientific and technological developments
12 Religion community	<ul style="list-style-type: none">Communal violenceEthnic conflictGroup clashesRacial discriminationDisparities in employment opportunitiesNon payment of pension/ compensationOther service disputes
Women	<ul style="list-style-type: none">Abduction, rape and murderDiscrimination against womenDowry death or attemptDowry demandExploitation of womenGang rapeIndignity of womenImmoral trafficking of womenRapeSexual harassment
Miscellaneous	<ul style="list-style-type: none">DisappearanceUnlawful actions of public servantsUnlawful evictionResidual matters

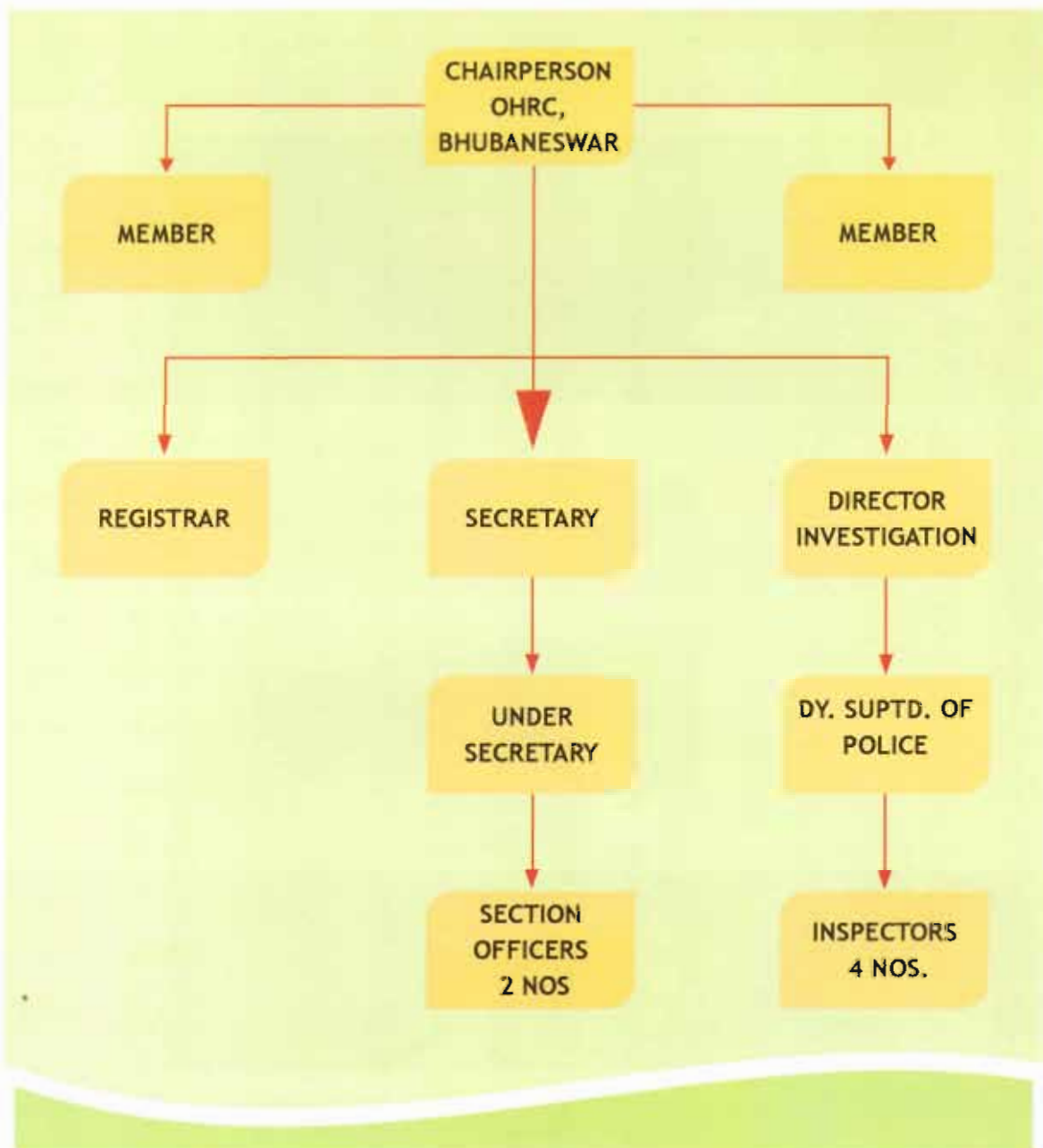


COMPOSITION OF THE COMMISSION 2009-10

		Date of Joining	Date of retirement
Shri Himadri Mohapatra	Member	04.08.2004	03.08.2009
Justice R.K. Patra	Chairperson	02.01.2008	Continuing
Dr. R.N. Bohidar	Member	17.11.2008	Continuing

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

ORGANOGRAM





INFORMATION, EDUCATION AND COMMUNICATION ACTIVITIES IN THE STATE

During the year 2009-10, Orissa Human Rights Commission had taken initiative to create awareness about human right issues on subjects as indicated below among the NGOs, PRIs, Institutions, Civil Society and the general public at large. Interactive Workshop and a Seminar was held at Kalahandi where a large number of PRIs, NGOs and other Government Agencies were present. Subjects relating to various issues on Human Rights were discussed in the aforesaid Workshop including facilitating assessment of enforcement of Human Rights.

1. Right to Education.
2. Elimination of Child Labour.
3. Human Rights Awareness and facilitating assessment of enforcement of Human Rights.
4. Human Rights relating to rights of Women.



Workshop on Human Rights Awareness & Facilitating Assessment of Enforcement of Human Rights on 26.02.10 at Bhawanipatna, Kalahandi



Right to Education Role of Parents Organised by 'Citizens Forum for Human Rights' at Bhubaneswar.

INTERACTIVE WORKSHOP BY NGOs/Institutions

During the year 2009-10, the following N.G.Os. have conducted workshop highlighting the Human Right issues at grass root level.

Sl. No.	Name of the N.G.O.	Amount of Grant in Aid released
1	2	3
1.	Seven Diamond World Welfare El-Dorado Board Organisation, Dangarapada, Khordha	15,000/-
2.	Yuga Bharati Seva Youth & Social Development Chhaliapada, Jajpur	15,000/-
3.	Society of Mass Initiatives for Children's Liberation & Empowerment (Smile) Dhenkanal (Admn. Off-Khordha)	15,000/-
4.	Utsarga Biribati, Jagatsinghpur	15,000/-
5.	Citizens' Forum for Human Rights, Saheed Nagar, Bhubaneswar	25,000/-
6.	Centre for Integrated Social Development Upulai, Naguan, Jajpur	15,000/-
7.	March of Youth for Health, Education & Action for Rural Trust, (MYHEART) Pandav Nagar, Tankapani Road, Bhubaneswar	15,000/-
8.	Indian Institute of Public Administration, QR No. VIC-2/1, Unit-I, Bhubaneswar	20,000/-
9.	Biju Patnaik State Police Academy, Bhubaneswar	80,000/-
	Total	2,15,000/-



District Level Consultation on Right to Education organised by "Society of Mass Initiatives for Children's Liberation & Empowerment (Smile)", at Dhenkanal.



Legal Awareness Programme on Human Rights Organised by "Yuga Bharati Seva Youth & Social Development" at Jajpur.



Workshop on Elimination of Child Labour and Protection of Human Rights Organised by "Severi Diamond world welfare: El-Dorado Board Organisation" at Samantarapur.



HUMAN RIGHTS AWARENESS PROGRAMME ORGANISED BY "MARCH OF YOUTH FOR HEALTH, EDUCATION & ACTION FOR RURAL TRUST", (MY-HEART), AT BHUBANESWAR



Mr. A.K. Sahoo Facilitating the Programme using communication methodology at Nilamadhab Slum, Near Niladri Vihar Petrol Pump, Bhubaneswar



Mr. S.K. Pradhan, Prog. Coordinator, MY HEART welcoming the participants at Mangala Slum, Niladri Vihar, Bhubaneswar



Input Session at Mangala Slum, Niladri Vihar, Bhubaneswar



Human Rights Awareness camp on women's issues organised by "Utsharga" at Jagatsinghpur



Human Rights Awareness Programme on Women & Child Labour Organised by "Centre for Integrated Social Development" at Jajpur & Bhadrak.



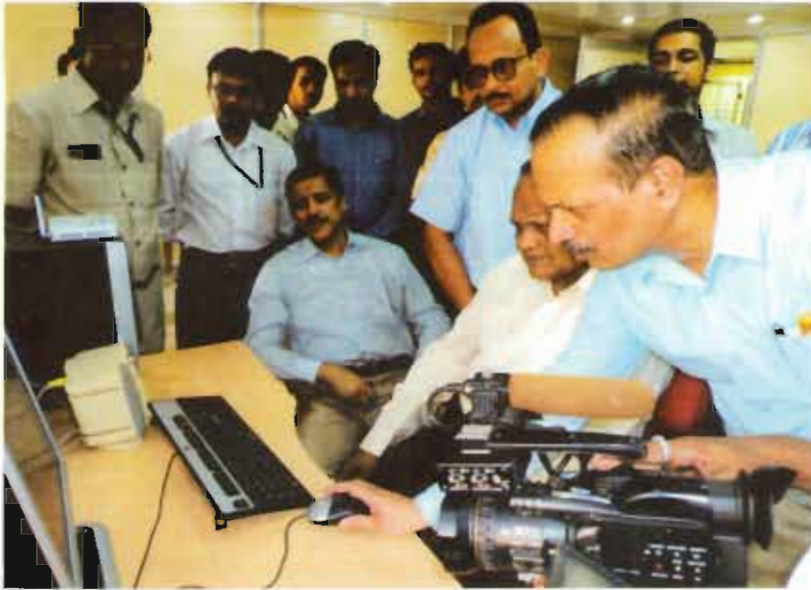


Sensitization Training course on "Human Rights" from 25.03.10 to 27.03.10 organised by "Bijupatnaik State Police Academy", Bhubaneswar.



LAUNCHING OF WEBSITE

The Orissa Human Rights Commission launched a website www.as1.ori.nic.in on 31.3.2010 which was inaugurated by Hon'ble Chairperson of Orissa Human Rights Commission, Justice Shri R.K. Patra. A lot of information regarding Orissa State Human Rights Commission as well as Human Rights Protection Act, 1993, Orissa Human Rights Commission (Procedure) Regulations, 2003, Orissa Human Rights Commission (Salaries and Allowances and other Conditions of Service of Hon'ble Chairperson and Member) Rules, 2003, powers and functions of the Commission, important decisions of the Commission have been incorporated in the website for the benefit of the citizens of the State and others. National Informatics Centre (NIC), Bhubaneswar were the Consultant for hosting of the website.



Inauguration of the Website of OHRC by Hon'ble Justice Sri R.K. Patra, Chairperson



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 2009 till 31 March 2010, the Commission received 1905 number of complaint petitions out of which 906 complaints were dismissed in limini and the balance 999 cases were entertained for enquiry by the Commission, which included 76 number of cases entertained sou-motu for enquiry. During the period under report 434 number of cases have been disposed after enquiry in addition to 906 numbers of cases dismissed in limini. These 434 cases included a large number of instances in which the grievances of the complaints were redressed, and in some cases compensation awarded.

The statement indicating subject-wise classification of cases filed during 2008-09 is furnished in **Annexure-II**. Suo-motu cases filed during the period under report is furnished vide **Annexure-III**. Classification of cases entertained during 2008-09 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. 414/2006

The petitioner Bhutulu Mahananda of village Pradhanpalli, P.S.-Barpalli, District - Bargarh in his petition dated 17.04.2006 stated that he is a poor Harijan and since 12 years he is cultivating a piece of government land and paying revenue to the Revenue Department. His co-villagers namely Gouranga Pradhan, Nepal Pradhan, Sisir Pradhan and Hemanta Pradhan trespassed into the land and damaged his crops. They have been frequently threatening the family members for which they feel insecure. The petitioner's families have also been ostracized in the village.

On being noticed, the Superintendent of Police, Bargarh submitted enquiry report vide letter No. 59, dated 12.01.2007. It is stated in the report that the petitioner belongs to S.C. being 'Ganda' by sub-caste. The villagers decided to open Class VI and VII in their village Padhanpalli for which a village Managing Committee was formed which consisted of the petitioner and his rivals Gouranga Pradhan, Sisir Pradhan and others. The petitioner himself donated 20 decimals of his stitiban land for construction of two class rooms. In exchange of the land, he cultivated one acre of government land and was to pay Rs. 3000/- out of the usufructs to the development of the school. After couple of years when he failed to pay the dues, the villagers dispossessed him from the government land. The Superintendent of Police has further reported that the petitioner is supported by a small group of Savarna people of the village and under their instigation, he files petitions to different quarters to get the government land recorded in his name. In order to prevent breach of peace, PR u/s. 107 Cr.P.C. vide Barpalli P.S. Case Non-FIR No. 43/2006 were submitted against members of both parties.

Copy of the said report was sent to the petitioner and the petitioner in his response dated 23.07.2007 alleged that he was forcibly dispossessed from Government land on the allegation that he had not paid usufructs from the land. Commission in its order dated 20.09.2007 observed that there are factual discrepancies between some statements made in the report of the S.P. and the averments in response of the petitioner. Accordingly, it entrusted enquiry to the Director, Investigation of the Commission, who got the matter inquired into by Pravakar Swain, Inspector attached to the Commission. The Inquiry Officer visited the village and after examining the witnesses submitted report on 27.11.2009.

From all the materials available on record, it was evident that the petitioner belongs to S.C. and his son Debananda Mahananda is the Gram Rakhi in the village and reports for duty at Bijayapalli out-post under Barpalli P.S. In order to meet the need of their school, the villagers leased out 1 and 1/2 acre of land of Kisam GRAMYA JUNGLE to the petitioners for cultivation and to pay Rs. 6000/- out of the usufructs. As he did not pay and there was an outstanding of Rs. 7000/-, the villagers dispossessed him from the land and entrusted the cultivation work to another person. As he protested, the villagers under the leadership of Sisir Pradhan and others forcibly entered into his house, assaulted his wife for which she sustained injury. The villagers also dismantled the weaving materials, for which he sustained loss of Rs. 5000/-. He reported the matter at Bijayapalli out-post and Barpalli P.S. in the month of June, 2006, as borne out by S.D. entry No. 260 dated 15.06.2006. The police ought to have taken up investigation and not remained satisfied with



simply making a station diary entry. At this point of time, after four years of occurrence Commission felt that registration of a cognizable case and investigating into it would disturb the state of even balance which is said to be now normal. It may also result in counter-blast against the petitioner. Having regard to the fact that the police has bound down both the parties under section 107 Cr.P.C. and the petitioner's admission that at present there is not much of problem, the

Commission was inclined not to proceed further in the matter.

In view of the fact that the petitioner's wife was assaulted, his weaving materials were damaged by rivals, the Commission recommended payment of Rs. 8000/- (Rupees eight thousand) as compensation to the petitioner under section 18(a)(i) of Protection of Human Rights Act, 1993.

Case No. 662/06

One Smt. Charulata Biswal of village Govindpur under Tirtol PS of Jagatsinghpur district stated in her petition dated 29.6.06 that her brother Satyananda Rout of village Kosthi Malikapur under Tirtol block was deaf from birth. She alleged that their cousin Baishnab Rout misappropriated Rs.25,000/- said to have been sanctioned under Indira Awas Yojana in favour of Satyananda Rout by forging his signature. The said Baishnab Rout had also misappropriated the rice out of the entitlement of Satyananda Rout under the Antyodaya Anna Yojana. It was also alleged that even though the matter was referred to the Collector, Jagatsinghpur, no action had been taken. The Commission took cognizance of the matter

and called for a report from the Collector, Jagatsinghpur. The Collector conducted an enquiry and submitted a report to the Commission. In the said report allegation of misappropriation of money by Baishnab Rout by forging the signature of Satyananda Rout was stated to be true. Further, the then Junior Engineer and the present Junior Engineer of Tirtol block were stated to be parties to the cheating and forging signature of Baishnab Rout. The Collector accordingly directed the B.D.O., Tirtol for initiation of criminal cases against Baishnab Rout as well as both the Junior Engineers. Besides, the Commission recommended for payment of Rs. 25,000/- as compensation to Sri Satyananda Rout under Protection of Human Rights Act, 1993.

Case No. 1911/08

An incident of ragging in Berhampur University was published in daily 'SAMAJ' in its issue dated 25.11.2008 under the caption "CHATRINKU RAGGING, BHANJAVIHAR AASANTA". It was reported that the student consumed poison on 23.11.2008 being unable to bear the torture on account of ragging. She was removed to MKCG Medical College & Hospital and was in a critical condition.

The Commission took cognizance of the matter suo-motu and called for a report from the Registrar

of Berhampur University, who submitted a copy of report of a five member Enquiry Committee constituted for the purpose along with copy of report of the proceedings of the Disciplinary Committee, where the following recommendations were made:

- 1) The students associated with the incident should give in writing an undertaking that they shall refrain from such activities in future during their stay in the Campus. These undertakings should be countersigned by their respective parents.



- 2) As per Statute 151 of the Orissa Universities First Statutes, 1990, each of those students be imposed with fine of Rs.2000/-.

The Commission wanted to know whether the recommendations were accepted by the competent authority and if so whether they had been complied with.

The Registrar, Berhampur University intimated

that each of the students and their respective parents had given necessary undertaking in writing and each of them had deposited Rs.2000/- as fine. The Commission observed that the University authorities should take all anti-ragging and precautionary measures and steps to ensure that the victim girl Samapika Rout, who was trying to commit suicide, is not harassed or tortured in any manner during her stay in the University.

Case No. 1110/06

The allegation of the petitioner, Bibhuti Bhusan Das of Nuapada, PS- Madhupatna, Dist. Cuttack was that his son Saroj Kumar Das was abused and assaulted by the OIC of Cuttack Sadar PS. When his son tried to flee, the OIC fired on him three rounds from his gun which hit Saroj causing injuries and loss of his sense. Further allegation of the petitioner was that while his son was undergoing treatment under SCB Medical College & Hospital, Cuttack, he was put under fetters by the police.

On consideration of the complaint, the Commission in its order dated 7.1.2008 requested the Director, Investigation, OHRC to enquire into the matter and submit report. The Director, Investigation examined the witnesses and based on oral and documentary evidences submitted a report. The Superintendent, SCB Medical College and Hospital, Cuttack also submitted the relevant bed-head ticket and other medical papers of the victim.

From the materials available on record, it appeared that on 7.9.06 at about 6.00 PM, the then OIC, Cuttack Sadar PS, on receiving reliable information about illegal preparation and bottling of spurious India made foreign liquor in an asbestos house at Srikrishna Bihar Colony,

conducted a raid and found Saroj Kumar Das and four others preparing and bottling spurious liquor. The police version was that those accused persons, on being asked to surrender, turned violent and opened fire at them and the OIC in his self-defence opened fire from his service revolver after which the accused persons ran away.

The first question before the Commission was whether the OIC opened fire from his service revolver in self-defence when he and accompanying police personnel were fired at by the accused persons. The seizure list indicated that one country-made revolver loaded with three rounds of fired cartridges were seized from the spot. Since Saroj Kumar Das and two others had already been charge-sheeted u/s 307 IPC and other provisions of IPC read with Arms Act and the matter was sub-judice in court, the Commission did not express any opinion in the matter.

The second allegation was that while undergoing treatment in SCB Medical College & Hospital, Cuttack, the son of the petitioner was put under fetters by the police. The Director, Investigation in his report had given his finding that the police used fetters to confine him while he was undergoing treatment. Sister of Saroj Kumar Das in her statement before the Director, Investigation deposed that in the Hospital, a leg



shackle was put by the police to confine her brother in his bed. However, on their protest the police removed leg shackle after two days.

Saroj Kumar Das had sustained bullet injury and was lying on the cot which was evident from the photograph submitted by the Director, Investigation in his report. The fact that on protest, the leg shackle was removed after two days indicated that there was no extreme situation

necessitating shackles to be put around his ankle. As it was a clear case of violation of the directives and guidelines issued by the Supreme Court, the State was made liable to pay compensation for infringement of fundamental right to life of a citizen. Accordingly, a compensation of Rs.20,000/- was assessed payable to the injured victim, Saroj Kumar Das by the State Government.

Case No. 310/2009

One Rabi Prasad Nayak, retired L.D. Assistant, Orissa Forest Development Corporation (OFDC) submitted in his petition that although he took voluntary retirement in June, 2006, he had not been paid his salary and retiral dues amounting to Rs.3.20 lakhs by the OFDC. As non-submission of legitimate dues including retirement benefits to a retiree for more than two years prima-facie constitutes violation of human right, the M.D., OFDC was called upon to examine the claim of the petitioner and submit report to the Commission and it was complied with. On examination of the report of the M.D., it was revealed that the total admissible claim of the petitioner was

Rs. 1,74,499/-, which stood disbursed in the form of recovery of outstanding dues from him towards house building advance and bank outstanding. It was also ascertained that after adjustment of the full payable claim, the petitioner still was left with further liability of Rs. 72,349/-, yet to be recovered. A copy of the report was sent to the petitioner for his response, but no response was received from him, though adequate time was allowed for the purpose.

In absence of any response, the Commission accepted the factual content of the report of the MD, OFDC, which clearly stated that there was no outstanding claim of the petitioner. The petition was accordingly dismissed being devoid of merit.

Case No.116/09

The news item captioned "MIGRANT'S CHILDREN FACE APATHY" published in the daily 'NEW INDIAN EXPRESS' in its issue dated 2.2.09 revealed a story of neglect of children who were left behind by the parents going away as migrant labourers under distress.

In view of the serious issue of Human Rights violation of such children, the Commission took cognizance of the matter suo-motu vide its order dated 4.2.09 calling upon the Collector, Nuapada to submit a detailed factual report on the allegations appearing in the news report.

In compliance, the Collector, Nuapada vide his report dated 6.3.09 refuted the allegation and stated that during the year 2008-09 as many as 3067 children were given due care in 92 Residential Care Centers (RCC) while their parents had gone out as migrant labourers.

From the report of the Collector, it was apparent that there was a system of Residential Care Centers to take care of the children of the migrant labourers during their absence. The allegation contained in the news item that migrants' children face apathy, therefore, was not true.

**Case No.349/06**

Sri Ratnakar Sahoo and Manjulata Sahoo of village Sahapur, PS Nandipada, dist. Keonjhar submitted a petition wherein they alleged that on 22.1.2006 at about 6 AM Bhabagrhi Sahoo, their relation, while returning home died in a road accident near Panikoili. The four wheeler which caused the said accident, belonged to the LAO, Jajpur. On the next day the petitioner along with the younger brother of the deceased lodged an FIR at Jajpur Town PS but the police allegedly took no action.

The Commission took cognizance of the matter and called for a report from the S.P., Jajpur. The S.P., Jajpur furnished an enquiry report which was sent to the petitioner for response. The petitioner filed his response which was again sent to the S.P., Jajpur with a request to take up further investigation in the matter and apprise the Commission about the same. The S.P. Jajpur furnished his report stating that the investigation of Jajpur PS Case No. 13/06 has been returned as Final Report "True", u/s 279/304-A IPC due to insufficient evidence. The Commission called for the copies of the case diary and statement of witnesses recorded u/s 161 Cr.PC and final form of the aforesaid Jajpur PS case.

As per the report forwarded by the SP, response of the petitioner and other connected papers available on record, it was clear that one vehicle bearing registration No.OR-05-P-7755 came with high speed from Panikoili side and dashed against

Bhabagrahi Sahoo as a result of which he died on the spot. On the report submitted by Ratnakar Sahoo, brother of the deceased, Jajpur Town PS case No. 13 dated 22.1.06 was registered u/s 279/304 IPC. Ratnakar Sahoo was an eye witness to the occurrence. In his statement u/s 161 Cr.P.C. before the police, he had clearly stated that while his brother was crossing the road, a speeding vehicle from Panikoili side came and dashed against him resulting in his death. Ratnakar Sahoo in his FIR also clearly mentioned the incident and specifically given the registration number of the vehicle. This was also confirmed by other witnesses. In spite of that the investigation ended in filing of final report on the plea of insufficient evidence. The I.O. examined one Jayant Kumar Jena who happened to be the owner of the vehicle causing accident. The owner stated that the aforesaid vehicle was engaged under the control of A.D.M., Kalinga Nagar on contractual basis.

From the facts as above, the Commission observed that the I.O. had failed in his duty to make further investigation as to who was driving the vehicle at the relevant time. It was a clear case of perfunctory and irresponsible investigation by the I.O. for which the offending driver could not be prosecuted. Accordingly the Commission recommended payment of Rs.1.00 lakh as compensation to the next of the kins of the victim u/s 18 of the Protection of Human Rights Act, 1993.

Case No.46/08

The substance of grievance of the petitioner Gunabati Samal, wife of Judhistir Samal of village Jujumara, PS/Dist. Sambalpur was that she and her family members were being threatened and harassed by villagers as her husband was arrested

in connection with murder of one Kamalini Pradhan. On being noticed, the S.P., Sambalpur vide letter No. 1190/HRPC dated 24.7.08 submitted the enquiry report. A copy of the same was sent to the petitioner for response. The petitioner responded to the report and it was



again sent to the S.P., Sambalpur for his comments. The petitioner also submitted another petition alleging that she had been threatened by one Pratap Naik.

From the report of the S.P it was revealed that Jujumara PS case No. 38/07 u/s 302 IPC was registered in connection with murder of the said Kamalini Pradhan of village Dangarpada against unknown accused, and during investigation, Judhistir Samal, husband of the petitioner was identified as the culprit. Accordingly, he was arrested on 4.8.07 and was forwarded to the court. The villagers of Dangarpada after knowing the involvement of the petitioner's husband in the crime expressed their anguish by holding meeting in the village and condemning the action of the petitioner's husband. On 6.9.07 some irate villagers also attacked the residential house of the petitioner. In this connection Jujumara PS case No. 52 dated 8.9.07 under various sections of IPC were registered and after completion of the investigation, charge sheet had been filed against accused persons and the matter was subjudice.

In the mean time, after investigation of Jujumara PS case No. 38 of 2007, when the petitioner's husband was placed on trial in the court of Additional Sessions Judge, Sambalpur, he was acquitted by judgment dated 23.6.07. After acquittal of the petitioner's husband, he along with the petitioner and their son had come back to their village in July, 2009 and were staying in their house without any disturbance. They had also grown paddy crops. During enquiry, the DSP contacted the petitioner and her son who did not complain of any atrocity by the villagers nor had there been any untoward incident taken place after their return to the village. The village leader and others had been warned against any breach of peace. The IIC, Jujumara PS had also been directed to keep close watch over the development and depute his officers regularly to the village. As the petitioner and her family including her husband were peacefully residing in the village Dangarpada, no further probe was called for by the Commission.

Case No.1122/04

The petitioner Subash Chandra Ghadei of Kulasikharpatna, P.O. Dandamkundapur, P.S. Pipili, Dist. Puri in his petition dated 27.9.04 alleged physical torture on him by the Pipili PS police. As stated by the petitioner, following the murder of the OIC of Pipili PS on 2.6.04, the police unleashed a reign of terror in the locality and innocent persons were apprehended. On 8.6.04 at about 9 AM when the petitioner was watering his betel leaf plantation, about 30 policemen came and arrested him. 5 to 6 policemen assaulted him brutally with lathi. He prostrated at their feet but they went on assaulting him. Thereafter the police handcuffed him and after taking him round the village took him to the PS in police jeep. He was

detained in the PS Hajat from 10 AM to 4 PM. When he requested the Constable for drinking water the same was denied. At 4 PM he was brought out from the hazat and was interrogated. The IIC asked him to disclose the names of persons who were involved in the murder of the OIC, Pipili PS. When the petitioner denied his knowledge he was assaulted. On being asked he disclosed his age as 15. However, the IIC ridiculed him. The petitioner also told the IIC that he had appeared at the matriculation examination whose result had not been published. The IIC refused to listen his version and at about 5 PM he was forwarded to the court. His request for medical examination was not heeded. The petitioner stated that on account of false implication by the police



he could not pursue his higher studies. He had accordingly prayed for appropriate action against the concerned I.I.C.

The Commission took cognizance of the matter and noticed S.P., Puri to enquire into the allegation and submit report to this Commission. Being not satisfied with the report of the S.P., Puri, the Commission directed for an enquiry to be made by the Director, Investigation of the Commission into the allegation made in the complaint. The Director, Investigation conducted enquiry and submitted his report.

The Commission examined the report of the Director, Investigation, evidence of the petitioner and Xerox copy of HSC examination certificate, which prima-facie showed that the petitioner was

subjected to physical torture and detention in police custody though he represented to be a juvenile being 15 year old. He was forwarded to jail custody and eventually charge-sheeted with others in violation of the provisions of Juvenile Justice (Care and Protection) Act, 2000. In his evidence before the Commission, the petitioner stated that due to his detention and forwarding to judicial custody, he could not take care of the Pan Baraj (betel leaf plantation) nor could he continue his further studies. As the petitioner was wrongly and illegally deprived of the care and protection under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000, the Commission awarded compensation of Rs.50, 000/- to the petitioner.

Case No.1416/04

One Smt. Ranjita Panda, wife of Dharendra Panda of Machhuati (Baselisahi), PS-Salipur, Dist. Cuttack had alleged illegal detention of her husband in Salipur PS since 31.10.2004 without any just and lawful cause and he was tortured by the police. A copy of the petition was forwarded to the S.P., Cuttack to have a factual report. Since the report of the S.P., Cuttack was not received, the Dy.S.P. attached to the Commission was asked to enquire into the allegations made in the complaint. The Commission again asked the Director, Investigation, OHRC to make a fresh enquiry on the statements and allegations made by the petitioner. The Director, Investigation after recording the statements of Dharendra Panda, his wife (petitioner) and other relatives of the petitioner, came to hold that Dharendra Panda was detained in Salipur PS from 31.10.04 to 25.12.04.

Against the oral evidence of the aforesaid witnesses, the Commission took note of the overwhelming documentary evidence as follows:

- (i) The petitioner filed writ petition No. 282 of 2004 in the Orissa High Court praying for release of her husband, Dharendra Panda and to award punishment to IIC, Salipur PS. In paragraph-1 of the writ petition she had averred that the IIC, Salipur PS detained her husband in police hazat since 31.10.2004 without any just cause and reason. However, the petitioner's counsel sought permission to withdraw the writ petition and the High Court accordingly by order dated 4.1.2005 dismissed it as withdrawn. If there was any truth in the allegation that Dharendra Panda was detained in Salipur PS from 31.10.04 till 25.12.04 it was expected that the petitioner could have pursued her allegation in the High Court and would not have withdrawn the petition.
- (ii) Besides, the order dated 25.12.04 passed by the learned Judicial Magistrate First Class; Salipur in GR Case No. 609/04 showed that Dharendra Panda being arrested was



produced before the Court on that day i.e. 25.12.04. He did not make any complaint of ill treatment while in police custody. Had he been detained prior to 25.12.04, he would have definitely complained before the learned Magistrate which he had not done.

- (iii) The petitioner and her husband, Dhirendra Panda filed another writ petition No. WP © 26 of 2005 in the High Court praying for

handing over investigation of Salipur PS case No. 281 of 2004 to the Crime Branch. In that writ, there seemed to be no allegation of alleged detention of Dhirendra Panda since 31.10.04.

For the reasons mentioned above, the Commission came to the conclusion that no credence could be given to the allegation of the petitioner and accordingly the case was dropped.

Case No. 675/09

The petitioner, Sarada Pattanaik of Tamando, PS-Khandagiri, Bhubaneswar in his complaint alleged inaction of police of Khandagiri PS on the report submitted by him on 22.5.09 against one Minati Behera. On being noticed, the DCP, Bhubaneswar submitted a report vide letter No. 1530 dated 5.10.09. The copy of the said report was sent to the petitioner for response. Although the petitioner was given adequate time, he did not make any response.

From the report of the DCP, Bhubaneswar, it appeared that Minati Behera against whom the petitioner made allegation was an unmarried lady

and was picking up quarrel on petty matters. She was not pulling well even with her own family members and was living in a separate mess. The petitioner did not like her behaviour and prevented her from coming to his house and talking to his wife. In order to prevent further breach of peace Non-FIR No.54 and 55 dated 15.8.09 u/s 107 Cr.P.C. had been submitted against members of both the parties.

In view of the fact that already cases had been booked under preventive sections, the Commission did not find it necessary to probe further in the matter.

Case No. 1368/08

K. Madalasa, Additional Computer Programmer, Nabarangpur Block, in her petition dated 01.9.08 had alleged sexual harassment by the BDO (Simanchal Mandal). She cited a number of instances in support of her allegation. It being a case of alleged harassment by an officer to the working woman, a copy of the petition was sent to the Dist. Magistrate and Collector, Nabarangpur to cause an enquiry and furnish a report. As no report was submitted by the D.M. & Collector, Nabarangpur, the Commission entrusted the enquiry to Sri P.K. Tripathy, Dy.SP, OHRC.

Sri Tripathy visited the place and after examining the witnesses submitted report indicating that Nabarangpur PS case No. 128 dated 7.8.08 was registered u/s 509 IPC against the BDO and after completion of investigation, charge sheet had been filed against him under the above section and the matter was sub-judice in the court of SDJM, Nabarangpur.

The Commission in course of enquiry found that the BDO had also passed an order disengaging the petitioner from service w.e.f. 20.9.08. Accordingly, by order dated 30.3.2010 the Commission held that she was entitled to re-



employment as her disengagement as Additional Computer Programmer was integrally connected with the alleged incident which was the subject matter of the trial in the court of SDJM, Nabarangpur in GR case No. 465 of 2008. The Collector, Nabarangpur was accordingly called upon to pass necessary order for the petitioner's re-employment and submit action taken report. The Collector had reported that the petitioner

had already been re-engaged as Computer Operator in the office of the Project Director, ATMA-cum-DAO, Nabarangpur w.e.f. 01.5.09 on monthly remuneration of Rs.4000/- and was continuing as such.

In view of the fact that the petitioner had already been engaged and the BDO was facing trial in the court, further enquiry by the Commission was not called for.

Case No. 562/09

Sri Satyabadi Hota, a retired Primary School teacher, in his petition dated 01.5.09 had alleged that in connection with revision of pension he had sent an application to the D.I. of Schools, Dhenkanal for required certificate to be included in the list of teachers who were to get salary as the Headmaster during the year 1973 - 1994. But the D.I. of Schools did not receive his application. He had further stated that on 15.12.08, the State Govt. again asked for the said list from the D.I. of Schools and the B.D.O; but the concerned authorities did not take any action in this regard.

The Commission took cognizance of the matter and the D.I. of Schools, Dhenkanal was requested to furnish a report on the matter. The D.I.(S) furnished a report on 25.8.09 which was sent to the petitioner for response. The petitioner furnished his response where in he disputed the report of D.I. of Schools, Dhenkanal. The D.I. had pointed out that the petitioner was never promoted to the post of Headmaster carrying higher scale of pay. He served as Asst. teacher from 22.10.73 till his retirement on 31.1.89. He received salary meant for the Asst. Teacher. By order No.8168 dated 31.12.87, 78 Asst. teachers

were provisionally promoted with Head Pandit scale of pay. The petitioner was one among them. He, however, did not join the promotional post and continued as Asst. Teacher of Banasingh U.P. School until his retirement on 31.1.89. The D.I. of Schools also stated that the petitioner had not received the Head Pandit scale of pay during his service period.

After perusal of the report of the D.I. and response of the petitioner, the Commission came to the conclusion that the petitioner was never promoted as Head Pandit carrying higher scale of pay. When he was provisionally promoted pursuant to the aforesaid order dated 31.12.87, he did not join the promotional post and continued as Asst. teacher till his retirement. Therefore, the question of allowing him Head Pandit scale of pay did not arise. Besides, the petitioner retired from service on 31.1.89, more than a decade ago and he approached the Commission after 20 years of his retirement. The Commission was precluded from enquiring into any matter after expiry of one year from the date on which the act constituting violation of Human Rights was alleged to have been committed. Therefore, the claim made by the petitioner could not be considered.

**Case No. 668/09**

One Anjushree Panda of C/54, B.D.A. Duplex Colony, Palas palli, Bhubaneswar in her petition dated 27.05.2009 that on 12.05.2009, when her son Pratik (18) was going in a motorcycle to his friend's house, one Sagarika Ray came in a scooty in wrong direction for which there was collision. Smt. Ray was not injured at all, rather her son fell down on the road because of sudden application of brake by him. While her son was lifting motorcycle from the ground, Sagarika Ray slapped him on his face and abused her son in obscene language. She herself snatched the chain from her neck and shouted as if Pratik had snatched it. At this time, she informed the PCR van by phone and the PCR van took Pratik to Nayapalli P.S, where he was assaulted by the police.

The matter was entrusted to Director of Investigation, OHRC to depute an Inspector attached to the Commission to cause an enquiry and submit report to the Commission. In compliance, Sri N.K. Pradhan, Inspector, OHRC furnished an enquiry report dated 11.08.2009. The Commission perused the report and noted that the complainant, based on whose FIR Nayapalli P.S. Case No. 89 of 2009 was registered u/s 394 IPC, is one Sagarika Ray W/o - Sri Chhitaranjan Ray who was working as RTO in Phulbani. She had no scooty and that at the time of the incident, she was coming to the Nageswar Temple by walk

when the petitioner's son came in a bike and hit her with a steel ballah causing head injury and snatched away her gold chain weighing about 30 grams. Hearing her scream, some local people came to her aid and caught hold of the culprit after chasing him for about a kilometer. The stolen gold chain was found in his money purse in two pieces. One PCR vehicle seeing the gathering rushed to the spot and took the culprit to the Nayapalli P.S. The statement of eye witnesses were examined, which supported the facts. It was also revealed from the enquiry that there had been a prior case (Airfield P.S. Case No. 54/2009 u/s 341/323/379/506 IPC) in which Pratik Panda had been involved. Two warrant of arrests in GR No. 3524/93 u/s 341/384/34 IPC & GR No. 3829/2000 u/s 498 (A) / 506/307 IPC were pending against Saroj Panda, husband of the petitioner for execution.

The accused Pratik Panda was arrested in the Nayapalli P.S. Case No. 89 of 2009 u/s 394 IPC & after completion of the investigation, the IO had submitted charge sheet in the case vide CS NO. 72 dated 24.05.2009 u/s 394 IPC. The Inspector after enquiry concluded that allegations made by the petitioner are totally false.

In view of the fact that the case had already been charge sheeted and pending before a judicial authority, the Commission did not proceed any further for enquiry under regulation 10(i) of the Orissa Human Rights Commission (procedure) Regulation 2003 and the case was accordingly closed.

Case No. 1387/09

The allegation of the petitioner, K. Jagannath, resident of Baraf Penthakata, Gandhi Nagar, Sea Beach PS, Puri was that the IIC, Sea Beach PS did not take any action on his complaint against one K. Prasad, who restrained local fishermen from purchasing fish from the petitioner.

On being noticed, the S.P., Puri forwarded a copy of the enquiry report of the IIC, Sea Beach PS. It was revealed from the report that the petitioner was carrying on fish business in the locality since long. On 14.9.09, in absence of the petitioner, there was quarrel between his first and second wife. The Basti people had constituted a 'panch'



consisting of 20 persons to settle up their dispute. As the second wife of the petitioner was driven out on 14.9.09 from the house of the petitioner, her father requested the 'panch' members to settle the dispute. Accordingly on 19.9.08 the 'panch' members organized a meeting at Sarda Nalla Baraf but the petitioner did not turn up although he was called to attend the meeting.

In order to maintain peace and tranquility between the petitioner and his rivals, proceeding u/s 107 Cr. P.C. against both the group had been initiated in the court of SDJM, Puri.

The petitioner had submitted his response to the above report of the police. He did not dispute the fact that a 'panch' meeting was called on 19.9.09 for discussion about driving out his second wife from the house but the petitioner did not turn up for the 'panch' meeting. His grievance was that the S.P. should not have got the case enquired into by IIC, Sea Beach PS.

The above being the position and particularly since the police had already moved for initiation of a proceeding u/s 107 Cr.P.C. against both the groups, the Commission was not inclined to probe further into the matter.

Case No. 695/09

One Bipin Bihari Mallick filed a complaint alleging that his brother Dhira @ Dhananjaya Mallick was murdered in the night of 03.02.2009 and the police by playing foul regarded his death as a motor cycle accident case. On being noticed, the Superintendent of Police in letter No. 2003 dated 21.11.2009 submitted, an enquiry report of SDPO, Bhadrak indicating that the death of Dhira @ Dhananjaya took place in the night of 3/4.09.2002 instead of 03.02.2009. On confrontation, the petitioner admitted that the date earlier mentioned by him was not correct and that the correct date was 3/4.09.2002. The petitioner gave an explanation that he wrongly mentioned the date while writing the petition, as he was listening to some persons. Had the petitioner mentioned the correct date in his petition, the Commission would not have entertained it and rejected it u/s 36 (2) of the Protection of Human Rights Act, 1993 which lays down that the Commission shall not inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.

It was also reported that on the basis of the report of Sub-Inspector P.C. Pattayat, Naikanidihi P.S.

Case NO. 65 dated 18.09.2002 u/s 279/304-A IPC was registered and in course of investigation, it came to light that in the night of occurrence at about 1.00 A.M. while Dhira was returning in his motor cycle on embankment of Parapokhari canal, he met with an accident and sustained injuries and became unconscious. On the next day morning on being found unconscious he was shifted to Basudevpur hospital for treatment and thereafter to SCB Medical College and Hospital, Cuttack where he succumbed to injuries on 08.09.2002. The autopsy report revealed that the injuries found on the body of the deceased were ante-mortem in nature and could have been caused by hard and blunt impact consistent with the alleged history of vehicular accident and death was due to coma arising out of injury to brain. The matter was enquired into by N.K. Kanodia, S.P., Bhadrak on 19.05.2007, who opined it to be a case of vehicular accident in which the rider was in heavy intoxication, sustained fatal injuries and later died. The then SDPO, Bhadrak S.Ch. Janamani also enquired into the allegation and has come to hold that the allegation of the petitioner that it was pre-planned murder was not substantiated. Prior to it, the then SDPO made enquiry and submitted



report on 22.06.2003 concluding that death of Dhira was due to vehicular accident. P.K. Pattnaik Ex-C.I. of Police, Bhadrak (Rural) conducted enquiry and in his report dated 14.01.2006 held that no clue was obtained about the alleged murder. Likewise K.L. Bhuyan, Ex-OIC of Naikanidihi P.S. enquired and after recording statements of witnesses came to the conclusion

that the allegation of the petitioner that his brother was murdered is without any basis.

In view of numerous and consistent reports as mentioned above, the Commission rejected the allegation of the petitioner and the petition was dismissed on the ground of limitation as well as on merit.

Case No. 812/07

The death of a life convict namely; Babuli Moharana belonging to Chandrama Patapur of Brahmagiri PS in the district of Puri while undergoing the sentence in Puri District Jail as reported in the daily 'SAMBAD' in its issue dated 20.7.07 under the caption "AJIBANA BANDI RAMRITYU", drew the attention of the Commission. The news report stated that Babuli Moharana was arrested in 1992 and was detained in Puri Jail since then being charged in a case of murder. He was convicted of the charge in November, 2002 and was sentenced to life imprisonment and ever since then he was in custody in Puri Jail. On 19.7.07 while he was under treatment in the Jail Hospital at Puri, he suffered chest pain and died.

Since it was a case of custodial death, the Commission called for a report from the I.G. of Prisons, Orissa, who furnished the postmortem report and medical report. From the medical records received by the Commission it was revealed that the prisoner died due to

disseminated tuberculosis. The Commission on the basis of the expert opinion held that the deceased was not given proper treatment. Accordingly the Commission recommended a compensation of Rs.50,000/- u/s 18 of the Protection of Human Rights Act, 1993 to be paid to the next of kins of the deceased convict. Besides, the Commission observed that the Deputy Director, Tuberculosis and all district authorities of RNTCP should periodically visit institutions where there was conglomeration of large number of persons such as prisons, shelter homes, juvenile remand homes, orphanages etc. to screen persons likely to be suffering from tuberculosis, if detected, institute necessary treatment so that no person dies of tuberculosis nor be the source of infection to other inmates. A copy of the order of the Commission was sent to the Secretary to Government, Health and Family Welfare Department to ensure periodical checking by the medical officers in-charge of RNTCP in Prisons, Shelter homes etc.

Case No. 1040/09

The petitioner Sujata Jal, daughter of Sankirtan Jal of Bukuramunda, PS Jharabandha, district-Bargarh appeared in person before the Commission and submitted a complaint alleging that the accused persons who committed gang rape on her have not yet been arrested. Perusal

of her petition showed that she was a Matriculate and belonged to SC and had been in search of a job. Taking advantage of her poverty and helplessness, Paikmal Block Chairman, Mahesh Agarwal and his associates by alluring to give her employment as Anganwadi Worker, committed gang rape on her on 10.5.09. According to the



petitioner, the Crime Branch had taken up investigation but except one namely Gunanidhi Nag, no other accused persons had been arrested and were at large.

The Commission took cognizance of the matter and called for a report from the I.G. of Police, CID/CB, Orissa who furnished a report which indicated that the investigation of the case was in progress and sincere efforts were being taken to arrest the accused persons.

On perusal of the above report, the Commission advised the CID/CB to continue its efforts to

apprehend the rest of the culprits. The Commission also observed that the relief of Rs.50,000/- as envisaged under rule 12(4) of the SC & ST (PA) Rules, 1995 is paid to the victim of the offence for outraging her modesty. But the atrocity committed on the victim was much more severe and therefore, the Commission recommended payment of an additional amount of Rs.50,000/- u/s 18 (c) of the Protection of Human Rights Act, 1993 to the victim, in addition to the relief under the above rules.

Case No.193/09

The news report alleging mismanagement and denial of medical care and treatment in the Community Health Centre, Rajnagar, as published in the daily 'KHABAR' in its issue dated 07.2.2009 under the caption "EMITI CHALICHI RAJNAGAR GOSTHI SWYASTHYA KENDRA ROGINKU DAKTARKHANA NISEDHA, VERANDAHRE PRASABA", drew the attention of the Commission. It was reported that Smt. Rebati Mandal of Krushnapuriyapur in Gupti Panchayat while undergoing labour pain, was taken to the Rajnagar CHC for confinement. The Staff Nurse, far from attending on the patient, refused her admission into the Labour Room of the hospital. While she was undergoing labour pain, lying on the verandah of the hospital, her husband sought the assistance of the nurses, but was denied. The Staff Nurse was said to have insisted on production of the HIV report before the patient could deliver the child in the hospital. Finally, unable to bear the pain Rebati fell unconscious after having delivered a female child in the verandah of the hospital. It

was reported that no medicine or injection was given to Rebati during her confinement.

The Commission took cognizance of the newspaper report suo-motu and called upon the CDMO, Kendrapara to furnish a detailed factual report. The CDMO, Kendrapara furnished a factual report on the incident. From the report of the CDMO it appeared that Smt. Rebati Mandal was not taken proper care even at that stage when she was about to deliver the child. Non-attendance of any doctor or medical staff at the time of delivery and denial of admission to the labour room to a patient in a Government Hospital, where such facilities are available and leaving her to deliver child in the verandah was indeed shocking and violative of her human rights.

The Commission, therefore, recommended to the State Government for grant of an interim relief to the tune of Rs.15,000/- under section 18 (c) of the Protection of Human Rights Act, 1993 in favour of Smt. Rebati Mandal for the sufferings which she had to undergo because of denial of the facilities of the labour room to her available in the Rajnagar Community Health Centre.



ANNEXURE – I

Staff position of OHRC during the year 2009-10

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	Sr. Assistant	1
14	Accountant-Cum-Cashier	1
15	Stenographer	5
16	Constable	3
17	Driver	4
18	Computer operator	1
19	Despatcher-Cum- Typist	2
20	Jr. Assistant	2
21	Peon/Class - IV	8

35

ANNEXURE – II

Subject wise classification of cases registered & disposed off during year 2009-10

Sl.	Classification of cases	No. of cases
1	Children	23
2	Health	63
3	Jail	41
4	Anti social activities	32
5	Labour	51
6	Minorities ST/SC	59
7	Physically handicapped	12
8	Police, paramilitary force	615
9	Pollution	18
10	Religion / community	60
11	Service matter	188
12	Women	217
13	Misc.	526
14	Total no. of cases received during the year	1905
15	Dismissed in limini	906
16	Entertained during the year	999
17	Cases pending from previous year	4172
18	Total no. of cases	5171
19	Disposed of on hearing	434
20	Total no. of cases pending of the year	4737

**ANNEXURE – III****Total number of Suo-Motu cases instituted - 76**

Sl.No.	Classification of cases	No. of cases
1	Children	3
2	Health	6
3	Jail	22
4	Anti social Activities	5
5	Labour	6
6	Minorities ST/SC	9
7	Physically handicapped	1
8	Police, paramilitary force	8
9	Pollution	3
10	Religion / community	0
11	Service matter	1
12	Women	6
13	Misc.	6
	Total	76

ANNEXURE – IV**Subject wise classification of cases entertained during the year 2009-10**

Sl.No.	Classification of cases	No. of cases
1	Children	6
2	Health	3
3	Jail	57
4	Anti social Activities	125
5	Labour	19
6	Minorities ST/SC	143
7	Physically handicapped	4
8	Police, paramilitary force	408
9	Pollution	3
10	Religion / community	8
11	Service matter	17
12	Women	89
13	Misc.	117
	Total	999

