

CHAPTER V

STATE HUMAN RIGHTS COMMISSIONS**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) The 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 relating 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 Kashmir 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.] 1

1. Subs by Act 43 of 2006
 2. Sub by Act 43 of 2006

22. **Appointm~~ent~~ of Chairperson and Membe of State Commission**

- (1) The Chairperson and Members shall be appointed by the Governor by warrant under his hand and seal :

Provided that every appointment under this sub section shall be made after obtaining the recommendation of a committee consisting of

- (a) the Chief Minister - Chairperson
- (b) Speaker of Legislative Assembly - Member
- (c) Minister in-charge of Department of Home, in the state - Member
- (d) Leader of the Opposition in the Legislative Assembly - Member provided further that where there is a Legislative Council in a state, the Chairman of that Council and the Leader of the Opposition in that Council shall also be member of committee.

Provided also that no sitting Judge of High Court or sitting District Judge shall be appointed except after consultation with the Chief Justice of High Court of concerned state.

- (2) No appointment of Chairperson or a Member of State Commission shall be invalid merely by reason of [any vacancy of any Member in the Committee referred to in sub section (1)].

23 [Resignation and Removal of Chairperson or Member of the State Commission

[(1) The Chairperson or a Member of a State Commission may be notified in writing under his hand address to the Governor, resign his office.

- (1A) Subject to the provision of sub-section (2) the Chairperson or any Member of the State Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference being made to it by the President, has on inquiry held in accordance with the procedure prescribed in that behalf of by the Supreme Court, reported that Chairperson or such member as the case may be ought on any such ground to be removed]

- (2) Notwithstanding anything in sub-section (1A) the President may order removal from office of 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 the term of the 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 the competent court; or

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- 2. Subs by Act 43 of 2006 for "other Members"
 - 1. Subs by Act 43 of 2006 for "any vacancy in the Committee"
 - 2. Subs by Act 43 of 2006 for "Removal of a member of the State Commission"
 - 3. Subs by Act 43 of 2006
 - 4. Subs by Act 43 of 2006 for "other member"
 - 5. Subs by Act 43 of 2006 for "other member"

- (e) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

24. Terms of Office of [Chairperson and] 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, which ever 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.
- (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 functions in certain circumstances

- (1) In the event of the occurrence of any vacancy in office of Chairperson by reason his death, resignation or otherwise, the Governor may, by notification authorize 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 function owing to absence on leave or otherwise, such one of the members as the Governor may, by notification, authorize 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 Chairperson and Members of the State Commission]

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.]¹

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

- (2) subject to such rules as may be made by the State Government in this behalf, the State Commission may appoint such other administrative technical and scientific staff as it may consider necessary.
- (3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed by the State Government.

28. Annual and special reports of State Commission

- (1) The State Commission shall submit an annual report to the State Government and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.
- (2) The State Government shall cause the annual and special reports of the State Commission to be laid before each House of State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House along with a memorandum of action taken or proposed to be taken on the recommendations of the State Commission and the reasons for non-acceptance of the recommendations, if any.

29. Application of certain provisions relating to National Human Rights Commission to State Commissions

The Provisions of sections 9, 10, 12, 13, 14, 15, 16, 17 and 18 shall apply to a State Commission and shall have effect, subject to the following modifications, namely:-

- (a) References to "Commission" shall be construed as references to "State Commission";
- (b) In section 10, in sub-section (3), for the word "Secretary General", the word "Secretary" shall be substituted;
- (c) In section 12, clause (f) shall be omitted;
- (d) In section 17, in clause (i), the words "Central Government or any" shall be omitted;

CHAPTER VI

HUMAN RIGHTS COURTS

30. For the purpose of providing speedy trial of offences arising out of violation of human rights, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district a Court of Session to be a Human Rights Court to try the said offences.

Provided that nothing in this section shall apply if

- (a) a Court of Session is already specified as a special court; or
- (b) a special court is already constituted, for such offences under any other law for the time being in force.

31. Special Public Prosecutor

For every Human Rights Court, the State Government shall, by notification, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT

32. Grants by the Central Government

- (1) The Central Government shall after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.
- (2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

33. Grants by the State Government

- (1) The State Government shall, after due appropriation made by Legislature by law in this behalf, pay to the State Commission by way of grants such sums of money as the State Government may think fit for being utilised for the purposes of this Act.
- (2) The State Commission may spend such sums as it thinks fit for performing the functions under Chapter V, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

34. Accounts and Audit

- (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.
- (2) The Accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.
- (3) The Comptroller and Auditor-General or any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.
- (4) The accounts of the Commission as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission and the Central Government shall cause the audit report to be laid as soon as may be after it is received before each House of Parliament.

35. Accounts and Audit of State Commission

- (1) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.
- (2) The accounts of the State Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the State Commission to the Comptroller and Auditor-General.
- (3) The Comptroller and Auditor-General or any person appointed by him in connection with the audit of the accounts of the State Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the State Commission.
- (4) The accounts of the State Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.

CHAPTER VIII
MISCELLANEOUS

36. *Matters not subject to jurisdiction of the Commission*

- (1) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.
- (2) The Commission or the State 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.

37. *Constitution of special investigation teams*

Notwithstanding anything contained in any other law for the time being in force, where the Government considers it necessary so to do, it may constitute one or more special investigation teams, consisting of such police officers as it thinks necessary for purposes of investigation and prosecution of offences arising out of violations of human rights.

38. *Protection of action taken in good faith*

No suit or other legal proceeding shall lie against the Central Government, State Government, Commission, the State Commission or any Member thereof or any person acting under the direction either of the Central Government, State Government, Commission or the State Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or any order made thereunder or in respect of the publication by or under the authority of the Central Government, State Government, Commission or the State Commission of any report paper or proceedings.

39. *Members and officers to be public servants*

Every Member of the Commission, State Commission and every officer appointed or authorised by the Commission or the State Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

40. *Power of Central Government to make rules*

- (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely :-
 - (a) the salaries and allowances and other terms and conditions of service of the [Chairperson and Members]¹ under section 8;

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

- (b) the conditions subject to which other administrative, technical and scientific staff may be appointed by the Commission and the salaries and allowances of officers and other staff under subsection
 - (3) of section 11;
 - (c) any other power of a civil court required to be prescribed under clause (f) of subsection (1) of section 13;
 - (d) the form in which the annual statement of accounts is to be prepared by the Commission under sub-section (1) of section 34; and
 - (e) any other matter which has to be, or may be, prescribed.
- (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

40 A. Power to make rules retrospectively—The power to make rules under clause (b) of subsection (2) of section 40 shall include the power to make such rules or any of them retrospectively from a date not earlier than the date on which this Act received the assent of the President, but no such retrospective effect shall be given to any such rule so as to prejudicially affect the interests of any person to whom such rule may be applicable.

Power of Commission to make Regulations¹

[40(B) (1) Subject to the provisions of this Act and the rules made thereunder, the Commission may, with the previous approval of the Central Government, by notification, make regulations to carry out the provisions of this Act.

- (2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-
 - (a) the procedure to be followed by the Commission under subsection(2) of Section 10;
 - (b) the returns and statistics to be furnished by the State Commission;
 - (c) any other matter which has to be, or may be, specified by regulations.
- (3) Every regulation made by the Commission under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and

¹ Inserted by Act 43 of 2006

² Inserted by Act 43 of 2006

if, before the expiry of the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulations or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.]

41. Power of State Government to make rules

- (1) The State Government may, by notification, make rules to carry out the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :
 - (a) the salaries and allowances and other terms and conditions of service of the Chairperson and Members under section 26;
 - (b) the conditions subject to which other administrative, technical and scientific staff may be appointed by the State Commission and the salaries and allowances of officers and other staff under sub-section (3) of section 27;
 - (c) the form in which the annual statement of accounts is to be prepared under sub-section (1) of section 35.
- (3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

42. Power to remove difficulties

- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government, may by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

- (2) Every order made under this section shall, as soon as may be after it is made, be laid before each house of Parliament.

43. Repeal and Savings

- (1) The Protection of Human Rights Ordinance, 1993 is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

- (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 Officer of the Commission shall remain open on all days other than days declared as holidays for the officer 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 Sitting - 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.

7. Secretarial Assistance :- The Secretary and such other officers the Commission, as may be directed by the Chairperson, shall attend the meeting of the Commission.

8. Agenda for Meeting :- The Secretary shall with the approval of the Chairperson, prepare the agenda for each meeting of the Commission. Rates of meeting shall be fixed in consultation with the Chairperson. The Secretary shall cause antes to be prepared on each item included in the agenda, such mates shall, as far as possible, be self-contained. Tiles, reports, records and all papers relating to each agendas shall be kept ready for reference by the Chairperson +& Members- in the meeting as and when required. Noted on each item included in the agenda shall ordinarily be circulated to the Members at least two clear days in advance before the date of the meeting. The Commission may, however, take up for consideration any matters are set down only sitting shall be prepared and circulated. Hearing, cause list of the day of sitting shall be prepared adn circulated.

CHAPTER- II

9. General - (1) Complaints shall be made to the Commission in writing, ordinarily in English, Hindi or Oriya. The Commission may however entertain complaints in any other languages included in the Eighth Schedule of the Consitution if the complainant or the aggrieved person does not know English or Hindi or Oriya.

7. *Secretarial Assistance.*- The Secretary and such other officers of the Commission, as may be directed by the Chairperson, shall attend the meetings of the Commission.

8. *Agenda for Meetings* - The Secretary shall with the approval of the Chairperson, prepare the agenda for each meeting of the Commission. Dates of meetings shall be fixed in consultation with the Chairperson. The Secretary shall cause notes to be prepared on each item included in the agenda. Such notes shall, as far as possible, be self-contained. Files, reports, records and all papers relating to each agenda item shall be kept ready for reference by the Chairperson & Members in the meeting as and when required. Notes on each item included in the agenda shall ordinarily be circulated to the Members at least two clear days in advance before the date of the meeting. The Commission may, however, take up for consideration any matter which is not included in the agenda for that meeting. When matters are set down only for hearing, cause list of the day of sitting shall be prepared and circulated.

Chapter-II

PROCEDURE FOR DEALING WITH COMPLAINTS OR SUO-MOTU ACTION

9. *General* - (1) Complaints shall be made to the Commission in writing, ordinarily in English, Hindi or Oriya. The Commission may however entertain complaints in any other languages included in the Eighth Schedule of the Constitution if the complainant or the aggrieved person does not know English or Hindi or Oriya.

(2) No fee shall be required to be paid for filing a complaint.

(3) Every complaint shall state the full facts relating to the matter complained against, specifying the date of occurrence of the incident and the nature of relief sought for :

(4) Every complaint shall -

(i) be submitted under the signature of the aggrieved person or of a person submitting the complaint on behalf of the aggrieved person:

Provided that when a complaint is made through any means which does not permit the complaint to be signed as aforesaid, a signed copy of the complaint shall be simultaneously despatched to the Commission by post.

(ii) state the name and full address of the aggrieved person or each aggrieved person and if the complaint is made by any person other than an aggrieved person, the name and full address of the person making the complaint and of the aggrieved person or persons;

(iii) record 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;

(5) The Commission may, if necessary call for further information and may direct affidavits to be filed in respect of any matter or matters arising out of or connected with the allegation.

(6) A complaint which does not comply with one or more of the requirements of Regulation 9 shall be liable to be rejected:

Provided that where the Commission is satisfied that a complaint prima facie reveals violation of a human right, it may permit the complainant to

rectify defects or deficiencies under Regulation 9, if any, within such time as it may in its discretion allow, and in the event of such defects or deficiencies not being rectified within the time allowed by the Commission the complaint shall be rejected and the case closed.

10. *Complaints not entertainable.*- Complaints of the following nature shall not be entertained by the Commission and shall be dismissed in limine:-

- (a) Complaints which are illegible, anonymous or pseudonymous,
- (b) Complaints which are vague, trivial or frivolous.
- (c) Complaints which do not prima facie disclose specific violation of human rights.
- (d) Complaints which are barred under Section 36(1) of the Act,
- (e) Complaints which are barred under Section 36(2) of the Act,
- (f) Complaints relating to civil disputes such as property rights, contractual obligation and the like,
- (g) Complaints relating to deficiency in service covered by the provisions of Consumers Protection Act 1986 (68 of 1986),
- (h) Complaints relating to service matters arising out of conditions of service or service rules not violating human rights as defined under section 2 (d) of the Protection of Human Rights Act, 1993.
- (hh) Complaints relating to Labour or industrial disputes." ("w.e.f. 20.04.2012)
- (i) Complaints relating to any matter which in subjudice before a Court or Tribunal or is covered by a judicial verdict,
- (j) 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.

- (k) Complaints addressed to any other authority copy of which is received in the Commission.
- (i) Complaints relating to events or incidents which did not occur within the geographical limits of the State of Orissa.
- (j) Complaints relating to matters outside the purview of the Commission on any other ground.

11. Processing of Complaints

(1) All communications in writing (by whatever mode despatched) addressed to the Commission, its Chairperson, Members or other officers of the Commission by designation shall be received by the officer designated for the purpose.

(2) All communications addressed to the Chairperson, Members or other officers of the Commission by name shall be placed before the Chairperson or the member or the officer concerned, as the case may be, and shall after their perusal be forwarded to the officer designated under clause (1) above.

(3) The designated officer shall then arrange to sort out all communications so received, division-wise and to get them diarised in Form-1

(4) All Complaints falling under Section 12 (a) of the Act and all communications relating to any Complaint already received or registered shall be submitted to the Registrar. All fresh Complaints shall be scrutinized and on Completion of scrutiny the Registrar shall fill up Form 2 indicating inter alia whether the Complaints are prima facie entertainable or not for any reason mentioned in Regulation 9. A scrutiny report shall also be prepared in respect of any information on the basis of which initiation of Suo-Motu action is under consideration and such scrutiny report shall be made in Form-3. He shall then send the Complaint or information on the basis of which Suo-Motu action is under consideration with the scrutiny report appended there to the officer/Section concerned for registration. Other communications relating to complaints received earlier and registered shall be processed and appropriately dealt with.

(5) If a communication is not a complaints 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 Chairperson with a brief note as early as possible in accordance with the procedure outline 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 diary 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 made entered on the cover page of the case file in Form-5 of the complaints 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 Form-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 the 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 take 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 recorded 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 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.

15. Preparation of the Cause List : Cause list shall be prepared in Form-7 listing the cases under the following heads.

(a) For Admission : Cases which are prima facie not entertainable and complaints which are found to be defective shall also be included in this head, for rejection or appropriate directions.

(b) For Admission : Cases in which information or report has not been received, Cases in which summons are to be issued, Cases requiring interim and interlocutory orders will be included in this head.

- (c) For Final Disposal.
- (d) Cases Awaiting compliance
- (e) Review applications

16. Posting of Cases :

- (a) Cases shall be included in the cause list of each Bench as per the directions of the Chairperson.
- (b) The case files of the cases posted in the cause list shall be circulated to the Bench two days in advance together with the cause list.

17. Primarily Consideration and steps :

- (a) If after Consideration, a complaint is dismissed in limini, the said order shall be communicated to the complaint in Form-8. The case shall then be treated as closed.
- (b) If a complaint is admitted or is taken cognizance of sou-motu, the notice in Form-9 shall be sent to the concerned authority enclosing a copy of the complaint or report or gist of information on which sou-motu cognizance has been taken, with an intimation to the complaint in Form-8.
- (c) Such notice shall specify the time within which the information or the report has to be submitted-

18. Recording of orders :

- (a) Order of the commission shall be recorded in the Order Sheet in Form-10. Lengthy orders shall be recorded on separate sheets and appended to the Order Sheet. P.S. or P.A. attached to the Chairperson or Member shall enter in the relevant column of the Order Sheet the date of the order and the number of the pages.
- (b) In case requiring urgent action- In pursuance of the order issued by the commission, the concerned . P.S. or P.A. shall sent the file at once to the Registrar, who shall be arrange for the communication of the order either by fax or telephone or speed-post or telegram and then transmit the records to the concerned section for further action.

19. Detailed information Register – A register in Form-11 shall be maintained and the relevant information shall be entered as and when available in the relevant columns.

20. *Preparation of Synopsis.*-(a) Upon receipt of the report or information called for, a detailed note in the form of a synopsis shall be prepared by the Registrar in Form-12 and the case then shall become ready for being placed before the Commission for final disposal.

(b) After considering the report or information, if the Commission disposes of the case without any recommendation, the case is closed.

21. *Summons.*-(1) Summons in Form-13, indicating the purpose of summoning such person shall be issued in the following cases :-

(a) To the complainant or any other person on his behalf to afford him a personal hearing.

(b) To another person who in the opinion of the Commission, should be heard for appropriate disposal of the case.

(c) To any person to cause production of records required by the Commission.

(d) To any person to be examined as witness.

(e) To any person whose conduct is to be enquired into.

(f) To any person, whose reputation, in the opinion of the Commission is likely to be prejudicially affected.

(2) A case in which summons has been issued for personal appearance of a person shall be placed before the Commission, on the date noted in the summons for such personal appearance.

22. *Ordering investigation.*- (a) Whenever the Commission orders investigation by its Investigation Division or by any other investigating agency of the Central or State Government as provided in Section 14 of the Act, a copy of such order along with copies of the papers relevant

thereto shall be furnished forth-with to such Division or Agency calling upon it to conduct the investigation and submit its report within the time specified in the order.

(b) If report is not received within the specified time, the matter shall be placed before the Commission forthwith for further directions.

23. *Communication of recommendations.*- Whenever the Commission makes any recommendation after considering the inquiry report, along with its recommendation shall be sent in Form-14 within seven days from the date of such recommendation to the concerned Government or authority calling upon it to furnish its comments on the report including the action taken or proposed to be taken within one month or such further time as the Commission may allow.

24. *Follow up action.*- (a) If no comments are received within the specified time, the case shall be placed before the Commission forthwith for further direction.

(b) If comments are received the case shall be placed before the Commission with a brief note in Form-15 indicating whether the recommendation of the Commission has been accepted in full or part or not accepted at all, the reasons for such non-acceptance or part-acceptance and the action that may be taken or proposed to be taken.

(c) After considering the comments and the brief note on it, the Commission shall pass such order as it deems fit.

25. *Procedure regarding Suo-Motu Action.*- The procedure contained in this Chapter shall *mutatis mutandis* apply to *suo-motu* action taken by the Commission:

Provided that the Commission may cause a preliminary enquiry to be conducted before taking cognizance of any matter suo-motu.

26. Opportunity to persons before the Commission - The Commission may in its discretion afford a personal hearing to the petitioner or any other person on his behalf and such other person or persons as in the opinion of the Commission should be heard for the proper disposal of the matter before it and where necessary, call for records and examine witness in connection with it. The Commission shall afford a reasonable hearing including opportunity of cross examining witnesses, if any, in support, of his stand to a person, whose conduct is enquired into by it or, where in its opinion, the reputation of such person is likely to be prejudicially affected.

27. Publication - When the Commission passes order after inquiry under section 17, the Registrar. Shall cause to-

(a) Prepare a list of such cases, in Form-16, furnishing particulars such as case number, name of the complainant, name of the Government or authority concerned and the date of the final order with a further note that a copy of the inquiry report referred to in section 18 (6) of the Act is available for perusal in the library of the Commission;

(b) Publish the list so prepared on the Notice Board of the Commission on the first working day of every month;

(c) send to the library of the Commission two sets of the documents referred to in Section 18 (6) of the Act and the further order if any passed by the Commission in each case;

(d) send simultaneously free of Cost a copy of each of

(1) The documents referred to in clause (c) to the complainant or his representative; and

(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 Commission 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 authorized 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 complaints 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.

(b) Original documents shall be returned to the person who produced the same on his application at any time before destruction.

(c) Destruction shall be carried out as per the direction of the Registrar in the month of August every year.

33. *Periodical Statements* - The Registrar shall arrange for the preparation of the following statements

(1) Monthly statement of registration and disposal in Form-17.

(2) Quarterly subject-wise statement of cases in Form-18.

(3) Yearly statement

CHAPTER -III

MISCELLANEOUS.

34. *Minutes of the Meeting.*- (a) Minutes of each meeting of the Commission shall be recorded during the meeting itself or immediately thereafter by the Secretary or by any other officer as directed. Such minutes shall be submitted to the Chairperson for his approval and upon his approval be circulated to all the Members of the Commission at the earliest and in any case sufficiently before the date of the next meeting.

(b) The conclusions of the Commission in every matter undertaken by it shall be recorded in the form of an opinion. Dissenting opinions, if given, shall form a part of and be kept on record. Action shall be taken on the basis of the majority opinion.

(c) No action shall be taken by the Secretariat of the Commission on the minutes of the meetings until the same are confirmed by the Chairperson.

35. *Record of Minutes.*- A master copy of the minutes of every meeting and opinions of the Commission shall be maintained duly authenticated by the Secretary and a copy of the minutes pertaining to each item shall be taken to the relevant file for appropriate action. Opinion shall be kept in the respective records and for convenience, copies thereof with appropriate indexing shall be kept in guard files.

36. *Report of Action taken.*- Report of follow up action shall be submitted to the Commission by the Secretary at every subsequent sitting indicating therein the present stage of action on each item on which the Commission had taken a decision in any of its earlier meetings, excepting the items on which no further action is called for.

37. *Transaction of business outside the Headquarters.*- (a) The Commission or some of the Members may transact business at places outside its Headquarters as and when previously approved by the Chairperson.

(b) The Commission or any of its Members, when requested by the Chairperson or the Chairperson may under take visits for an on the spot study and where such study is undertaken a report thereon shall be furnished to the Commission as early as possible.

38. *Authentication of orders and decisions.*- Orders and decisions of the Commission shall be authenticated by the Secretary or any officer authorised by the Chairperson not below the rank of a Assistant Registrar.

39. *Copies.*- Unless any document is classified by the Commission as confidential, a copy of the same may be made available to the parties, on payment of copying charges fixed by the Commission from time to time. Copies shall be furnished as expeditiously as possible.

40. *Representative.*- Parties before the Commission shall appear either in person or through authorised representative, unless personal attendance is required by the Commission. Such a representative may be a member of

the Bar or such other person permitted by the Commission to represent the parties.

41. *Annual Report.*- The Commission shall prepare an Annual Report for the period commencing from the 1st April of a year to 31st March of the succeeding year, signed by the Chairperson and all the Members. The same shall be a permanent record and shall be preserved in the Commission. Authenticated copies shall be sent to the State Government.

The Commission may furnish such Special Reports on specific matters as may be considered necessary under the Act.

43. *Printing and Publication of Reports.*- The Secretariat of the Commission shall arrange for the printing and publication of the Annual and Special Reports as expeditiously as possible.

44. *Reports on Complaints and Inquiries.*- Reports contemplated under Section 18 of the Act shall be sent to the Concerned Government or authority or the person as the case may be within a week of completion of the proceedings before the Commission and on receipt of the Comments of the concerned Government or authority or the person, the Commission shall publish the report in the manner provided in Section 18 of the Act.

45. *Investigation Division.*- The Commission shall have its own team of investigation headed by an officer not below the rank of Inspector General of Police, who shall be designated as the Director of Investigation. The Director of investigation shall be assisted by such number of Police Officers and men of such rank as may be decided from time to time in consultation with the State Government. The State Government shall make available the personnel to the Commission on deputation.

45. *Saving.*- Complaints received and Considered by the Commission prior to the Commencement of the Regulations shall be deemed to have

been dealt with under these Regulations and in respect of such complaints, records shall be complied with and subsequent actions taken to the extent reasonably practicable in accordance with the provisions of these Regulations.

46. *Forms and Annexures.*- The forms and annexures referred to these Regulations shall be deemed to be a part of these Regulations.

47. *Transitory Provision.*- Where under these Regulations any duty or responsibility has been entrusted to any officer of the Commission or functionary and such officer or functionary is not available, the Chairperson may assign such duties or responsibilities to any other officer or functionary for the time-being.

48. *Amendments and Additions.*- Commission may from time to time add, delete and amend these Regulations or any provision thereof and may issue appropriate directions on any matter not covered by these Regulations.

Secretary

Orissa Human Rights Commission.