

THE PROTECTION OF HUMAN RIGHTS ACT, 1993*

No. 10 of 1994

(8th January, 1994)

An Act to provide for the constitution of a National Human Rights Commission, State Human Rights Commission in States and Human Rights Courts for better protection of Human Rights and for matters connected therewith or incidental thereto.

Be it enacted by the Parliament in the forty fourth year of Republic of India as follows :

- * As amended by the Protection of Human Right (Amendment) Act. 2006, No. 43 of 2006
- * As amended by the Protection of Human Rights (Amendment) Act, 2019.
- * As amended by the protection of Human Rights (Amendment) precudure 2022.

Protection of Human Rights Act, 1993

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Protection of Human Rights Act, 1993

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 as 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 27th July, 2019.

Definitions

(2) 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) "Interenational 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 [and such other Covenant or Covention adopted by the General Assembly of the United Nations as the Central Government may, by notification, specify"] 1 ;
- (g) "Member" means a Member of the Commission or of the State Commission, as the case may be ² ;
- (ga) "National Commission for Backward Classes" means the National Commission for Back ward Classes constituted under section 3 of the National Commission for Back ward 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 ;

*Amended vide Protection of Human Rights (Amendment) Act, 2006(No. 43 of 2006)

- (i) "National Commission for the Scheduled Castes" means the National Commission for the Scheduled Castes referred to in Article 338 of the Constitution ; 43 of 2006
- (ia) "National Commission for the Scheduled Tribes" mean the National Commission for the Schedule Tribes refered to in Article 338A of the Constitution² ; 43 of 2006
- (j) "National Commission for Women" means the National Commission for Women constituted under section 3 of the National Commission for Women Act, 1990. 20 of 1990
- (k) "Notification" means a notification published in the Official Gazette;
- (l) "Prescribed" means prescribed by the rules made under this Act:
- (m) "Public servant" shall have the meaning assigned to it in section 21 of the Indian Penal Code 45 of 1860
- (n) "State Commission" means a State Human Rights Commission consittuted under section 21.
- (2) Any reference in this Act to a law, which is not in force in the State of Jammu and Kashmir, shall in relation to the state, be construed as a reference to the corresponding law, if any, in forece in that State.

1. Added by Act 43 of 2006
2. Subs by Act 43 of 006

THE NATIONAL HUMAN RIGHTS COMMISSION

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, ¹[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]¹ 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 or 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 Committee referred to in the first proviso to sub-section (1)]².

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. Term of office of Chairperson and Members¹

- (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

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 India or under the Government of any State.

7. Member to act as Chairperson or to discharge his functions 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 President 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 President may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

8. Terms and conditions of service of Chairperson and Members

The salaries and allowances payable to, and other terms and conditions of service of, the ¹ [Chairperson and] Members shall be such as may be prescribed.

Provided that neither the salary and allowances nor the other terms and conditions of service of² [the Chairperson or] a Member shall be varied to his disadvantage after his appointment.]

9. Vacancies, etc., not to invalidate the proceedings of the Commission

No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

10. Procedure to be regulated by the Commission

- (1) The Commission shall meet at such time and place as the Chairperson may think fit.
- (2) Subject to the provisions of this Act and the rules made thereunder, the Commission shall have the power to lay down by regulations its own procedure³.
- (3) All orders and decisions of the Commission shall be authenticated by the Secretary-General or any other officer of the Commission duly authorised by the Chairperson in this behalf.

11. Officers and other staff of the Commission

- (1) The Central Government shall make available to the Commission:

¹ Inserted by Act 43 of 2006

² Inserted by Act 43 of 2006

³ Subs. by Act 43 of 2006

- (a) an officer of the rank of the Secretary to the Government of India who shall be the Secretary-General of the Commission; and
 - (b) such police and investigative staff under an officer not below the rank of a Director General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the Commission.
- (2) Subject to such rules as may be made by the Central Government in this behalf, the 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.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

12. Functions of the Commission

The Commission shall perform all or any of the following functions, namely:-

- (a) inquire, suo motu or on a petition presented to it by a victim or any person on his behalf [or on a direction or order of any court]¹, 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 rights pending before a court with the approval of such court;
- (c)² visit, notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and make recommendations thereon to the 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 recommendations 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 organisations and institutions working in the field of human rights;
- (j) such other functions as it may consider necessary for the protection of human rights.

¹ Inserted by Act 43 of 2006

² Sub. by Act 43 of 2006

13. Powers relating to inquiries

- (1) The Commission shall, while inquiring into complaints under this Act, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908, and in particular in respect of the following matters, namely :
 - (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 summons for the examination of witnesses or documents;
 - (f) any other matter which may be prescribed.
- (2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code.
- (3) The Commission or any other officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable.
- (4) The Commission shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.
- (5) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code, and the Commission shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.
- (6)¹ Where the Commission considers it necessary or expedient so to do, it may, by order, transfer any complaint filed or pending before it to the State Commission of the State from which the complaint arises, for disposal in accordance with the provisions of this Act; Provided that no

¹ Inserted by Act 43 of 2006

such complaint shall be transferred unless the same is one respecting which the State Commission has jurisdiction to entertain the same.

- (7)¹ Every complaint transferred under sub-section(6) shall be dealt with and disposed of by the State Commission as if it were a complaint initially filed before it.

14. Investigation

- (1) The Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilise the services of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.
- (2) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilised under subsection (1) may, subject to the direction and control of the Commission:-
- (a) summon and enforce the attendance of any person and examine him;
 - (b) require the discovery and production of any document; and
 - (c) requisition any public record or copy thereof from any office.
- (3) The provisions of section 15 shall apply in relation to any statement made by a person before any officer or agency whose services are utilised under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.
- (4) The officer or agency whose services are utilised under subsection (1) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission within such period as may be specified by the Commission in this behalf.
- (5) The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under sub-section (4) and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit.

15. Statement made by persons to the Commission

No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement:-

- (a) is made in reply to the question which he is required by the Commission to answer; or
- (b) is relevant to the subject matter of the inquiry.

¹ Inserted by Act 43 of 2006

16. Persons likely to be prejudicially affected to be heard

If, at any stage of the inquiry, the Commission:-

(a) considers it necessary to inquire into the conduct of any person;
or

(b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry;

it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

CHAPTER IV PROCEDURE

17. Inquiry into complaints

The Commission while inquiring into the complaints of violations of human rights may-

- (i) call for information or report from the Central Government or any State Government or any other authority or organisation subordinate thereto within such time as may be specified by it:-

Provided that-

- (a) 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;
 - (b) if, on receipt of information or report, 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;
- (ii) without prejudice to anything contained in clause (i), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.

18. Steps during and after inquiry¹

[The Commission may take any of the following steps during or upon the completion of an inquiry held under this Act, namely:-

- (a) where the inquiry discloses the commission of violation of human rights or negligence in the prevention of violation of human rights or abetment thereof by a public servant, it may recommend to the concerned

Government or authority -

- (i) to make payment of compensation or damages to the complainant or to the victim or the members of his family as the Commission may consider necessary;
 - (ii) to initiate proceedings for prosecution or such other suitable action as the Commission may deem fit against the concerned person or persons;
 - (iii) to take such further action as it may think fit;
- (b) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;
 - (c) recommend to the concerned Government or authority at any stage of the inquiry for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;

¹ Subs. by Act 43 of 2006

- (d) subject to the provisions of clause (e), provide a copy of the inquiry report to the petitioner or his representative;
- (e) the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;
- (f) the Commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.]¹

19. Procedure with respect to armed forces

- (1) Notwithstanding anything contained in this Act, while dealing with complaints of violation of human rights by members of the armed forces, the Commission shall adopt the following procedure, namely :-
 - (a) it may, either on its own motion or on receipt of a petition, seek a report from the Central Government;
 - (b) after the receipt of the report, it may, either not proceed with the complaint or, as the case may be, make its recommendations to that Government.
- (2) The Central Government shall inform the Commission of the action taken on the recommendations within three months or such further time as the Commission may allow.
- (3) The Commission shall publish its report together with its recommendations made to the Central Government and the action taken by that Government on such recommendations.
- (4) The Commission shall provide a copy of the report published under sub-section (3) to the petitioner or his representative.

20. Annual and special reports of the Commission

- (1) The Commission shall submit an annual report to the Central Government and to the State Government concerned 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 Central Government and the State Government, as the case may be, shall cause the annual and special reports of the Commission to be laid before each House of Parliament or the State Legislature respectively, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any.

¹ Subs. by Act 43 of 2006