

State Human Rights Commission

The Protection of Human Rights Act of 1993 provides for the creation of not only the National Human Rights Commission but also a State Human Rights Commission at the state level. Accordingly, twenty five states have constituted the State Human Rights Commissions through Official Gazette Notifications.

A State Human Rights Commission can inquire into violation of human rights only in respect of subjects mentioned in the State List (List-II) and the Concurrent List (List-III) of the Seventh Schedule of the Constitution. However, if any such case is already being inquired into by the National Human Rights Commission or any other Statutory Commission, then the State Human Rights Commission does not inquire into that case.

COMPOSITION OF THE COMMISSION

The State Human Rights Commission is a multi-member body consisting of a chairperson and two members³. The chairperson should be a retired Chief Justice of a High Court and members should be a serving or retired judge of a High Court or a District Judge in the state with a minimum of seven years experience as District Judge and a person having knowledge or practical experience with respect to human rights.

The chairperson and members are appointed by the Governor on the recommendations of a committee consisting of the chief minister as its head, the speaker of the Legislative Assembly, the state home minister and the leader of the opposition in the Legislative Assembly. In the case of a state having Legislative Council, the chairman of the Council and the leader of the opposition in the Council would also be the members of the committee.

Further, a sitting judge of a High Court or a sitting District Judge can be appointed only after consultation with the Chief Justice of the High Court of the concerned state. The chairperson and members hold office for a term of five years or until they attain the age of 70 years, whichever is earlier⁴. After their tenure, the chairperson and members are not eligible for further employment under a state government or the Central government. Although the chairperson and members of a State Human Rights Commission are appointed by the governor, they can be removed only by the

President (and not by the governor). The President can remove them on the same grounds and in the same manner as he can remove the chairperson or a member of the National Human Rights Commission. Thus, he can remove the chairperson or a member under the following circumstances:

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

In addition to these, the president can also remove the chairperson or a member on the ground of proved misbehaviour or incapacity. However, in these cases, the President has to refer the

matter to the Supreme Court for an inquiry. If the Supreme Court, after the inquiry, upholds the cause of removal and advises so, then the President can remove the chairperson or a member. The salaries, allowances and other conditions of service of the chairman or a member are determined by the state government. But, they cannot be varied to his disadvantage after his appointment.

All the above provisions are aimed at securing autonomy, independence and impartiality in the functioning of the Commission.

FUNCTIONS OF THE COMMISSION

The functions of the Commission are:

- (a) To inquire into any violation of human rights or negligence in the prevention of such violation by a public servant, either *suo motu* or on a petition presented to it or on an order of a court.
- (b) To intervene in any proceeding involving allegation of violation of human rights pending before a court.
- (c) To visit jails and detention places to study the living conditions of inmates and make recommendation thereon.
- (d) To review the constitutional and other legal safeguards for the protection of human rights and recommend measures for their effective implementation.
- (e) To review the factors including acts of terrorism that inhibit the enjoyment of human rights and recommend remedial measures.
- (f) To undertake and promote research in the field of human rights.
- (g) To spread human rights literacy among the people and promote awareness of the safeguards available for the protection of these rights.
- (h) To encourage the efforts of non-governmental organizations (NGOs) working in the field of human rights.
- (i) To undertake such other functions as it may consider necessary for the promotion of human rights.