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ROLE OF NATIONAL HUMAN RIGHTS COMMISSION (NHRC)

~ *Gaurashwari Rathod*

INTRODUCTION

In the landmark incident of K-B-K (Kalahandi-Bolangir-Koraput) starvation death cases in Orissa, deprivation of proper food, care, and facilities, and improper corrective measures not being taken adequately resulted in the NHRC probing the matter and examining the significance of human rights to proper food, health, and care¹. The watchdog established by the NHRC helped safeguard the rights to life, dignity, and equality in India.

The actions taken by NHRC to ensure the human rights and values mark the pivotal role played in enhancing the dignity of a human being in the nation.

The National Human Rights Commission is a statutory body established on 12 Oct 1993 under the Protection of Human Rights Act (PHRA), 1993, which was later amended in 2019². The establishment of the NHRC was preceded by a series of events, beginning with the adoption of the UDHR (Universal Declaration of Human Rights) in 1948, the first step towards fortifying fundamental human rights, which had been severely violated during World War 2.

With growing steps towards the same, various discussions have been held, evolving the world towards “positive change”, by introducing the National Human Rights Institution in 1991, followed by the UN meeting held in Paris, resulting in the “Paris Principles.” This further led

¹ Andaleeb Rahman, Universal Food Security Program and Nutritional Intake: Evidence from the Hunger Prone KBK Districts in Odisha, 63 Food Pol'y 73, 73–86 (2016), <https://doi.org/10.1016/j.foodpol.2016.07.003>.

² National Human Rights Commission of India, *About the Organisation*, <https://nhrc.nic.in/about-the-organisation>.

to the emergence of the National Human Rights Commission in India based on the same principles in the year 1993.

STATUTORY FRAMEWORK AND COMPOSITION

The establishment of the major commission was held under the Protection of Human Rights Act (PHRA), 1993. Coding the critical roles, powers, functions, and compositions, which leads to the effective execution of NHRC in the nation.

The commission is vested with civil court-like powers, with a judicial character. To lead the authority at a transparent level, the composition is as mentioned in Section 3 of the PHRA (1993)³. Follow their respective duties and work for the productive execution.

COMPOSITION-

1. The leading role of the chairman is played by the former Chief Justice of India or a Supreme Court judge.
2. The commission is to be composed of 5 full-time members and 7 deemed members.

The tenure of the chairman and members is for a term of 3 years or until they reach the age of 70. Such appointments of the respective members of the committee are mainly done by the president on the recommendation of the following—

1. Prime minister (head of the committee)
2. Lok Sabha speaker
3. Rajya Sabha deputy speaker
4. Leaders of the opposition in both houses of the parliament
5. Union Home Minister.

ROLES AND FUNCTIONS

The emergence of human values and dignity in the nation, covering up all the important aspects and respective fields, is the ultimate result of the NHRC's pivotal role played efficiently and leading to the epitome of a developing nation.

1. Judicial interpretation

NHRC is empowered with the authority to work as a civil court and has a judicial character, which can lead the investigation for surmounting the grievances of violations of human rights

³Protection of Human Rights Act, No. 10 of 1994, § 3 (India), <https://indiankanoon.org/doc/842137>

on a Suo motu basis, or even after a petition is filed, it is also authorised to interfere in the judicial proceeding and is also granted the power to utilise the service of any office or investigation agency.

2. Procedural functioning

The procedural functioning of NHRC initiates with the matter, reaching the commission via complaint filed by the victim or 3rd party; accordingly, the suo motu action is being taken, where the required action has to be taken within 1 year of occurrence not after the expiry of one year from date of the act committed, whereby the next step taken is the conduct of inquiry by exercising the power to collect witnesses, receive the evidence, and call for records, either directly or by the indirect action through the investigation agencies or even visiting the jail and detention center.

In pursuance of the matter involved, the commission then recommends the compensation, any disciplinary action required or prosecution, reporting the required recommendation to the appropriate govt.

At the end, the accountability is then checked via a periodic annual report submission to parliament.

RECOMMENDARY POWERS⁴

NHRC is only bound to exercise the recommendatory powers and adequate actions where no direct action to punish the right violators is allowed to provide relief and compensation to the victims. When the violation is by the armed forces, the commission has a few limited powers, roles, and jurisdictions.

Also, the violations done by the private parties are not actionable by the NHRC.

RESEARCHING

⁴ National Human Rights Commission of India, *Mandate*, <https://nhrc.nic.in/mandate>.

The major research works and tasks are accomplished by the NHRC. Major research works in various fields, areas, and jurisdictions are required to lead an efficient recommendatory action and suggest the appropriate steps to be taken for surmounting the problems.

SPREADING HUMAN AWARENESS

The ultimate powerful role to strengthen human values and protect the dignity of individuals to lead an ideal life filled with respect and morals, is to conduct the major programs to spread awareness about individual rights and their fundamental roles and duties to serve in the country, to preserve the dignity to live freely in the nation by virtue of being a human. Awareness is required to safeguard the ethical and moral principles laid down in the Paris Principles. The awareness is often done by various campaigns, programmes, workshops, and several other initiatives.

ANNUAL REPORT SUBMISSION

The hectic and complex functioning to lead the efficient, productive, and strong execution of the act requires the transparent check and accountability proof to the parliament, hence the annual report submission of all the works and actions undertaken by the commission is done as a key role of NHRC.

LIMITATIONS AND CHALLENGES

The recent coverage, shows the former chairperson of NHRC, justice H.L Dattu , referring the commission as “toothless tiger”⁵, where the metaphor given , is the outcome of the ultimate loose power execution over the human right violations, the certain factors constituting the ultimate hurdle and challenge to the body are as follows –

1. No Financial Independence⁶ – the body mainly relies over the central govt grants, lack of independent finance resource, may lead to inefficient operational working and execution.
2. The power upheld by the body is recommendary in nature only, but not legally binding which constitutes the nature of institutional working to be “loose” and “nominal” in nature.

⁵ Dr. Shatrughan, National Human Rights Commission: Problems and Prospects, 16 J. ADV. & SCHOL. RSCHS. ALLIED EDUC. 778, 780 (2019), <https://ignited.in/index.php/jasrae/article/download/12302/24407/60982>.

⁶ Drishti IAS, NHRC and Associated Challenges, DRISHTI IAS (Dec. 24, 2024), <https://www.drishtiiias.com/daily-updates/daily-news-analysis/nhrc-and-associated-challenges>.

3. Jurisdictional limitation⁷ - The fields where the organization has its emerging power only restricts to the private and public authority, but not to the respective entities and armed forces.

CONCLUSION

The NHRC, being the emerging backbone of human rights preservation, plays several impactful and crucial roles through the means of exercising its power to regulate the major problems and incidents associated with human rights violations and take appropriate measures to address the problems that affect the basic standard of living of the human being.

The ultimate improved measures that can be applied to the NHRC for more efficient functioning must include the independent investigation wings to reduce the non-neutral outcomes. The narrowed jurisdiction often leads it to acquire a pseudo power to deal with the matters, as the ambit provided to the commission is only limited to 1 year; hence, to deal with the matters effectively requires more time and a varied jurisdiction. Therefore, it must be dealt with accordingly.

The world seeks to experience the fast yet effective actions to lead their life towards betterment; therefore, it must be considered as the pivotal duty to be played without any delay, biased, or politically influenced actions.

⁷ Id. (discussing the jurisdictional limitation of the NHRC).