

## CHAPTER I

### PRELIMINARY

#### 1. Short title, extent and commencement

- (1) This Act may be called the Protection of Human Rights (Amendment) Act, 2019.
- (2) It extends to the whole of India.

Provided that it shall apply to the State of Jammu and Kashmir only in so far it pertains to the matters relatable to any of the entries enumerated in List I or List III in the Seventh Schedule to the Constitution as applicable to that State.

- (3) It shall be deemed to have come into force on the 27<sup>th</sup> July, 2019.

#### 2. Definitions

- (1) In this Act, unless the context otherwise requires-
  - (a) “ armed forces” means the naval, military and air forces and includes any other armed forces of the Union;
  - (b) “ Chairperson” means the Chairperson of the Commission or of the State Commission, as the case may be;
  - (c) “ Commission” means the National Human Rights Commission under Section 3;
  - (d) “ human rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by Courts in India.
  - (e) “ Human Rights Court” means the Human Rights Court specified under section 30;
  - (f) “ Internatinal 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 16<sup>th</sup> December, 1966 [ and such other Covenant or Covention adopted by the General Assembly of the United Nations as the Central Government may, by notification, specify”]<sup>1</sup>;
  - (g) “ Member” means a Member of the Commission or of the State Commission, as the case may be<sup>2</sup>;
  - (ga) “ National Commission for Backward Classes” means the National Commission for Backward Classes constituted under section 3 of the National Commission for Backward Classes Act, 1993;’;
  - (h) “ National Commission for Minorities” means the National Commission for Minorities constituted under section 3 of the National Commission for Minorities Act, 1992;
  - (ha) “ National Commission for Protection of Child Rights” means the National Commission for Protection of Child Rights constituted under section 3 of the Commission for Protection of Child Rights Act, 2005;’.

## CHAPTER II

**3. Constitution of a National Human Rights Commission**

- (1) The Central Government shall constitute a body to be known as the National Human rights Commission to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.
- (2) The Commission shall consist of:
  - (a) A Chairperson who has been a Chief Justice of India or a Judge.
  - (b) One Member who is or has been , a judge of the Supreme Court;
  - (c) One Member who is, or has been, the Chief Justice of a High Court;
  - (d) Three Members out of which at least one shall be a woman to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.
- (3) The Chairperson of the National Commission for Minorities, <sup>1</sup>[the National Commission for Backward Classes, the National Commission for Minorities, the National Commission for Protection of Child Rights and the National Commission for Women and the Chief Commissioner for Persons with Disabilities shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (j) of section 12.
- (4) There shall be a Secretary-General who shall be the Chief Executive Officer of the Commission and "shall subject to control of the Chairperson, exercise all administrative and financial powers (except judicial functions and the power to make regulations under section 40B)."
- (5) The headquarters of the Commission shall be at Delhi and the Commission may, with the previous approval of the Central Government, establish offices at other places in India.

**4. Appointment of Chairperson and other Members**

- (1) The Chairperson and [ the Members]<sup>1</sup> shall be appointed by the President by warrant under his hand and seal;  
 Provided that every appointment under this sub-section shall be after obtaining the recommendations of a Committee consisting of-
  - (a) The Prime Minister- Chairperson
  - (b) Speaker of the House of the People- Member
  - (c) Minister in-charge of the Ministry of Home Affairs in the Government of India- Member

---

1. Subs. by Act 43 of 2006 for "The National Commission for the Scheduled Castes and Scheduled Tribes."

2. Subs. by Act 43 of 2006 for "as it may delegate to him."

1. Subs. by Act 43 of 2006 for "other members."

- (d) Leader of the Opposition in the House of the People- Member
- (e) Leader of the Opposition in the Council of States- Member
- (f) Deputy Chairman of the Council of State- Member

Provided further that no sitting Judge of the Supreme Court of sitting Chief Justice of a High Court shall be appointed except after consultation with the Chief Justice of India.

- (2) No appointment of a Chairperson or a Member shall be invalid merely by reason of any [vacancy of any member in the Committed referred to in the first proviso to sub-section (1)]<sup>2</sup>.

### **5. Resignation and removal of Chairperson and Members**

(1) The Chairperson or any Member may, by notice in writing under his hand addressed to the President of India, resign his office.

(2) Subject to the provisions of sub-section (3), the Chairperson or any Member shall only be removed from his office by order of the President of India on the ground of proved misbehaviour or incapacity after the Supreme Court, on reference being made to it by the President, has on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme court, reported that the Chairperson or the Member, as the case be, ought on any such ground to be removed.

(3) Notwithstanding anything in sub-section (2), the President may, by order, remove from office the Chairperson or any Member if the Chairperson or such Member, as the case may be-

- (a) is adjudged an insolvent; or
- (b) engages during his term of office in any paid employment outside the duties of his office; or
- (c) is unfit to continue in office by reason of infirmity of mind or body; or
- (d) is of unsound mind and stands so declared by a competent court; or
- (e) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

### **6. Terms of office of Chairperson and Members<sup>1</sup>**

(1) A person appointed as chairperson shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of seventy years, which is earlier and shall be eligible for re-appointment.

(2) A person appointed as a Member shall hold office for a term of three years from the date on which he enters upon his office and shall be eligible for re-appointment.

---

2. Subs. by Act 43 of 2006 for "vacancy in the Committee"

3. Subs by Act of 2006

1. Subs by Act 43 of 2006

## CHAPTER V

**21. Constitution of State Human Rights Commissions**

- (1) A State Government may constitute a body to be known as the .....( name of the State) Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to, a State Commission under this chapter.
- (2) [ The State Commission shall, with effect from such date as the State Government may by notification specify, consist of-
  - (a) a Chairperson who has been a Chief Justice or a Judge of a High Court;
  - (b) one Member who is, or has been , a judged of a High Court or District Judge in the State with a minimum of seven years experience as District Judge;
  - (c) one Member to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.]
- (3) There shall be a Secretary who shall be the Chief Executive Officer of the State Commission and shall subject to control of the Chairperson, exercise all administrative and financial powers of the State Commission.
- (4) Te headquarters of the State Commission shall be at such place as the State Government may, by notification, specify.
- (5) A State Commission may inquire into violation of human rights only in respect of matters relatable to any or the entries enumerated in List II and List III in the Seventh Schedule to the Constitution:

Provided that if any such matter is already being inquired into by the Commission or any other Commission duly constituted under any law for the time being in force, the State Commission shall not inquire into the said matter;

Provided further that in relation to the Jammu and Kashimr Human Rights Commission, this sub-section shall have effect as if for the words and figures “List II and List III in the Seventh Schedule to the Constitution”. The words and figure “List III in the Seventh Schedule to the Constitution as applicable to the State of Jammu and Kashmir and in respect of matters in relation to which the Legislature of that State has power to make laws” had been substituted.

- (6) [ Two or more State government may, with the consent of a Chairperson or Member of a State Commission, appoint such Chairperson or , as the case may be, such Member of another State Commission simultaneously if such Chairperson or Member consents to such appointment:

Provided that every appointment made under this sub-section shall be made after obtaining the recommendations of the Committee referred to in sub-section(1) of section 22 in respect of the State for which a common Chairperson or Member, or both, as the case may be, is to be appointed.]<sup>1</sup>

- (7) Subject to the provisions of section 12, the Central government may, by order, confer upon the State Commission the functions relating to human rights being discharged by the Union territories, other than the Union territory of Delhi.
- (8) The functions relating to human rights in case of Union territory of Delhi shall be dealt with by the Commission.”

**24. Term of office of [Chairperson and]<sup>1</sup> Members of the State Commission**

- (1) A person appointed as Chairperson shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier and shall be eligible for reappointment.
- (2) A person appointed as a Member shall hold office for a term of three years from the date on which he enters upon his office and shall be eligible for re-appointment.

Provided that no Member shall hold office after he has attained the age of seventy years.

- (3) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of a State or under the Government of India.

**25. Member to act as Chairperson or to discharge his function in certain circumstances**

- (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Governor may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.
- (2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the Governor may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resume his duties.

**26. [Term and Conditions of service of Chairperson and Members of the State Commissions**

The salaries and allowances payable to and other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed by the State Government;

Provided that neither the salary and allowance nor the other terms and conditions of service of the Chairperson or a Member shall be varied to his disadvantage after his appointment.]<sup>1</sup>

**27. Officers and other staff of the State Commission**

- (1) The State Government shall make available to the Commission
  - (a) an officer not below the rank of a Secretary to the State Government who shall be the Secretary of the State Commission; and

(b) such police and investigative staff under an officer not below the rank of an Inspector General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the State Commission.

---

1            Inserted by Act 43 of 2006

1            Subs. by Act of 2006

# ORISSA HUMAN RIGHTS COMMISSION (PROCEDURE) REGULATIONS, 2022

The 7<sup>th</sup> January 2022

**No. 2693/OHRC-** In exercise of the power conferred by regulation 18 of the Orissa Human Rights Commission (Procedure) Regulations,2003 hereby makes the following Regulations to further amend Orissa Human rights Commission (Procedure) Regulations,2003 namely

1. **Short title and Commencement.**- (1) These Regulations may be called the Orissa Human Rights Commission (Procedure) ( Amendment) Regulations,2022.  
  
(2) They shall come into force with effect from 7<sup>th</sup> January 2022.

## CHAPTER-1

### PRELIMINARY

2. **Definitions** (1) In these regulations, unless the context otherwise requires,-
  - (a) “ **Act**” means the Protection of Human Rights Act 1993 as amended from time to time,
  - (b) “**Code**” means the Code of Civil Procedure, 1908 as amended from time to time.
  - (c) “**Complaint**” means any petition or communication received by the Commission from a victim or any other person on his behalf, in person or by post or by telegram or by FAX or by any other means whatsoever, alleging violation of human rights as defined in Section 2(d) read with Section 21 (5) of the Act or abetment thereof or negligence in the prevention of such violation by a public servant.

(m) “**Secretary**” means an officer whose services have been made available to the Commission by the State Government under clause (a) of Sub- Section (1) of Section 27 of the Act and who is designated as such by the Commission.

(n) “**Single Bench**” means a bench consisting of one Member of the Commission as Constituted by the Chairperson and

(o) “**State Government**” means the Government of Orissa.

(2) Words and expression not defined in these Regulations, shall, to the extent defined in the Act, have the same meaning as assigned to them therein.

3. **Head-Quarters of the Commission.**- The head-quarters of the Commission shall, as notified to the State Government, be at Bhubaneswar.

4. **Working Days.**- The Office of the Commission shall remain open on all days other than days declared as holidays for the offices of the State Government at Bhubaneswar.

5. **Venue of the Sitting and Meetings.**- The Commission shall ordinarily hold its meetings and sittings in its office at Bhubaneswar. The Commission may however, at its discretion hold any of its meetings and/or sittings at any place other than its head-quarters if the Chairperson considers it necessary or expedient so to do.

6. **Periodicity of Sittings.**- The Commission shall ordinarily, subject to cases being ready and available for inclusion in the cause list, have its sittings on every Monday, Tuesday, Thursday and Friday excepting State Government holidays. The Chairperson, either sou-motu at the request of one or more Members, may direct a special sitting to be convened on any other working day to consider a matter of urgency.

made in Form-3. He shall then send the Complaint or information on the basis of which Sou-Motu action is under consideration with the scrutiny report appended thereto to the officer/ Section concerned for registration. Other communications relating to complaints received earlier and registered shall be processed and appropriately dealt with.

- (e) If a communication is not a complaint under Section 12(a) of the Act, but relates to the other clauses of Section 12, the same shall be placed before the Registrar, who shall place it before the full Commission with a brief note as early as possible in accordance with the procedure outlined in Regulations-7

**12. Classification:** Complaints shall be classified subject wise with reference to the subject list in Appendix-I. The subject list may be modified or amended from time to time with the approval of the Chairperson.

**13. Registration.-**

(a) A common register shall be maintained in Form-4 in the Law Division for entering in serial order the case number of each complaint registered, the relevant District Code and year of registration, the corresponding dairy number and the District to which the incident relates. After completion of the scrutiny, entry shall be made in the common register and the case number assigned to the complaint along with the District Code shall be entered on the cover page of the case file in Form-5 of the complaint in red ink and also in the space provided in the Scrutiny Report.

(b) Records relating to each complaint shall be kept in separate file covers and duly indexed in For-6. The same shall be sent to the listing section or to the officers responsible for listing for placing the matter before the Commission.

(c) All the complaints registered as aforesaid shall be placed before the Commission for consideration as expeditiously as possible and ordinarily not later than seven working days from the date of its receipt. In case a complaint cannot be placed before Commission within the period as aforesaid, it shall be placed before the Chairperson for appropriate orders.

(d) Where the Chairperson directs any complaint to be taken up for urgent consideration, it shall be placed before the Commission, within such time as may be directed by the Chairperson.

**14. Constitution of Benches.-**

(a) Notwithstanding anything contained hereinafter, the Chairperson of the Commission shall be the sole Authority in assignment of cases and applications to the Benches. The Chairperson of the Commission can pass general or special orders for withdrawal and assignment of cases from or to any Bench.

(b) The assignment of urgent cases shall be referred to the Chairperson of the Commission, and the Chairperson shall have the sole authority to assign the case to any other Bench or where circumstances so require taken up the case in his Bench.

(c) Ordinarily, all complaints other than *suo-motu* cases shall be dealt with by single bench, as assigned by the Chairperson of the Commission.

(d) If the Single Bench dealing with a case is of the opinion that the case requires consideration by a Division Bench, then the said record shall be placed before the Chairperson for assigning the case to such a Division Bench, if the Chairperson also concurs with that opinion. If the Chairperson feels that the case should be heard by a Larger bench, the Chairperson may refer the case to such Larger Bench.

(e) All *suo-motu* cases shall be considered by a Division Bench unless assigned to a Larger Bench in accordance with the procedure outlined above.

(f) The decision of the Chairperson in assignment of cases shall be final and binding.”

(2) the order referred to in regulation 23(c) to the concerned government or authority.

**28. Mode of Communication.-** Unless otherwise ordered, all communications from the Commissions shall be sent by ordinary post certificate of posting.

**29. Review.-** (a) Any party seeking review or modification of any order or proceeding may present an application before the Commission, through the registrar, OHRC or any other Officer as authorised, who shall put up the concerned record before the Chairperson.

(b) Review ordinarily shall be heard by the same Bench, subject to the direction of the Chairperson to assign the matter to a Division Bench comprising also of the member, who passed the order in the Single Bench or to the Larger Bench.

**30. Consignment of Records.-** Records of all cases finally disposed of shall be consigned to the record Section after completing the entries in the register in Form-11.

**31. Period of Retention of Records.-** (a) Unless otherwise ordered by the Chairperson, the entire records of disposed of complaints shall be destroyed after the expiry of a period of two years from the date of final disposal.

(b) The register in Form-11. Which contains detailed information regarding each complaint registered shall be retained permanently.

**32. Destruction of Records.** (a) The record keeper shall identify the cases, the records of which are ripe for destruction and ensure that appropriate entries are made in the register in Form-11 regarding the date of destruction. A separate register shall also be maintained containing the list of cases taken up for destruction.